

PHILIPPINE FIBER PROCESSING COMPANY, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND PHILFIBCO EMPLOYEES AND LABORERS UNION, LOCAL 106, (NWB), RESPONDENTS.

G.R. No. L-29770. July 19, 1973

Ponente: CASTRO, J.

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CASTRO, J.:

Appeal by certiorari from the decision of the Court of Industrial Relations dismissing the motion for reconsideration of the petitioner Philippine Fiber Processing Company, Inc. in case no. 979-ULP.

On July 12, 1956, the herein respondent Philfibco Employees and Laborers Union, Local 106 (NWB), filed a complaint for unfair labor practice against the petitioner company. After trial on the merits, the CIR rendered judgment on May 17, 1968, as follows:

"Conformably with the foregoing, respondents are hereby directed to immediately reinstate the members of complainant union named in Annex 'A' of the complaint to their former work. But in fairness not only to the respondents, but to all the party litigants as well, the payment of back wages shall be limited to a period of three years counted from the time that this case was submitted for resolution of this Court. This must be so, considering the protracted hearing of this case and the difficulties encountered in view of the compulsory retirement from the service of Commissioner Martin Dolorico with whom this case was formerly assigned, and the lingering illness of Commissioner Alfonso Reyes who was subsequently designated to study, weigh, and evaluate the transcripts consisting of six thick volumes, and make a report of his findings of the evidence introduced by the parties."

A copy of the aforementioned decision was received by the petitioner on May 21, 1968.

On May 24, 1968, the petitioner filed a motion for extension of time to file its motion for reconsideration of the industrial court's adverse decision, adducing as reasons --

". . . that the undersigned counsel are occupied with the preparation of trials and memoranda in other cases; and considering further that this case was handled by Atty. Melanio S. Andal from the filing of the complaint up to the submission of said case for decision in 1956; and considering finally that the record of this case is too voluminous, it will be inconvenient if not impossible for the undersigned counsel to file their Motion for Reconsideration in this case within the five-day period granted to them by this Honorable Court."

On May 28, 1968, the petitioner received a copy of the industrial court's resolution of May 25, 1968 denying its motion for extension of time to file a motion for reconsideration. The denial was based on that court's standing policy of not allowing any extension of time in the matter of filing pleadings before the court en banc.

On May 30, 1968, the petitioner filed its motion for reconsideration with arguments.

On October 28, 1968, the petitioner received the CIR's resolution dated September 24, 1968 dismissing its motion for reconsideration for having been filed beyond the reglementary period prescribed in the rules of the CIR.[1]

Hence, this appeal.

The threshold question is whether the filing by the petitioner of its motion for extension of time to file a motion for reconsideration tolled the running of the 5-day period within which, under the industrial court's rules, a motion for reconsideration should be filed.

In this Court's opinion, the said period was not tolled. This Court's decision in *King vs. Joe* (20 SCRA 1119) resolved this procedural problem, thus:

"The rule that a petition for extension of time to file a motion for reconsideration does not, by itself, interrupt the period fixed by law for the perfection of the appeal, has gained acceptance in jurisprudence. *Garcia vs. Buenaventura*, 74 Phil. 611, 613, gave the stern warning that the 'pendency of a motion for extension of time to perfect an appeal x x x does not suspend the running of the period sought to be extended.' We there gave as reason that '[I]f it did, the mere filing of a petition for extension at the eleventh hour would ipso facto extend the time -- which is a glaring absurdity.' This was followed by *Gibbs vs. Court of First Instance of Manila*, 80 Phil. 160, 164, where this Court once again ruled that a motion for extension of time to file a petition for new trial 'did not stop the running of the reglementary period for perfecting the appeal.'"

We find no sufficient reason to deviate from the foregoing doctrine. Indeed, the "no-extension" policy of the CIR relative to the filing of motions for reconsideration and arguments of parties litigants under rules 15 and 16 (*supra*) of that court, has been repeatedly upheld by this Court.[2]

Moreover, it appears from the record that the petitioner's counsel -- Atty. Pedro C. Camus -- became such in the dispute below as early as October, 1960, after the then counsel of the petitioner asked for his substitution as counsel of record by the said Atty. Camus. Under the circumstances, Atty. Camus' principal reasons for praying for an extension of time within which to file the petitioner's motion for reconsideration, viz., that the record is voluminous and that he entered as counsel for the petitioner only after the case was submitted for decision, are evidently baseless. He had more than seven (7) years within which to follow up and study the developments of the case in the industrial court.

At all events, we have thoroughly studied the record and the decision of the CIR in this case, and we are of the view that the said decision is amply supported by substantial evidence. Consequently, the same will not be disturbed by this Court.[3]

Thus, it appears that the following issues are decisive:

- (1) Did the respondent company [petitioner herein] refuse to bargain collectively with the complainant union?
- (2) Were the employees-members of the complainant union illegally locked out, and, if in the affirmative, did this constitute an unfair labor practice act as defined by Republic Act No. 875?

- Anent the first issue, the industrial court absolved the petitioner from the charge of failure to bargain in good faith with the respondent union, for the following reasons: (a) prior to the filing of the unfair labor practice case below, there were two contending unions in the petitioner's premises, namely, the herein respondent union and the Philippine Workers Union, each claiming majority representation, and the petitioner had reasonable grounds to doubt which union had the real majority representation among its employees and with whom it should deal, particularly in view of the fact that many of its employees had dual union membership; and (b) although a letter proposal, for bargaining purposes, was received by the petitioner from the respondent union on March 17, 1956 and was answered only on May 16, 1956, several conferences were, however, held between the parties in the interim. That, according to the industrial court, was substantial compliance with the requirements of section 14 of the Industrial Peace Act.[4]

- The second issue was decided adversely against the petitioner, on the basis of the findings of fact made by the

CIR, hereunder recited.

On April 23, 1956, the petitioner company served notice to all its employees that it intended to stop operations thirty (30) days after receipt by them of the said notice. The company gave as reasons for the cessation of operations an alleged shortage of high grade jute materials, as its remaining stock plus 200 bales borrowed from the ITEMCOPI would last approximately only up to May 25, 1956, and that it was incurring tremendous financial losses in its operations.

On May 10, 1956, in view of a labor strike about to be staged by the Philippine Fiber Workers Union, the respondent union notified the petitioner that it would not join the said strike and that its members would continue working in the petitioner's factory. On May 19, 1956, where the strike actually took place, the members of the respondent union reported for work, but were refused entrance by the factory guards. Since then, the members of the respondent union have been treated by the petitioner as dismissed from the service.

On the petitioner's alleged shortage of raw materials, the industrial court's findings are as follows:

"True, the complainant union was aware of the impending shortage of raw materials as could be gleaned from its resolution requesting the respondents to take necessary steps to import the necessary materials needed so as to avert the stoppage of operation (Exhibit '2-A'). Evidence shows that respondent company, through its superintendent Mr. Devinconci and Mr. Charvet, was able to borrow from ITEMCOPI 100 bales of first class and 100 bales of tossa (tsn, pp. 23 to 24, March 28, 1958).

"... It could be said, as in fact it is clear from the record, that the latter [ITEMCOPI] could not have loaned the same had it not been for an expected shipment of jutes from India in the latter part of June, 1956. The testimony of Mr. Devinconci is in point, to wit:

'Q -

Were you expecting any boat load of fibers at the time when you borrowed those goods?

'A -

Yes, we were expecting (tsn, pp. 22 to 23, April 14, 1958).

'Q -

What did you say, if you said any?

'A -

I told Mr. Charvet, it is alright because our jute is arriving more or less at the end of June x x x (tsn, p. 23, supra).

'Q -

How many times a year do the fibers arrive?

'A -

More or less every two months and sometimes three. It depends upon the availability of money' (tsn, p. 25, supra).

"Another witness, Jose Ocampo, also testified that as of May 18, 1956, respondent company had still in its bodega 1,130 bales of jutes of the following grades: 61 bales mill first, 356 bales export first, 57 bales export tossa and 656 bales export light ... That respondent company did not run short of jutes is further belied by the fact that on May 28, 1956, a shipment of jute also arrived composed of 560 bales of mill first, 560 bales of tossa and 672 bales of export first, or a total of 1,792 bales (Minutes of August 4, 1956, supra, and tsn, p. 37, August 4, 1956).

"As a further indication that respondent company had enough jutes to last until the next shipment arrived was their admission that before it finally closed shop they were just using two (2) or three (3) bales a day. In other words, with the 200 bales borrowed from ITEMCO plus the 61 bales of mill first and 57 bales of export tossa which at the time it still had in its stock, the same could have lasted until the first week of June, 1956, when the shipment that arrived on May 28, 1956, was cleared in the customs house. Admittedly, shipment of jutes comes every two or three months, thus insuring a continuous supply of the materials for the respondent company.

"Another thing, while respondent company closed its Pandacan factory, it however continued its operations in Ma-ao, Negros Occidental. This fact, standing alone, is a clear proof that there was enough supply of jutes, otherwise, operations in the latter place would not be possible. That respondents were operating at a loss could not be true either, considering its subsequent resumption of operations. In other words, if the company was losing, it could not have reopened its Pandacan factory, much less transferred its operations to Ma-ao, Negros Occidental. The foregoing facts.... belie respondents' claim that the company is operating at a loss."

On the petitioner's claim that it closed its factory to prevent property losses and damages arising from the strike of the Philippine Fiber Workers Union, the industrial court found as follows:

"As to how the picketing was conducted at the very start, indications are that the same was peaceful. Ambrosio Legaspi and Andres Garcia, both of the striking union, attested to this fact. To illustrate, Ramon Llorente was never bothered by the strikers when he went to the factory on May 19, 1956; the two radio operators of the respondent company never missed a day of their work despite the picket-ing, and many others, particularly office personnel, were allowed to get in and out of the factory since the start of the strike. If acts of violence or coercion were committed by the picketers on August 4, 1956, September 15, 1956 and October 12, 1956, we still maintain that those incidents are not reflective of the conduct of the strike or picketing more than three months back. As a matter of fact, the records would show that since the start of the strike and even immediately thereafter, no untoward incidents have been reported. This is one proof that picketing was carried out in a manner that employees who wanted to work could have done so. No evidence was adduced either to show that the conduct of the picketing was ever influenced by the alleged strained relation between the striking union and herein complainant."

On the basis of the foregoing, we do not find any error in the industrial court's conclusion that the petitioner's lockout of the members of the respondent union on May 19, 1956 and thereafter was in violation of the Industrial Peace Act. Albeit, whatever the dismissed employees actually earned during the period which, under the said decision, is the basis for the computation of the backwages due to the said illegally dismissed employees, must be deducted therefrom, conformably with the rule laid down by this Court in cases of similar nature.[5]

ACCORDINGLY, the present appeal is dismissed. In view of the manifestation of the respondent union that several of its members who are entitled to the award made by the CIR are either already dead or have gone home to their respective provinces, and communication with them or their heirs is now difficult or uncertain, the CIR is

enjoined to exert its utmost to the end that these members or their heirs will be promptly reached, reinstated and/or paid the benefits they are entitled to. Costs against the petitioner company.

Makalintal, (Acting C.J.,) Fernando, Teehankee, Makasiar, Antonio, and Esguerra, JJ., concur.
Zaldivar and Barredo, JJ., no part.

[1] Sec. 15. The movant shall file the motion, in six copies, within five (5) days from the date on which he received notice of the order or decision, object of the motion for recon-sideration, the same to be verified under oath ... serving a copy thereof ... on the adverse party. The latter may file an answer in six (6) copies, duly verified under oath.

"Sec. 16. Both the motion and the answer shall be sub-mitted with arguments supporting the same. If the arguments cannot be submitted simultaneously with said motion, upon notice to the Court, the movant shall file same within ten (10) days from the date of the filing of his motion for reconsideration. The adverse party shall also file his answer within ten (10) days from the receipt by him of a copy of the arguments submitted by the movant."

[2] See *Visayan Bicycle Mftg. Co., Inc. vs. National Labor Union*, 14 SCRA 5; *Luzon Stevedoring Co., Inc. vs. CIR*, 8 SCRA 447; and *Manila Metal Caps and Tin Cans Mftg. Co., Inc. vs. CIR*, 8 SCRA 552.

[3] Section 6, R.A. 875; *National Fastener Corp. vs. CIR*, G.R. No. L-15834, Jan. 20, 1961; *Permanent Concrete Products vs. Frivaldo*, G.R. No. L-14179, Sept. 15, 1960; *Compania Maritima vs. United Seamen's Union*, 104 Phil. 7; *Cinema, Stage & Radio Entertainment Free Workers' Union vs. CIR*, 18 SCRA 1068.

[4] Section 14, R. A. 875 provides: "Procedure for Collective Bargaining. -- (a) Whenever a party desires to negotiate an agreement, it shall serve a written notice upon the other party, with a statement of its proposals. The other party shall make a reply thereto not later than ten days from receipt of such proposals."

[5] *East Asiatic Co., Ltd. vs. CIR*, 40 SCRA 535; *Itogon-Suyoc Mines, Inc. vs. Sangilo-Itogon Workers' Union*, 24 SCRA 282; *Republic Savings Bank vs. CIR*, 21 SCRA 665.

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