

**BCI EMPLOYEES AND WORKERS UNION (PAFLU), PETITIONER, VS.
HON. PIO MARCOS, JUDGE OF THE COURT OF FIRST INSTANCE,
BAGUIO CITY AND BENGUET CONSOLIDATED, INC., RESPONDENTS.**

G.R. No. L-21104. May 31, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is a petition for certiorari to annul the proceedings had before the Honorable Pio Marcos, Presiding Judge of the Court of First Instance of Baguio City, in its Civil Case No. 1150.

It appears that prior to August 18, 1962 the collective bargaining agent of the rank and file workers of respondent Benguet Consolidated, Inc. was the Benguet-Bulatoc Workers Union, with which respondent company entered into a bargaining contract that was to expire on December 24, 1963, containing the following provisions, among others, regarding union privileges:

"XIV. UNION PRIVILEGES

x x x x x

1. In accordance with the provision of sub-section XII-C of the Collective Bargaining Agreement of May 23, 1955, and during the effectivity of this Agreement, or any extension thereof and as long as the UNION remains the certified exclusive representative of all the employees and workers in the bargaining units of Acupan, Balatoc and Antamok, the COMPANY will continue to collect UNION compensation from each employee or worker, in the COMPANY'S employ in the bargaining units of Acupan, Balatoc and Antamok, who has paid UNION compensation immediately prior to the effectivity of this Agreement (with the exception of those specified in the immediately preceding paragraph) in an amount equal to twenty-five centavos (0.25) per week for each week in which said employee or worker has worked at least one eight (8) hour shift, such compensation being in payment of services rendered by the UNION as certified exclusive representative of the employees and workers in the above mentioned bargaining units for collective bargaining purposes;

x x x x x

4. As of the date of the execution of this Agreement and as long as the UNION continues to be the sole collective bargaining representative of all the employees and workers in the COMPANY'S employ in Acupan, Balatoc and Antamok and of such other bargaining unit or units within the COMPANY'S mining and other directly associated operations in the Sub-Province of Benguet, Mountain Province, wherein the UNION may hereafter be certified, the COMPANY agrees to continue to collect the weekly compensation provided for in items (1), (2) and (3) hereof; provided however, that should the UNION, for any reason whatsoever, cease to be the certified collective bargaining representative of the employees and workers in any or all of the above named bargaining units, the COMPANY'S obligation herein to collect the weekly compensation in said unit or units, shall automatically cease; x x x"

Subsequently, after a certification election had been held in Case No. 761-MC wherein the petitioner Union, the Benguet-Balatoc Workers Union and five other labor unions participated, the Court of Industrial Relations issued an order dated August 18, 1962 certifying "the herein petitioner Union* as the sole and exclusive bargaining agent of the non-supervisory employees and workers in the employ of the respondent company in its Acupan, Antamok and Batatoc mines."

On September 15, 1962 the Bobok Lumber Jack Association, one of the unions which participated in the certification election (Case No. 761-MC), filed with the respondent court a complaint for "Declaratory Relief with Preliminary Injunction", docketed as Civil Case No. 1150, praying that judgment be rendered declaring that Benguet Consolidated, Inc. and herein petitioner Union, named defendants there, "cannot enter into an agreement continuing the modified union shop in the aforementioned collective bargaining (contract)", and that a writ of preliminary injunction be issued to restrain the company from making deductions of union dues from the wages of its employees and workers in Acupan, Antamok and Balatoc and turning over such deductions to the defendant union. On the same date, respondent court issued the writ of preliminary injunction prayed for in the complaint. In a supplemental order dated September 18, 1962 "newly hired employees or laborers or those who will be hired later on by the defendant company" were exempted from the operation of the aforesaid writ.

On September 24 and 25, 1962 respondent company and herein petitioner Union, respectively, filed motions to lift the preliminary injunction. At the hearing thereof the parties, through their respective counsel, mutually agreed that the company resume deducting union dues from all employees, the same to be held in trust for disposition as the court might later on direct in its resolution on the motions to lift, concerning which the parties would submit their arguments in writing. Pursuant to said agreement respondent court issued an order dated September 28, 1962, the dispositive portion of which reads:

"WHEREFORE, finding the agreement of the parties made in open court in order, the Court approves the same and hereby orders that, effective beginning the work week of September 23, 1962, the Company resume making deductions of union compensation from all employees heretofore paying to the Benguet Balatoc Workers Union as well as from newly hired employees, but to hold the same in trust to be disposed of in the manner that this Court may direct in its resolution on the motions to lift the preliminary injunction."

On November 2, 1962 herein petitioner Union moved to dismiss the complaint filed in Civil Case No. 1150 on three (3) grounds, namely: (1) that the cause of action was barred by prior judgment; (2) that the complaint stated no cause of action; and (3) that the plaintiff had no legal capacity to sue.

Pending resolution of the motions to lift the preliminary injunction and the motion to dismiss the complaint, herein petitioner filed the instant petition for certiorari.

The prayers in the petition are for this Court: (a) to declare that respondent court had no jurisdiction to take cognizance of the action for declaratory relief filed by the Bobok Lumber Jack Association (Civil Case No. 1150) and to issue a writ of preliminary injunction therein; and (b) to issue a writ of mandatory injunction requiring respondent company to deliver to petitioner the union dues which it has deducted from the wages of its employees and which are held in trust pursuant to the order of respondent court dated September 28, 1962.

With leave of this Court the Bobok Lumber Jack Association, plaintiff below, came in as intervenor and filed its answer in intervention, denying most of the allegations in the petition.

It is clear that the instant petition was prematurely filed and hence must be dismissed for that reason. The issue of respondent court's jurisdiction in the declaratory relief case was raised in the motion to dismiss filed by herein petitioner with said court; and the issue concerning the validity of the writ of preliminary injunction with respect to the deduction of union dues was likewise raised in the two motions to lift the same. All three motions had not

yet been resolved by respondent court when the instant petition was filed, contrary to the settled rule that certiorari against an inferior court is not pro-per when the remedies sought are still available in said court, so much so that even after it has acted a motion for reconsideration must, as a general rule, be filed in order to afford it an opportunity to rectify its error.

Furthermore, the questions raised in the petition involve many facts alleged therein and denied in the answers of the respondents - facts which require presentation of evidence not supplied by the pleadings or by their annexes now before us.

WHEREFORE, the petition is dismissed, with costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

Ruiz Castro, J., took no part.

* BCI Employees and Workers Union (PAFLU)

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