

UNITED RESTAUROR'S EMPLOYEES & LABOR UNION-PAFLU, PETITIONER, VS. HON. GUILLERMO E. TORRES, AS PRESIDING JUDGE OF BRANCH VIII, COURT OF FIRST INSTANCE OF RIZAL, 7TH JUDICIAL DIS...

G.R. No. L-24993. December 18, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Certiorari to annul the writ of preliminary injunction issued by the Court of First Instance of Rizal ordering United Restauror's Employees & Labor Union-PAFLU (Union, for short), its attorneys, representatives, agents and any person assisting it to "REFRAIN from picketing on the property of plaintiff Delta Development Corporation within the Makati commercial center."

The case arose from a verified complaint for injunction with prayer for preliminary injunction filed by Delta Development Corporation (Delta), against the Union on January 16, 1965.[1] It is there averred that: Delta is the owner of the Makati commercial center situated at Makati, Rizal. It is in the business of leasing portions thereof. The center has its own thoroughfares, pedestrian lanes, parking areas for the benefit of customers and clients of its lessees. On the other hand, the Union is an association of some employees of Sulo Restaurant, a lessee of Delta. On January 8, 1965, the Union sought permission from Delta to conduct picketing activities "on the private property of plaintiff surrounding Sulo Restaurant." On January 11, Delta denied the request because it "may be held liable for any incident that may happen in the picket lines, since the picketing would be conducted on the private property owned by plaintiff." Despite the denial, the Union picketed on Delta's property surrounding Sulo Restaurant on January 16 and continued to conduct said activity. Such act of the Union is violative of the property rights of, and would cause great and irreparable injury to, Delta. No employer-employee relationship exists between Delta and the Union members. Delta then prayed that a writ of pre-liminary injunction issue and that, after hearing, such injunction be made permanent.

As aforesaid, respondent judge issued a writ of preliminary injunction. The Union's move to reconsider was denied on January 26, 1965.

On January 19, 1965, the Union filed a motion to dismiss on the ground, inter alia, that the court had no jurisdiction to try the case.

Without awaiting resolution of its motion to dismiss, the Union commenced in this Court the present original petition for certiorari on September 18, 1965, claiming that respondent judge acted without or in excess of his jurisdiction in issuing the injunctive writ "as no restraining order could be validly issued against the right to picket as part of freedom of speech"; that respondent judge issued the questioned writ "without the benefit of a previous hearing"; that it was issued in violation of Section 9(d) of Republic Act 875; that jurisdiction over the case rests with the Court of Industrial Relations (CIR) "for the same involves acts of unfair labor practice under Sec. 4(a) of Republic Act 875 in connection with Sec. 5(a) thereof"; and that there is no appeal nor any plain, speedy and

adequate remedy in the ordinary course of law.

On September 29, 1965, this Court issued a writ of preliminary injunction upon the Union's P1,000.00-bond.

On October 12, 1965, Delta answered. It alleged, amongst others, that respondent judge validly issued the injunctive writ in question because the same "never enjoined petitioner from picketing against the Sulo-D & E, Inc. but only from doing their picketing on the private property of respondent who is not in any way privy to the relationship between Sulo-D & E, Inc. and petitioner"; that Republic Act 875 is not applicable to the case involving as it does an action to protect Delta's property rights; that it has no labor relation or dispute of any kind with the Union; and that the injunctive writ was issued after due hearing on January 19, 1965. Delta asked that the present petition be denied.

After the submission of the parties' memoranda in lieu of oral argument, Delta moved to dismiss the proceeding at bar on the ground that it has become moot and academic. It averred that the Union lost in the consent election conducted by the Department of Labor on October 4, 1965 in CIR Cases 1455-MC and 1464-MC, and thereby also lost its right to picket; and that in said election cases, a rival union - Sulo Employees Labor Union (SELU, for short) - was certified by CIR as the exclusive bargaining representative of all the employees of Sulo Restaurant pursuant to CIR's order of December 23, 1965.

The Union opposed. It argued that the picketing was conducted on or about January 16, 1965, that is, around 8 months before the consent election on October 4, 1965; and that the issues that triggered the Union's labor strike of January 16, 1965 are entirely distinct and foreign to the issues in Cases 1455-MC and 1464-MC.

The petition must be dismissed. Really, the case before us has become moot and academic.

When the union struck and picketed on January 16, 1965, it might have been true that the Union commanded a majority of Sulo's employees. Without need of certification, it could, under such circumstances, conclude a collective bargaining agreement with Sulo.[2] But it is not disputed that on October 4, 1965, i.e., shortly after this case was filed on September 18, 1965, a consent election was held. Not controverted, too, is the fact that, in that consent election, SELU defeated the Union, petitioner herein. Because of this, SELU was certified to the Sulo management as the "collective bargaining representative of the employees x x x for collective bargaining purposes as regards wages, hours of work, rates of pay and/or such other terms and conditions of employment allowed them by law." [3]

The consent election, it should be noted, was ordered by CIR pursuant to the Union's petition for direct certification docketed as Case 1455-MC and a similar petition for certification filed by SELU docketed as Case 1464-MC. Verily, the Union can no longer demand collective bargaining. For, it became the minority union. As matters stand, said right properly belongs to SELU, which commands the majority. By law, the right to be the exclusive representative of all the employees in an appropriate collective bargaining unit is vested in the labor union "designated or selected" for such purpose "by the majority of the employees" in the unit concerned.[4] SELU has the right as well as the obligation to hear, voice out and seek remedies for the grievances of all Sulo employees, including employees who are members of petitioner Union, regarding the "rates of pay, wages, hours of employment, or other conditions of employment."

Indeed, petitioner Union's concerted activities designed to be recognized as the exclusive bargaining agent of Sulo employees must come to a halt.[5] Collective bargaining cannot be the appropriate objective of petitioning Union's continuation of their concerted activities. The record before us does not reveal any other legitimate purpose. To allow said Union to continue picketing for the purpose of drawing the employer to the collective bargaining table would obviously be to disregard the results of the consent election. To further permit the Union's

picketing activities would be to flaunt at the will of the majority.

The outcome of a consent election cannot be rendered meaning-less by a minority group of employees who had themselves invoked the procedure to settle the dispute. Those who voted in the consent election against the labor union that was eventually certified are hidebound to the results thereof. Logic is with this view. By their very act of participating in the election, they are deemed to have acquiesced to whatever is the consequence of the election. As to those who did not participate in the election, the accepted theory is that they "are presumed to assent to the expressed will of the majority of those voting." [6]

Adherence to the methods laid down by statute for the settle-ment of industrial strife is one way of achieving industrial peace; one such method is certification election. [7] It is the intent and purpose of the law that this procedure, when adopted and availed of by parties to labor controversies, should end industrial disputes, not continue them. [8] Pertinent is the following observation to which we fully concur: "Before an election is held by the Board [9] to determine which of two rival unions represents a majority of the employees, one of the unions may call a strike and demand that the employer bargain with it. A labor dispute will then exist. Nothing in the statute makes it illegal for a minority to strike and thereby seek to obtain sufficient strength so as to become the sole bargaining agent. But after the Board certifies the bargaining representative, a strike by a minority union to compel an employer to bargain with it is unlawful. No labor dispute can exist between a minority union and an employer in such a case." [10]

Upon the law then, the Union's right to strike and consequently to picket ceased by its defeat in the consent election. That election occurred during the pendency before this Court of this original peti-tion for certiorari lodged by the Union the thrust of which is to challenge the power of the Court of First Instance to enjoin its picket-ing activities. The Union may not continue to picket. The object of the case before us is lost.

We, accordingly, vote to dismiss the petition for certiorari as moot and academic, and to dissolve the writ of preliminary in-junction we heretofore issued herein, for being functus officio.

No costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Capistrano, JJ., concur.

[1] Civil Case 8524, Court of First Instance of Rizal (Pasig), entitled "Delta Development Corporation, Plaintiff, versus United (Restauror's) Employees and Labor Union, Defendant."

[2] Binalbagan Isabela Sugar Co., Inc. (BISCOM) vs. Philippine Association of Free Labor Unions (PAFLU), L-18782, August 29, 1963.

[3] December 23, 1965 order of Associate Judge Emiliano C. Tabigne in Cases Nos. 1455-MC and 1464-MC, Annex "A" of Delta's Motion to Dismiss.

[4] Sec. 12(a), Republic Act 875, as amended.

[5] "A labor union that is not the exclusive representative of all the employees, therefore may not picket for closed shop. And a con-tract provision for collective bargaining governing all employees is valid only when the majority of the employees have consented to it or have authorized their agents to consent." Dangel and Shriber, Labor Unions, 1941 ed., p. 90.

[6] Allied Workers' Association vs. Court of Industrial Relations, 20 SCRA 364, 367, citing Virginia Ry. Co. vs.

System Federation No. 40 (1937) 300 U.S. 515, 81 L. ed. 789.

[7] See: Sec. 12, Republic Act 875, as amended.

[8] Florsheim Shoe Store Co. vs. Retail Shoe Salesmen's Union; 42 N.E. 2d 480, 484.

[9] Referring to the National Labor Relations Board, the American counterpart of our CIR.

[10] Dangel and Shriber, op. cit., pp. 395-396, citing cases; emphasis supplied.

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