

SILAHIS INTERNATIONAL HOTEL, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND GENUINE LABOR ORGANIZATION OF WORKERS IN HOTEL RESTAURANT AND ALLIED INDUSTRIES (GLOWH...

G.R. No. 104513. August 04, 1993

Ponente: NOCON, J.

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NOCON, J.:

May the First Division of the National Labor Relations Commission (NLRC) order the reinstatement of employees dismissed for leading and/or participating in an illegal strike, in an injunction case[1] which is separate and distinct from the illegal strike case[2] against them and which is pending appeal?

In this instant petition for certiorari and prohibition, the answer to the main issue stated above determines whether or not the public respondent-NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in issuing such an order.[3]

The petitioner Silahis International Hotel Inc. is the employer of private respondent employees. Respondent-Union Genuine Labor Organization of Workers in Hotel, Restaurant and Allied Industries (GLOWHRAIN)-Silahis International Hotel Chapter, is the exclusive bargaining representative of the rank-and-file employees in the company.

The antecedent facts are as follows:

On November 16, 1990, respondent-Union filed a notice of strike against petitioner-Silahis Hotel for unfair labor practices: violation of CBA, dismissal of union officers/members, mass termination/illegal lockout, and union busting.[4]

On the same day, private respondents staged a strike, picketing and allegedly obstructing the ingress to and egress from the hotel.[5]

On November 28, 1990, the Secretary of Labor and Employment assumed jurisdiction and issued an order certifying the dispute to the NLRC for consolidation with an earlier case and for all striking employees to return to work.[6] Accordingly, on November 29, 1990, the employees ended the strike and returned to work.

On February 1, 1991, petitioner Silahis Hotel filed a complaint for illegal strike (NLRC NCR Case No. 02-00717-91) against respondent-Union, fourteen (14) named employees representing the union officers and John Does and Jane Does representing all the other employees who joined the strike.[7]

In a decision dated February 12, 1992, Labor Arbiter Cornelio L. Linsangan found private respondents guilty of illegal strike and declared the union officers to have lost and forfeited their employment.[8]

On February 14, 1992, the day the private respondents learned of the decision, petitioner-Silahis Hotel barred

them from entering the hotel and terminated their services. Respondent-Union and private respondent-employees filed their appeal on February 19, 1992, well within the ten-day period for perfection of appeal provided by law.[9]

And on February 27, 1992, herein private respondents filed a Very Urgent Petition[10] for the issuance of a writ of preliminary mandatory injunction under Art. 218 (e) of the Labor Code, not in the illegal strike case then on appeal,[11] but as NLRC NCR IC No. 00-0235-92. In that petition, respondents (petitioners therein) allege that petitioner-Silahis Hotel terminated the employment of respondents on February 14, 1992 even before the illegal strike decision[12] became final and executory and that most of the employees terminated were not union officers nor proved to be participants in the strike. The termination of respondents' employment would cause grave or irreparable injury which can be corrected by the writ of preliminary mandatory injunction.

The first division of the NLRC issued, in a Minute Resolution, an order in favor of respondents dated March 11, 1992, the dispositive part of which reads:

"Wherefore, weighing the relative positions of the parties vis-a-vis the equitable reliefs available, we hereby rule subject to petitioners' posting of a bond of Fifty Thousand (P50,000.00) Pesos to answer for whatever liability the respondent may suffer should it appear that they are not entitled to the reliefs hereby granted, directing the respondent company: (1) to reinstate either physically or on payroll, at respondent's option, to reinstate (sic) Rogelio M. Soluta, Joselito A Santos, Florentino P. Matilla, Edna B. Dacanay, Dennis C. Cosico, Alfredo S. Bautista and Richard T. Galigo; and (2) to reinstate, with full backwages, all the other petitioners to their positions held as of February 14, 1992. Labor Arbiter Adolfo C. Babiano is hereby directed to hear the incident of temporary and/or permanent injunction, and to submit a report and recommendation thereon within ten (10) days from the conclusion of the hearing.

This Order shall be effective for a period of only twenty (20) days from petitioners' submission of the required bond."[13]

On March 16, 1992, petitioner-Silahis Hotel filed a Motion for Reconsideration of the Order above, but the same was not and has not been acted upon.

Petitioner-Silahis Hotel assails this Order and on March 25, 1992, filed the instant petition for certiorari and prohibition with prayer for temporary restraining order. The following day, we issued a temporary restraining order continuing until further orders from the Court, enjoining the NLRC from enforcing the Order dated March 11, 1992 in NLRC NCR Case NO. 00-0235-92 and from further proceeding with aforesaid case.[14]

Petitioner contends that:

"THE RESPONDENT NLRC ACTED WITHOUT OR IN EXCESS OF JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION IN ORDERING THE REINSTATEMENT OF PRIVATE RESPONDENTS, CONSIDERING THAT:

A. The questioned Order illegally confers a relief on private respondents, in violation of petitioner's right to due process. Injunction is not the appropriate remedy to order the reinstatement of private respondents.

B. The questioned Order operates as an adjudication on the merits of private respondents' appeal from the Labor Arbiter's decision, which raises the issue as to the scope of the declaration.

C. Respondents, by knowingly filing the injunction case during the pendency of the appeal in the illegal strike case are guilty of forum-shopping.

D. The questioned order was issued in clear and palpable violation of Art. 218 of the Labor Code."[15]

The resolution of the instant petition depends on whether public respondent-NLRC can validly entertain the "Very Urgent Petition"[16] filed by respondents and issue the Order[17] reinstating the respondents, assailed by petitioner.

The appeal from the decision of the labor arbiter in the illegal strike case (NLRC NCR Case No. 02-00717-91) was pending when respondents filed its "Very Urgent Petition" as NLRC IC No. 00-0235-92.

Petitioner claims that filing the "Very Urgent Petition" as another injunction case and not with the appealed case is "forum-shopping" and cannot be done for such practice has long been condemned as "contrary to the interest of justice." [18] It further argues that the issue of respondents' employment status and/or dismissal is pending in the appealed strike case and that respondents were dismissed precisely because of said illegal strike conducted by them. Hence, they (respondents) cannot seek relief from the effects of the dismissal in an entirely new suit (the injunction case). [19]

On the other hand, private respondents contend that they are not guilty of forum-shopping because the issues involved in the appealed case and the injunction case are different. They claim that the issues in the appealed illegal strike case are whether the finding of illegal strike and the declaration that the union officers have lost and forfeited their employment are correct. And the issue in the injunction case, which arose after the decision of the labor arbiter, is whether this decision can be executed or implemented by the petitioner even if the same was not final and executory. [20]

The labor arbiter ruled that the strike staged by the respondents was illegal. After receiving notice of a favorable decision, petitioner-hotel dismissed the respondent-employees for having participated in this illegal strike. Respondents then filed its appeal from this decision. And within the same month, the respondents filed their petition for injunction as a new injunction case.

It is not very difficult to see that the issues in these two cases are interrelated. Because of this relevant connection, the relief prayed for by the respondents, i.e., injunction restraining the petitioner from dismissing them, could have been properly granted or denied in the case on appeal. There was in fact no reason for the respondents to file a new injunction case before the same agency.

By doing this, they effectively sought another forum to grant them relief. The Court cannot but proscribe this as a species of forum shopping.

In *Villanueva v. Adre*, [21] we said that:

"There is forum shopping whenever, as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another. The principle applies not only with respect to suits filed in the courts but also in connection with litigations commenced in the courts while an administrative proceeding is pending, as in this case, in order to defeat administrative processes and in anticipation of an unfavorable administrative ruling and a favorable court ruling." [22]

And in *Gabriel v. Court of Appeals*, [23] we added that "filing of multiple petitions constitutes abuse of the court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice and will be punished as contempt of court." [24]

We have consistently ruled that a party should not be allowed to pursue simultaneous remedies in two different forums. Although most of the cases we have ruled upon regarding forum shopping involved petitions in the courts and administrative agencies, [25] the rule prohibiting it applies equally to multiple petitions in the same tribunal or agency.

By filing another petition involving the same essential facts and circumstances in the same agency, as in this case where respondents filed their appeal and injunction case separately in the NLRC, respondents approached two different fora in order to increase their chances of obtaining a favorable decision or action. This practice cannot be tolerated and should be condemned.

Public respondent-NLRC erred when it entertained the separate injunction case filed by respondents. Moreover, it should have consolidated the petition for injunction with the case already on appeal, for the fact of appeal and the attendant circumstances were stated in the petition and even acknowledged in the questioned Resolution of the NLRC.[26]

While we find that the action taken by the respondents was ill-suited however, this does not mean that the petitioner-hotel's act of dismissing respondent-employees before the decision of the labor arbiter became final and executory should be sanctioned.

Despite our proscription against forum shopping, the respondents should be allowed to have recourse to the processes of law and to seek relief from their dismissal as this allowance will better serve the ends of justice. The propriety of the hotel's act of dismissing the respondents and the resulting consequences may still be passed upon, in conjunction with the appealed case after filing a proper petition therein.

However, the culpability of respondents' counsel, who are charged with the knowledge of the law and with the duty of assisting in the administration of justice, is clearly manifest. Because of the cunning practice they employed, respondents' lawyers, Attys. Potenciano A. Flores, Jr. and A.E. Dacanay are hereby warned and admonished to be more circumspect in their professional concerns otherwise a penalty more severe shall befall them for similar acts.

The other issues raised by petitioner no longer bear any significance after the resolution of the main problem above. No further discussion regarding them will therefore be made.

WHEREFORE, premises considered, the petition is hereby GRANTED and the ruling of the respondent National Labor Relations Commission is hereby set aside. The temporary restraining order dated March 26, 1992 is made permanent. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] NLRC IC No. 000235-92, GLOWHRAIN et. al. v. Silahis International Hotel Inc., filed February 27, 1991.

[2] NLRC NCR Case No. 02-00717-91, Silahis International Hotel Inc, v. GLOWHRAIN, Rogelio M. Soluta, et. al.

[3] Dated March 11, 1992; Rollo, p. 37.

[4] NCMB-NCR-NS-11- 927-90.

[5] Petition, pp. 5-6; Rollo, pp. 5-6.

[6] Order of the Secretary of the Department of Labor and Employment, Rollo, pp. 37-39.

[7] Rollo, pp. 40-50.

[8] Decision of the Labor Arbiter, p. 11; Rollo, p. 57-68.

[9] Art. 223 of the Labor Code provides that the decision is "final and executory unless appealed to the Commission by any or both parties within ten (10) calendar days from receipt of such decision xxx."

[10] Rollo, p. 114.

[11] NLRC NCR Case No. 02-00717-91.

[12] Supra, note 7.

[13] Decision of the NLRC, First Division, pp. 3-4; Rollo, 34-35.

[14] Rollo, pp. 92-93.

[15] Petition, p. 9; Rollo, p. 9.

[16] Rollo, p. 114.

[17] Rollo, p. 32.

[18] Petition, p. 17, citing Tan v. CA 199 SCRA 212 and other cases; Rollo, p.17.

[19] Id., p. 18.

[20] Comment, p. 11; Rollo, p. 105.

[21] 172 SCRA 876, 882 (1989).

[22] Id., at 882.

[23] 72 SCRA 273 (1976).

[24] Id., at 275.

[25] For example Gabriel v. CA 72 SCRA 275; Buan v. Lopez, 145 SCRA 34 (1986); Villanueva v. Adre, 172 SCRA 876 (1989); GSIS v. Sandiganbayan 191 SCRA 655 (1990); New Pangasinan Review Inc. v. NLRC, 196 SCRA 55 (1991); Benguet Electric Cooperative Inc. v. National Electrification Administration, 193 SCRA 250 (1991).

[26] Rollo, p. 32.

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