

DELFIN CUETO, ET AL., PETITIONERS, VS. HON. MONTANO A. ORTIZ, ET AL., RESPONDENTS.*G.R. No. 11555. May 31, 1960*

Ponente: GUTIERREZ DAVID, J.

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On November 13, 1956, the Nasipit Labor Union and the Nasipit Stevedoring Co., Inc., filed in the Court of First Instance of Agusan Civil Case No. 517 for the recovery of damages, with prayer for the issuance ex parte of a writ of preliminary injunction against herein petitioners. The complaint alleges, among other things, that plaintiff Nasipit Stevedoring Co., Inc., by virtue of agreements with the Nasipit Lumber Co., Inc., and the Agusan Timber Corporation, is the sole and exclusive contractor for the unloading and loading of all cargoes of said lumber companies on all foreign vessels calling at the port of Nasipit; that to furnish the stevedoring work, plaintiff Nasipit Stevedoring Co., Inc., entered into agreement and hired the services of its co-plaintiff, the Nasipit Labor Union; that said union has been doing the stevedoring work to the satisfaction of the lumber companies; that on November 6, 1956, the defendants (herein petitioner) without any legal right whatsoever, prevented the plaintiff Nasipit Labor Union by means of threat, force, intimidation and coercion from loading the timber of the abovementioned lumber companies on ocean-going vessels, which were docked at the port of Nasipit, province of Agusan; that despite the presence of peace officers, the defendants succeeded in harassing plaintiffs' laborers and even went to the extent of causing physical injuries to a security guard of plaintiff Nasipit Labor Union; that due to the acts of said defendants, plaintiffs suffered actual and pecuniary damages, and stand to suffer great and irreparable injuries unless defendants are restrained from committing further acts of violence.

The defendants, herein petitioners, opposed the petition for the issuance of an ex-parte writ of preliminary injunction. Following the procedure laid down in Section 9(d) of Republic Act No. 875, the lower court set the said petition for preliminary injunction for hearing. Thereafter, the court, finding that sufficient reasons existed for the issuance of the writ prayed for, issued the same upon petitioners' putting up a bond of P20,000.

Objecting to the issuance of the writ of preliminary injunction, defendants filed the present petition for certiorari and prohibition with preliminary injunction to enjoin the enforcement of the order and writ issued by the respondent court. They allege that the bond is formally and substantially defective because it does not "signify an agreement entered into by the complainant and the surety;" that the total value of the property of the two sureties amounts only to P3,460, while the undertaking entered into by them "jointly and severally" was for the sum of P20,000; and that the order and writ of preliminary injunction varies greatly from the prayer of the complaint and is not in accordance with the provisions of section 9 of Republic Act No. 875.

Upon the petitioners' filing a bond of P200, a writ of preliminary injunction was issued by this Court, but after respondents had filed their answer and the case heard, the writ was subsequently dissolved.

The question of whether or not a court of first instance can take cognizance of a case which involves a labor dispute, or can issue a writ of injunction as an incident thereto, has been decided by this Court in the case of

Philippine Association of Free Labor Unions (PAFLU) et al. vs. Hon. Bienvenido Tan et al. (99 Phil., 854; 52 Off. Gaz., 5836). In that case, although the issue between the parties admittedly arose out of a labor dispute, this Court held that courts of first instance have jurisdiction to settle said issue and determine whether a writ of preliminary or permanent injunction should be issued, inasmuch as said labor dispute does not affect an industry which is indispensable to the national interest and is so certified by the president, and the controversy neither refers to minimum wage, under the Minimum Wage Law, or to hours of employment, under the Eight-Hour Labor Law, nor involves an unfair labor practice. The rule, therefore, is that with the exception of the cases above specified, the Court of Industrial Relations has no jurisdiction even if the case involves a labor dispute.

In the instant case, there can hardly be any dispute that the court below has jurisdiction to take cognizance of the complaint filed by herein respondents Nasipit Labor Union and Nasipit Stevedoring Co., Inc. As a matter of fact, the petitioners, although stating that the case matte out by the said complaint involves a labor dispute, do not even claim that it falls under any of the specified cases adverted to above. Actually, it merely refers to the recovery of damages occasioned by the acts of interference and violence perpetrated by the members of the petitioner Young Men Labor Union Stevedore. Such being the case, we hold that the lower court had the authority to issue the writ of preliminary injunction complained of, which is but an incident thereto. (See *Allied Free Workers' Union et al. vs. Apostol*, 102 Phil., 292.) And it being expressly stated in the order sought to be annulled that the procedure laid down by Section 9 (d) of Republic Act No. 875 has been followed, we see no valid reason for annulling the same.

With respect to the alleged defect in the bond put up by the respondents labor union and stevedoring company, suffice it to say that the same does not affect the lower court's jurisdiction over the case. And we also note that the alleged defect as well as the other errors or irregularities alleged to have been committed by the court in issuing the order complained of have not been brought to its attention through a motion for reconsideration, a requisite which is necessary in petitions in the nature of the present.

In view of the foregoing, the petition for certiorari and prohibition is denied, with costs against petitioners.

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

Concepcion and Barrera, JJ., concur in the result.

Reyes, J.B.L., and Endencia, JJ., did not take part.

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