

PEOPLE'S INDUSTRIAL AND COMMERCIAL EMPLOYEES AND WORKERS ORGANIZATION (FFW), ERNESTO PAGAYATAN, ANTONIO ERIÑO, RODRIGO BOADO AND LINO FRANCISCO, PETITIONERS, VS. PEOPLE'S INDUSTR...

G.R. No. L-37687. March 15, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

Petition for review of the decision and en banc resolution of the Court of Industrial Relations dated April 2, 1973 and October 3, 1973, respectively, pro-mulgated in three (3) consolidated cases.[1]

The decision penned by Associate Judge Alberto S. Veloso adopting in full the report of CIR Hearing Examiner Atty. Francisco de los Reyes made the following dispositive portion, thus -

"After a careful review, scrutiny and evaluation of the records of these cases, as well as of every piece of evidence adduced by the parties, pro and con, this court finds the findings of facts and conclusions of law contained in the aforequoted Report to be amply substantiated, and, therefore, adopts the same as its own.

"WHEREFORE, in view of all the foregoing, above-entitled cases should therefore be, as they are hereby ordered DISMISSED.

SO ORDERED."

This petition limits itself to the controversy in Case No. 4498-ULP filed by People's Industrial and Commercial Employees and Workers Organization against People's Industrial and Commercial Corporation and the Federation of Tenants and Laborers Organization.

On the basis of the Examiner's Report, the following facts appear: On April 30, 1964, the Federation of Tenants and Laborers Organization, Rizal Chapter, FTLO for short, entered into a collective bargaining agreement with respondent People's Industrial and Commercial Corporation, hereafter referred to as PINCOCO, (Exhibits "2" and "G"). At the time the agreement was consummated, herein individual petitioners, Ernesto Pagayatan, Antonio Eriño, Rodrigo Boado and Lino Francisco, who were also the individual complainants in Case No. 4498-ULP, together with those mentioned in Annex "A" of the complaint (List of some forty-five [45] other employees), were employees of PINCOCO and members of FTLO. The relevant portions of the working agreement stipulate:

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"Art. II - Union Security Maintenance Shop. Those who are members in good standing of the Union before the signing of this working agreement, shall continue to be union members in good standing as a pre-requisite for continued employment in the company.

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Any employee covered by this agreement who during its term, should resign from the union or shall be expelled therefrom according to its normal procedures for any of the causes hereafter enumerated, shall upon written notice by the union directorate, be discharged from employment, provided that the causes for expulsion from the Union be any of the following:

1. Working in the interest of any labor organization other than the Union which claims or exercises jurisdiction similar to that claimed or exercised by the Union;
2. Refusal to pay or non-payment of Union dues and Assessment;
3. Disloyalty to the Union;
4. Separation from the Union for cause.

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"Art. VIII. No Strike, No Lockout. For the duration of the Agreement, the COMPANY shall not lockout its employees, nor shall the UNION or any employee stage any strike, picket or other concerted activity other than in protest of unfair labor practice, and the court decision in the case that may be filed in this connection shall determine the propriety of such concerted activity under the Agreement. Violation of this paragraph shall be treated as subject to the same sanctions as a violation of the duty to bargain collectively.

A stoppage of work or cessation of operation due to poor sales, lack of raw material, or any other business reason, or to force majeure, shall not be deemed a lockout for the purpose of the preceding paragraph. In any case that the COMPANY should stop operations due to any of the foregoing reasons, adequate notice shall be given to the UNION whenever possible.

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"Art. XI. Duration of the Agreement. This Agreement shall take effect this ____ day of April, 1964 and shall only be in effect for a period of one (1) year thereafter. Unless written notice of a desire to terminate or modify the same is given by either party to the other at least thirty (30) days before its expiration, this agreement shall be deemed to be renewed for another year."

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On October 18, 1964, it appears that with the knowledge of PINCOCO, an election of union officers of the Rizal Chapter of FTLO was conducted by virtue of a resolution (Exhibit "2-FFW", t.s.n., pp. 24-31, October 10, 1969) and that individual petitioners were elected as the new officers with Ernesto Pagayatan as chapter president (Exhibits "4-FFW" and "5-FFW"). On January 10, 1965, individual petitioners together with fifty-one (51) other employees executed a Certification (Exhibit "3-FFW") stating that they are members of the Federation of Tenants and Laborers Organization, but as of the above date, they have changed the name of their union to People's Industrial and Commercial Employees and Workers Organization (PICEWO) and have affiliated this new union with the Federation of Free Workers. Ernesto Pagayatan was again made the president of the new union (PICEWO) together with the set of officers elected with him in the last election retaining their respective positions. Further, in the same certification, the union counsel of FTLO, Atty. David Advincula, was disauthorized to represent the signatories. The certification contains no specific reason or cause for the change of union name. On February 10, 1965, the new union was granted a certificate of re-registration by the Department of Labor (Exhibit "1-FFW").

On March 23, 1965, Ernesto Pagayatan, assuming the capacity of chapter president of FTLO and not as a pre-sident of PICEWO, notified in writing respondent PINCOCO of their desire to terminate the working

agreement. Later, a set of collective bargaining proposals was sent in the name of PICEWO (Exhibits "E", "10" and "11"). PINCOCO replied this wise:

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"That in view of the study effected by the management as to its stand with regard to the said proposals and further submission of the same to our legal coun-sel for consultation and advice and considering that April 15, 1965 is a legal holiday we cannot serve you, our formal reply within the period specified by existing statute.

"However, we assure you of our formal reply to your proposal on April 14, 1965 and that management will endeavor to avail of the remedies within the financial capa-city of the company and other factors to be considered to meet the terms of your proposal."

On April 13, 1965, FTLO passed a resolution expelling petitioners Ernesto Pagayatan, Antonio Eriño, Rodrigo Boado and Lino Francisco from the Federation of Tenants and Laborers Organization (FTLO) on grounds of disloyalty and working for the interest of another labor federation (Exhibit "F"). On April 22, 1965, Ernesto Pagayatan, this time as president of PICEWO filed a notice of strike, alleging as cause thereof respondent employers's refusal to bargain. (Exhibit "9-H"). On April 29, 1965, prompted by the demand of the majority of the FTLO directorate to enforce the maintenance of membership shop of the work-ing agreement, respondent PINCOCO dismissed Ernesto Pagayatan and his companions from employment (Exhibits "12-FFW", "12-A-FFW" to "12-C-FFW"). On May 1, 1965, the FTLO and respondent PINCOCO executed a collective bargaining agreement for a period of three (3) years (Exhibits "A-CO" and "D").

Meanwhile, on April 30, 1965, PICEWO, led by individual petitioners struck. Thereafter, at the behest of the FTLO, respondent PINCOCO posted a notice for the strikers to return to work within a period of five (5) or ten (10) days or else they shall be considered to have abandoned their work. None of the strikers returned and picketing went on for a period of six (6) months. Later, PINCOCO again posted a notice that it had decided to resume operation on March 9, 1966, and between March 7 and 8 of the same year, all employees were advised to signify their ability to work at which time they will be required to submit police clearances and to medical and physical examination by the company physician, otherwise their failure to return within the period shall be considered as abandonment of work. On March 31, 1966 petitioner-union, through its president, signified the intention to return to work beginning April 4, 1966. None of the strikers, however, were allowed to work.

From the preceding developments, three separate cases were filed with the Court of Industrial Relations. In Case No. 4428-ULP, FTLO indicted herein individual petitioners for unfair labor practice in staging an illegal strike after they were already dismissed from the company. In Case No. 167-INJ, FTLO sought for the issuance of a permanent injunction to stop the alleged illegal strike. In Case No. 4498-ULP, PICEWO sued PINCOCO and FTLO for unfair labor practice, alleging that by illegally dismissing petitioners, the company discriminated against them in regard to hire, tenure and/or other con-ditions of employment by unlawfully acceding and effecting the request of FTLO without proper investigation thereof, with no just reason but to encourage membership in the FTLO; and that respondent federation, in recommending and insisting on the dismissal of individual petitioners, had interfered in their right to self-organization. (Annex "C", p. 39, Rollo).

After the reception of evidence, the Hearing Examiner designated by the Court of Industrial Relations reported that the petitioners were, beyond doubt, members of the FTLO when the Working Agreement of April 30, 1964 took effect and that the working agreement required in Article II thereof maintenance of membership in the federation as condition for continued employment in the company. Since the specific causes for expulsion from membership have been enumerated, particularly that of working for the interest of another organization and disloyalty to the union, the Hearing Examiner concluded that petitioners' conduct is within the said causes

expressed in the agreement. The Report also established that FTLO is the sole and exclusive bargaining representative of the employees which entered into a bona fide agreement, putting a limitation of petitioners' right leave the union and join another. The Examiner found no unfair labor practice committed by either the FTLO or PINCOCO, and that the strike staged by petitioners was not on account of any unfair labor practice, but, rather, done to force recognition.

Based on the above findings, respondent court dismissed the three cases. On April 10, 1973, petitioners filed their motion for reconsideration; same was denied in the en banc resolution of October 3, 1973. Petitioners now raise the following assignment of errors:

- a) The respondent court erred in holding that the Motion for Reconsideration and the Memorandum in support of the Motion for Reconsideration were filed out of time;
- b) The respondent court erred in holding that the strike declared by herein petitioners was intended only to force recognition;
- c) The respondent court erred in not declaring both respondent Corporation and respondent Federation guilty of committing unfair labor practice;
- d) The respondent court erred in not declaring as illegal the dismissal from employment of individual petitioners; and
- e) Respondent court erred in not ordering the return to work of the striking members of petitioner Union with backwages and other fringe benefits from April 30, 1965 until their actual reporting for work.

The last day for filing the motion for reconsideration was April 9, 1973 which was a holiday (BATAAN DAY), and the last day for filing the arguments in support of the motion for reconsideration, ten days after, was April 19, 1973, also a holiday (MAUNDY THURSDAY). Since petitioners have filed their pleadings on the next respective business days, that is, April 10, 1973, for the motion for reconsideration and April 23 for the arguments in support thereof (April 20 to 22 not being business days), the pleadings were, therefore, filed on time. On this procedural aspect, the resolution of October 3, 1973 has erred. It is the policy of the law to disregard technicalities in procedure so as not to deprive the litigant's pursuit of his subs-tantial rights under the Rules.

Under Article 13, last paragraph, of the Civil Code, in computing the period, the first day shall be excluded, and the last day included. And under Rule 28 of the Rules of Court, Section 1, time is computed thus -

"Sec. 1. How to compute time. - In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the time shall run until the end of the next day which is neither a Sunday nor a holiday."

Under the second assignment of error, the question to be resolved is whether or not the petitioners' act of disaffiliating themselves from the mother federation constitutes an act of disloyalty to the union which would warrant their expulsion and consequently their dismissal from the company in pursuance to the union security clause embodied in the CBA.

Petitioners contend that no disloyalty is involved since what they did on January 10, 1965 was merely to change, as they did change, the name of Rizal Chapter of the Federation of Tenants and Laborers Organization (FTLO) to People's Industrial and Commercial Employees and Workers Organization (PICEWO).

While We are not convinced with the petitioners' argument that the only act that they have done was to change the

name of their union for they have registered the new union and affiliated it with the Federation of Free Workers, We rule that individual petitioners do not merit the dismissals meted by the company.

In *Liberty Cotton Mills Workers Union vs. Liberty Cotton Mills*,^[2] We held that the validity of the dis-missals pursuant to the security clause of the CBA hinges on the validity of the disaffiliation of the local union from the federation. It was further held in this case that PAFLU (the federation) had the status of an agent while the local union remained the basic unit of association free to serve the common interest of all its members including the freedom to disaffiliate when the circumstances warrant such an act. The Supreme Court, speaking thru Justice Esguerra, said:

"All these questions boil down to the single issue of whether or not the dismissal of the complaining employees, petitioners herein, was justified or not. The resolution of this question hinges on a precise and careful analysis of the Collective Bargaining Agreements. (Exhs. "H" and "I"). In these contracts it appears that PAFLU has been recognized as the sole bargaining agent for all the employees of the Company other than its supervisors and security guards. Moreover it likewise appears that "PAFLU, represented in this Act by its National Treasurer, and duly authorized representative, x x x (was) acting for and in behalf of its affiliate, the Liberty Cotton Mills Workers Union and the employees of the Company, etc." In other words, the PAFLU, acting for and in behalf of its affiliate, had the status of an agent while the local union remained the basic unit of the association free to serve the common interest of all its members including the freedom to disaffiliate when the circumstances warrant. This is clearly provided in its Constitution and By-Laws, specifically Article X on Union Affiliation, supra. At this point, relevant is the ruling in an American case. (*Harker et al. vs. Mckissock et al.*, 81A 2d 480, 482).

"The locals are separate and distinct units primarily designed to secure and maintain an equality of bargaining power between the employer and their employee-members in the economic struggle for the fruits of the joint productive effort of labor and capital; and the association of the locals into the national union (as PAFLU) was in furtherance of the same end. These associations are consensual entities capable of entering into such legal relations with their members. The essential purpose was the affiliation of the local unions into a common enterprise to increase by collective action the common bargaining power in respect of the terms and conditions of labor. Yet the locals remained the basic units of association, free to serve their own and the common interest of all, subject to the restraints imposed by the Constitution and By-Laws of the Association, and free also to renounce the affiliation for mutual welfare upon the terms laid down in the agreement which brought it into existence."

The right of the local members to withdraw from the federation and to form a new local depends upon the provisions of the union's constitution, by-laws and charter. In the absence of enforceable provisions in the federation's constitution preventing disaffiliation of a local union, a local may sever its relationship with its parent.

There is nothing shown in the records nor is it claimed by respondent federation that the local union was expressly forbidden to disaffiliate from the federation. Except for the union security clause, the federation claims no other ground in expelling four of the fifty-one who signed the certification.

Fifty-one out of sixty employees is equivalent to eighty five percent (85%) of the total working force. This is not a case where one or two members of the old union decided to organize another union in order to topple down the former, but it is a case where majority of the union members decided to reorganize the union and to disaffiliate from the mother federation.

There is no merit to the contention of the respondent federation that the act of disaffiliation is disloyalty to the union. The federation and the union are two different entities and it was the federation which actively initiated the dismissal of the individual petitioners. A local union does not owe its existence to the federation to which it is

affiliated. It is a separate and distinct voluntary association owing its creation and continued existence to the will of its members. The very essence of self-organization is for the workers to form a group for the effective enhancement and protection of their common interests.

The third, fourth and fifth assignment of errors maybe resolved on the same issue which is the legality of the strike and the consequences thereof.

Petitioners allege that the strike which was started on April 30, 1965 was staged because of the unfair labor practice of the respondent company in refusing to bargain collectively with PICEWO and in dismissing individual petitioners. The Hearing Officer in his Report which was adopted in full by the Court of Industrial Relations settled the legality of the strike in the following manner:

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"While the reply of respondent PINCOCO to the proposal of the new union evokes ambiguity, the same may not be treated as a refusal to bargain. At the time the letter proposal was sent, the presumed bargaining agent was the FTLO. No showing had been made that the PICEWO, upon its organization was and should have been accorded the status of a majority bargaining representative. The letter reply of PINCOCO, although it seem to cast doubt as to its motivation, should not be held and taken against it as a positive design to discriminate in the absence of any additional or corroborative showing that the new union actually represented the majority of the employees in the unit and that this fact was known to the management.

The strike therefore of the PICEWO was not on account of any unfair labor practice acts committed by the respondent PINCOCO. It seem to have been more of a strike to force recognition."

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We do not agree with the finding of the Hearing Officer that the strike was staged to force recognition. The chain of events which preceded the strike belie this conclusion. On April 5, 1965, Ernesto Pagayatan, the president of PICEWO sent to the management a set of pro-posals for a collective bargaining agreement. The management on April 13, 1965 replied that the formal reply to the proposals cannot be made within the reglementary period because they will submit the said proposals to their legal counsel for further study and instead their reply would be made on April 19, 1965. No reply was made on that date. On April 29, 1965, individual petitioners were dismissed. A strike was staged the next day. One day after the petitioners struck, a new collective bargaining agreement was signed by the respondent company and the FTLO.

The respondent company knew that a new union was formed composed of about 85% of the total number of its employees. It was furnished a copy of the certification that the majority of the FTLO members are forming a new union called PICEWO. The set of bargaining proposals were in the name of the new union. While a company cannot be forced to sit down and bargain collectively with the new union since it had no notice of the union's official capacity to act as the bargaining agent, the respondent company cannot deny that it had factual knowledge of the existence of a majority union. It could have asked for further proof that the new union was indeed the certified bargaining agent. It did not. Instead, it dismissed individual petitioners and signed a new CBA the day after the expiration of the old CBA, on the pretext that FTLO was presumed to be the certified bargaining agent. Such pretext does not seem justified nor reasonable in the face of the established fact that a new union enjoyed a majority status within the company.

On the belief that the respondent company refused to bargain collectively with PICEWO, individual petitioners together with the other members staged a strike. We have in several cases ruled that a strike may be considered legal when the union believed that the respondent company committed unfair labor acts and the circumstances warranted such belief in good faith although subsequently such allegation of unfair labor practices are found out

as not true.

Thus, in *Norton and Harrison Co. and Jackbilt Blocks Company Labor Union (NLU) vs. Norton and Harrison, et al.*,^[3] We held that "the act of the company in dismissing Arcaina, done without the required fair hearing, and, therefore, not tenable even under strict legal ground, induced the union and its members to believe that said company was guilty of unfair labor practice altho viewed now in retrospect said act would fall short of unfair labor practice. Since the strike of the union was in response to what it was warranted in believing in good faith to be unfair labor practice on the part of the management, said strike following the Ferrer ruling^[4] did not result in the termination of the striking members' status as employees and therefore, they are still entitled to reinstatement without backwages."

The Ferrer ruling was also upheld in *Shell Oil Workers Union vs. Shell Company of the Phil. Ltd.*^[5] where We stated that "(i)t is not even required that there be in fact an unfair labor practice committed by the employer. It suffices, if such a belief in good faith is entertained by labor as the inducing factor for staging a strike. So it was clearly stated by the pre-sent Chief Justice while still an Associate Justice of this Court: 'As a consequence, we hold that the strike in question had been called to offset what petitioners were warranted in believing in good faith to be unfair labor practices on the part of Management, that petitioners were not bound, therefore, to wait for the expiration of thirty (30) days from notice of strike before staging the same, that said strike was not, accordingly, illegal and that the strikers had not thereby lost their status as employees of respondents herein.'"

The Ferrer ruling was promulgated in 1966, that in the *Shell Oil* case in 1971. In 1980, there was the case of *Pepito vs. Secretary of Labor*, L-49418, Feb. 29, 1980, where petitioner therein was separated for having been implicated in a pilferage case by a co-employee but was later absolved from the charge. The Supreme Court thru Chief Justice Fernando ruled that the cause for his dismissal was proved non-existent or false and thus ordered his reinstatement with three years backwages, without deduction and qualification.

We adopt the *Pepito* ruling and We hold that the petitioners in the case at bar are entitled not only to reinstatement but also to three years backwages without deduction and qualification. This is justified and proper since the strike was proved and We held the same to be not illegal but was induced in the honest belief that management had committed unfair labor practices and, therefore, the cause of their dismissal from employment was non-existent. It is clear that management gave cause or reason to induce the staging of the strike by improperly refusing to recognize the new union formed by petitioners. It has been twelve (12) years since petitioners were dismissed from their employment and in their destitute and deplorable condition, to them the benign provisions of the New Constitution for the protection of labor, assuring the rights of workers to self-organization, collective bargaining and security of tenure would be useless and meaningless. Labor, being the weaker in economic power and resources than capital, deserve protection that is actually substantial and material.

WHEREFORE, IN VIEW OF THE FOREGOING, the decision under review is hereby SET ASIDE. The respondent company is hereby ordered to reinstate individual petitioners and other striking members within thirty (30) days from notice of this decision, with backwages, equivalent to three (3) years at the rates actually received by them before their dismissal without deduction and qualification.

In view of the length of time that this dispute has been pending, this decision shall be immediately executory upon promulgation and notice to the parties. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Melencio-Herrera, and Plana, JJ., concur.

[1] Case No. 4428-ULP (Federation of Tenants and Laborers Organization, et al. v. Ernesto Paga-yatan, et al.); Case No. 4498-ULP (People's Industrial and Commercial Employees and Workers Organization [FWT], et al. v. People's Industrial and Commercial Corporation, et al.); and Case No. 167-INJ (Federation of Tenants and Laborers Organization, et al. v. People's Industrial and Commercial Employees and Workers Organization, et al.

[2] L-33987, September 4, 1975, 66 SCRA 512.

[3] L-18461, February 10, 1967, 19 SCRA 310.

[4] In Ferrer, et al. vs. CIR, et al., L-242678, May 31, 1966, 17 SCRA 532, We held: x x x both parties had performed acts which understandably induced each other to believe that the other was guilty of such practices, al-though as we now analyze the whole situation, without the excitement, the labor dispute at the peak thereof, such belief may not turn out to be borne by the objective reali-ties and both were reasonably justified in taking counter-measures adopted by them. As a consequence we hold that the strike in question had been called to offset what petitioners were warranted in believing in good faith to be unfair labor practices on the part of the management, that petitioners were not bound therefore to wait for the expiration of the 30 days from notice of strike before staging the same, that said strike was not, accordingly, illegal and that the strikers had not thereby lost their status as the employees of the respondent herein. Upon the other hand, considering that the latter had been absolved from the charge of unfair labor practice, the reinstatement of the workers must be without backpay."

[5] L-28607, May 31, 1971, 39 SCRA 276.

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