

CALTEX FILIPINO MANAGERS AND SUPERVISORS ASSOCIATION, PETITIONER -VS. COURT OF INDUSTRIAL RELATIONS AND CALTEX (PHILIPPINES), INC., RESPONDENTS.

G.R. No. L-28472. April 30, 1968

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Caltex Filipino Managers and Supervisors Association (CAFIMSA), which is composed, as its name implies, of Filipino employees occupying managerial and supervisory positions in Caltex (Philippines) Inc., instituted two charges[1] before the Court of Industrial Relations accusing the company and four of its officials with unfair labor practice under Republic Act No. 875, and praying that corresponding complaints against the latter be filed with the same court. After conducting the necessary preliminary investigation,[2] the Prosecution Division of the said court accordingly filed on September 10, 1965 a complaint[3] against the company and two of its officials for violation of Section 4(a), subsections 1, 4, and 6[4] of the aforementioned Act. The respondents named in the complaint subsequently filed their answer, denying commission of any unfair labor practice.

All the while, however, significant events were transpiring. On April 22, 1965, CAFIMSA declared a strike to which the company countered by filing its Urgent Petition of April 26, 1965[5] praying, among other things, that the said strike be declared illegal for unlawful interference with the jurisdiction and judicial processes of the Industrial Court in the pending certification proceedings[6] previously filed by the company way back on February 22, 1965. The strike lasted up to May 30, 1965 with the execution of a Return to Work Agreement between CAFIMSA and the company.

On August 26, 1967, the court, acting on the Urgent Manifestation and Motion of CAFIMSA, issued a resolution granting the latter's request that the evidence to be introduced in Case No. 1484-MC(1) be also considered as evidence in Case No. 4344-ULP in order to expedite the proceedings and avoid duplication of work. Thus, the two cases were thereafter tried jointly.

Then on November 27, 1967, after the company had rested its case and after CAFIMSA, itself, had presented many witnesses, the latter filed a Motion to admit a Supplemental Pleading thereto attached. To this motion, the company interposed an objection principally on the ground that the matters treated in the Supplemental Pleading are new matters constituting alleged acts of unfair labor practice which happened after the strike on April 22, 1965, and over which the Court of Industrial Relations has no jurisdiction for the reason that there is no preliminary investigation conducted in connection with the said charges, as required by law. Said motion was consequently denied by the court as per its Order of October 28, 1967, which reads in part as follows:

“A perusal of the Supplemental Pleading sought to be admitted would indicate that it is indeed a charge for unfair labor practice allegedly committed by the company after the strike of April 22, 1965 and after the execution of the “Return to Work Agreement” of May 30, 1965, and which allegedly continues up to the present. It prays for sanction to be imposed upon the company upon a finding of guilt. On the other hand, the issue in the case at bar is whether or not the strike declared by the Caltex Filipino Managers and Supervisors

Association on April 22, 1965 is legal. Undoubtedly, the Court has no jurisdiction over the matters alleged in the Supplemental Pleading for the reason that they are new matters foreign to the case at bar which has not been processed in a preliminary investigation conducted for the purpose as required by law, and consequently, it cannot legally impose any sanction prayed for in the said Supplemental Pleading, Being essentially a charge, such Supplemental Pleading cannot even be considered a pleading. A complaint is the first technical pleading in an unfair labor practice suit. (NLRB v. Raymond Pearson, Inc., 243 F 2d 456). In this jurisdiction, the necessity of a prior investigation before the institution of a formal complaint for unfair labor practice is well settled.

“Premises considered, the Motion to Admit Supplemental Pleading dated October 27, 1967 should be, as it is hereby, DENIED for lack of merit, . . .”

CAFIMSA moved for reconsideration of the afore-quoted Order, substantiating the same with a separate written argument. The court en banc, however, denied[7] the motion. Notice of the denial was received by CAFIMSA's counsel on December 20, 1967.

Its motion for reconsideration having been denied, CAFIMSA filed the instant Petition with the Supreme Court on January 17, 1968.[8] It argues that the Industrial Court's technical refusal to admit the Supplemental Pleading in question violates Section 5(b)[9] of Republic Act No. 875 to the prejudice of its rights, CAFIMSA claiming that another preliminary investigation as suggested by the Court of Industrial Relations will be a useless ceremony. Aside from being too technical, it argues that the stand taken by the court will, in effect, encourage multiplicity of suits and deprive it of a full, complete and speedy relief because it will be precluded from presenting evidence relative to the new acts complained of and which are necessary to sustain its case against the company. It further claims that the said court thereby acted in excess of its jurisdiction and with grave abuse of discretion or, alternatively, that the proceedings before the same are in excess of its jurisdiction and with grave abuse of discretion wherein, in both cases, there is no appeal or any plain, speedy, and adequate remedy in the ordinary course of law. CAFIMSA thus prays that the instant Petition be given due course under either Rule 43 or Sections 1 and 2 of Rule 65 of the Rules of Court, and that after hearing, judgment be rendered annulling the Industrial Court's Order of October 28, 1967, and another one be issued directing the said court to admit the Supplemental Pleading in question. The Supreme Court, in its Resolution of January 24, 1968, decided to give due course to the instant Petition.

On January 27, 1968, Caltex (Philippines) Inc., as one of the respondents in the case at bar, moved to dismiss the instant Petition on the grounds (a) that it was filed out of time;[10] (b) that it was intended to delay the proceedings in Case No. 1484-MC(1) pending in the Court of Industrial Relations; and (c) that the basic question raised in the Petition, that is, whether a supplemental pleading charging new acts of unfair labor practice may be admitted by the said court without prior preliminary investigation, has been definitely disposed of by the Supreme Court in the case of National Union of Printing Workers vs. Asia Printing Company[11]. The company's motion to dismiss was followed by a Motion for Reconsideration of the Supreme Court's Resolution of January 24, 1968 giving due course to the Petition.

Required to comment on the company's motion to dismiss, CAFIMSA alleged (1) that Rule 65 and not Rule 43 of the Rules of Court controls the Petition; hence, the same was filed on time because Rule 65 prescribes no time limit; (2) that the Petition was filed in good faith and not for purposes of delay; and (3) that the Asia Printing Co. case, supra does not apply in the case at bar because it does not involve the question of filing an amended and/or supplemental pleading. It re-asserts its argument in its Petition that Republic Act No. 875 provides no procedure for the presentation of a supplemental pleading and, therefore, the applicable provision of the Rules of Court (Rule 10, Section 6)[12] should be availed of in accordance with Section 10 of the Rules of the Court of Industrial Relations. After the company filed its Rejoinder refuting CAFIMSA's arguments, the Supreme Court finally

resolved to consider the present case as a special civil action of mandamus, and to deny the company's motion to dismiss.

Thenceforth, the company seasonably filed its answer as required by the Clerk of Court of the Supreme Court. Reiterating its previous arguments that the Court of Industrial Relations properly denied the Supplemental Pleading in question, and that the filing of the motion to admit the same was intended to delay and has in fact delayed the proceedings in Case No. 1484-MC(1), the company adds(1) that mandamus will not lie in the case at bar considering that the Petition states no cause of action for mandamus, and that the Industrial Court may not be compelled by mandamus to admit a supplemental pleading under Rule 10 of the Rules of Court, granting that the same is applicable, for the admission of the same is discretionary, not ministerial, upon the court; and (2) that petitioner CAFIMSA has a plain, speedy, and adequate remedy in the ordinary course of law for it can institute the corresponding charge before the Prosecution Division of the respondent court.

The poser now confronting the Supreme Court is whether mandamus will issue to compel the Court of Industrial Relations to admit a supplemental pleading which actually charges additional acts of unfair labor practice without conducting another preliminary investigation relative thereto.

Under Rule 10 of the Rules of Court, pleadings may be amended (and for that matter, supplemented), to the end that the actual merits of the controversy may speedily be determined in the most expeditious and inexpensive manner by doing away with technicalities. For in the graphic language of the Court, "(litigation is not a game of technicalities in which one, more deeply schooled and skilled in the subtle art of movement and position, entraps and destroys the other. . . Lawsuits, unlike duels, are not, won by a rapier's thrust.)"[13]

It is, therefore, largely on the basis of this liberal policy of the law that CAFIMSA now seeks admission of its Supplemental Pleading, and because the Court of Industrial Relations, by specific provision of law,[14] is free to act "without regard to technicalities of law or procedure" in trying unfair labor practice cases. As a matter of fact, the Supreme Court has categorically ruled that the "Court of Industrial Relations is not narrowly constrained by technical rules of procedure." [15]

But while the Supreme Court is the last one to be swayed by technicalities, it cannot ignore the overriding wisdom of the rule established by the very same provision of law requiring a prior preliminary investigation of a charge for unfair labor practice. The Court of Industrial Relations found, and the Supreme Court has no reason to question it, that the aforementioned Supplemental Pleading is in fact a charge for new acts of unfair labor practice on the part of the respondent company. This being the case, said charge for unfair labor practice has to be sifted first in a preliminary investigation required by law before the Court of Industrial Relations may formally take cognizance of the same. As was clearly expounded by the Supreme Court in the leading case of *National Union of Printing Workers vs. Asia Printing Co.*, supra:[16]

"Such investigation is mandatory, because the law uses the word 'must'. Now, whether or not a regular complaint is to be filed by him (investigator) depends upon the result of said investigation. It is when a regular complaint based on the said investigation is filed that the CIR intervenes by requiring the respondent to answer the complaint and then both parties are heard to receive the evidence to be adduced by them. The investigation is really necessary not only for the protection of the respondent but also for the benefit of the CIR itself so that the respondent may not be required to defend itself against frivolous and unfounded charges, and the valuable time of the CIR dissipated and unnecessarily spent in hearing charges without any basis," (Italics supplied)

The afore-quoted ratiocination is just as applicable in the case at bar as it is in the cited case. Both cases involve a charge for unfair labor practice. Therefore, if preliminary investigation was deemed indispensable in proceeding with one, there is no reason why the same should not be deemed essential in proceeding with the other. The mere

fact that the cited case does not involve a supplemental pleading in no way imports that the doctrine therein enunciated is not applicable in the present case. "Requirements which are of the very essence of the thing to be done, and ignoring of which would practically nullify vital purpose, are regarded as 'mandatory' and imperative." [17]

Consequently, it is our considered opinion that to allow petitioner CAFIMSA to submit its Supplemental Pleading would, in effect, amount to a circumvention of this mandatory requirement. It would render nugatory the very purpose of the law in establishing said procedure, which is to avoid harassments and forestall unmeritorious suits. Certainly, it could not have been the intention of Congress to require one thing and then at the same time dispense with it altogether. That would be a self-defeating legislation.

"In all cases where the authority of the courts to proceed is conferred by a statute, and when the manner of obtaining jurisdiction is prescribed by statute, the mode of proceeding is mandatory, and must be strictly complied with, or the proceeding will be utterly void." [18] Thus, in one case, [19] a judge of the Court of Industrial Relations trying an unfair labor practice suit remanded the matter to the Prosecution Division of the said court for preliminary investigation, where the record of the case plainly showed that no such investigation had been conducted. For, indeed, even in the proceedings [20] before the United States National Labor Relations Board - after which that of the Court of Industrial Relations was patterned — preliminary investigation is a "must".

In view of the clear and explicit requirement of the law, the Court also opines that the argument against multiplicity of suits would not constitute a legal justification to confer jurisdiction to the Court of Industrial Relations. And, surely, neither is the said Supplemental Pleading admissible on the ground that the acts therein complained of are germane to Case No. 4344-ULP and Case No. 1484-MC(1) pending before the Industrial Court because, as correctly observed by that court, they are acts committed after the strike of April 22, 1965 and the Return to Work Agreement of May 30, 1965, while the acts that gave rise to the afore-mentioned two pending cases were committed prior to the said strike.

But in spite of all the foregoing, may the Court of Industrial Relations be compelled by mandamus to admit the Supplemental Pleading in question under Rule 10 of the Rules of Court, assuming that the same is applicable in the case at bar? The Supreme Court does not believe so.

For one thing, mandamus will not lie to compel the performance of a discretionary power. [21] And this Court has previously held that the "(a) dmission or non-admission of a supplemental pleading lies in the sound discretion of the court." [22] Its admission is not of right. (Ibid) And another thing, special civil action for mandamus is also improper if some other equally adequate remedy is still available in the ordinary course of law. [23] Obviously, petitioner CAFIMSA has some other equally adequate remedy; for it can file the necessary charge before the Prosecution Division of the respondent court. If the purpose was to prove these facts alleged as circumstantial evidence of the intent of the Company to interfere with or discriminate against the petitioners, such facts are receivable in evidence without need of a supplemental pleading.

WHEREFORE, the writ of mandamus applied for is denied. Costs against the petitioner.

Dizon, Makalintal, Bengzon, J,P,, Zaldivar, Sanchez, Ruiz Castro, Angeles and Fernando, JJ., concur.

Petition denied.

[1] March 24 and April 24, 1965, respectively.

[2] "SEC. 5. Unfair Labor Practice Case.

(b) . . . Whenever it is charged by an offended party or his representative that any person has engaged or is engaging in any such unfair labor practice, the Court or any agency or agent designated by the Court must investigate such charge..." (Italics supplied)

[3] Docketed as Case No. 4344-ULP.

[4] "SEC. 4. Unfair Labor Practice.-

(a) It shall be unfair labor practice for an employer:

(1) To interfere with, restrain or coerce employees in the exercise of their rights guaranteed in section three;

(4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization:

(6) To refuse to bargain collectively with the representatives of his employees subject to the provisions of sections thirteen and fourteen."

[5] Docketed as Case No. 1484-MC(1).

[6] Docketed as Case No. 1484-MC. This case was filed by the company to determine the composition of the appropriate bargaining unit for supervisory personnel and to resolve the question as to whether CAFIMSA truly represents the majority of the supervisory personnel within such appropriate bargaining unit,

[7] Resolution (of the Court of Industrial Relations en bane), Nov. 28, 1967,

[8] Section 6 of Republic Act No. 875. provides that "Any person aggrieved by an order of the Court may appeal to the Supreme Court of the Philippines within ten days after the issuing of the Court's order . . .," Section 4, Rule 43 of the Rules of Court, also provides that appeals from an order, ruling or decision of the Court of Industrial Relations shall be brought within a period of ten days from notice of such order, ruling or decision. The instant Petition, therefore, was due on December 30, 1967. CAFIMSA, however, moved for an extension of fifteen days from January 2, 1968 within which to file the said petition, alleging that since December 30 and 31, 1967 and January 1, 1968 were all public holidays, the last day for filing the same was on January 2, 1968, on which date the fifteen-day extension period granted by the Supreme Court, as per the latter's resolution of January 5, 1968, should be tacked and counted.

[9] Section 5(b) reads in part: "In any such proceeding, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that the Court and its members and Hearing Examiners shall use every and all reasonable means to ascertain the facts in each case speedily and without regard to technicalities of law or procedure. (Italics supplied)

[10] Citing the case of *Viray vs. Court of Appeals, et al.*, G. R. No. L-25290, March 18, 1966, excluding the last day of the period should the same be a holiday, refers to a case calling for the performance of an act prescribed or required but does not apply where at the end of the period, as in the present case, no such act is to be done. Hence the company argues that the last day for filing the Petition was on January 15, and not on January 17, 1968. (See footnote No. 8.)

[11] G.R. No. L-8750, July 20, 1956.

[12] "SEC. 6. Matters subject of supplemental pleadings.- Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit him to serve a supplemental pleading setting forth transactions, occurrence or events which have happened since the date of the pleading sought to be supplemented. If the court deems it advisable that the adverse party should plead thereto, it shall so order, specifying the time therefore."

[13] *Alonso vs. Villamor*, 16 Phil. 315.

[14] Section 5(b), Rep. Act No. 875.

[15] *Ang Tibay, et al. vs. CIR, et al.* 69 Phil, 635,

[16] Citing the case of *N.L.R.B. v. Barrett Co.*, 120 F. 2d 583.

[17] *In re Opinion of the Justices*, 126 A. 354, 124 Me. 543

[18] *In re Norwegian St.*, 81 Pa. 349,

[19] *University of San Agustin vs. Court of Industrial Relations*, 56 O.G. (No. 1) 20.

[20] Complaint proceedings before the Board are commenced by the filing of a "charge". A charge is a recitation by the person initiating the proceedings of the unfair labor practices which are imputed to the respondent in the proceedings. The function of a charge is merely that of putting the machinery of the Board in motion (*N.L.R.B. v. Indiana & Michigan Co.*, 318 U.S.9). After the filing of a charge a Field Investigator is assigned to investigate the case, after which, where it is properly determined that there is a necessity and justification therefor, the Board issues the "complaint,"

While a charge, as we have previously seen, is a prime condition to the initiation of complaint proceedings (the Board, like the Court of Industrial Relations, cannot act *motu proprio* in proceeding with an unfair labor practice case, but must await the filing of an independent charge for the same), the filing of a charge does not make the one filing the same the "actor" in the premises; nor is the filing of the charge the commencement of the proceedings proper (*Amalgamated Utility Workers v. Consolidated Edison Co.*, 309 U.S. 261). Treating the term "proceedings" as the equivalent of "litigation", the proceedings commence only with the issuance by the Board of a complaint, from which time forward the Board's judicial functions come into play (*N.L.R.B. vs. Barrett Co.*, 120 F. 2d 583). - *Rothenberg on Labor Relations*, 1949 Ed., pp. 589-600.

[21] *Inchausti & Co. vs. Wright*, 47 Phil, 866; *Marcelo Steel Corp. vs. Import Control Board*, 87 Phil, 374; *Palileo vs. Fred Ruiz Castro*, 85 Phil. 272; *Diokno vs. Rehabilitation Finance Corp.*, 91 Phil. 608.

[22] *British Traders' Insurance Co. vs. Commissioner of Internal Revenue*, G.R. No, L-20501, April 30, 1965.

[23] *Rural Transit Co. vs. Teodoro*, 57 Phil, 11; *Sherman vs. Horrilleno*, 57 Phil. 13,

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