

NATIONAL ASSOCIATION OF TRADE UNIONS, PETITIONER, VS. THE HON. FROILAN BAYONA AND PEOPLE'S BANK & TRUST COMPANY, RESPONDENTS.

G.R. No. 12940. April 17, 1959

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

In its petition for a writ of certiorari and prohibition, the National Association, of Trade Unions, a labor organization organized and existing under and by virtue of the laws of the Philippines, prays that a writ of preliminary injunction issued by the Court of First Instance of Manila in Civil Case No. 33913 thereof, entitled "People's Bank and Trust Co. vs. Association of Bank Employees, et al.," be set aside, that Hon. Froilan Bayona, be restrained, as Judge of said court, from further proceeding with the determination and hearing of said case, and that said petitioner be allowed "to prove damages as well as expenses incurred" on account of "the improvident issuance of the aforementioned writ of preliminary injunction."

The pertinent facts are not disputed. On September 30, 1957, members of the aforementioned labor organization working in the People's Bank and Trust Co., the main respondent herein, declared a strike and set up picket lines around the premises of said Bank. Soon thereafter, or on October 3, 1957, the latter instituted said Civil Case No. 33913 against the Association of Bank Employees— People's Bank and Trust Co. (NATU) and several officers and employees of such labor organization. The Bank in its complaint that the defendants had performed a number of illegal acts specified in said pleading; that said acts would cause substantial and irreparable injury to the Bank, "unless a temporary restraining order, without notice", were "immediately issued to restrain the defendants from committing the illegal acts above described"; that "the public officers charged with the duty to protect" its "property, although willing, are unable to furnish adequate" protection; that the Bank has "no adequate remedy at law"; and that this case is one cognizable by said court as held in *PAFLU vs. Tan* (99 Phil., 854; 52 Off. Gaz. [13] 5836). Relying upon these allegations in the complaint, which was sworn to, on the basis of his own "knowledge, information and belief," by Antonio de las Alas, Jr., secretary of said Bank, respondent Hon. Froilan Bayona, as Judge of First Instance of Manila, forthwith issued, on October 3, 1957, a writ of preliminary injunction, pertinent parts of which read:

"To Asso. of Bank Employees-People's Bank & Trust Co. (NATU, et al.)

Greetings:

"Complaint having been filed before this Court of First Instance of Manila in the above-entitled cause, against the defendant Association of Bank Employees, et al., above mentioned, praying that a preliminary injunction be issued against said defendant restraining them from continuing the performance of certain acts mentioned in the complaint and more particularly described hereafter; upon considering said complaint and affidavit by plaintiff, People's Bank & Trust Co., Inc. and it appearing to the satisfaction of the Court that this is a case where a writ of injunction should issue, sufficient reason having been alleged, and the bond required by law having been given in the sum of five thousand pesos, Philippines currency (P5,000.00), to the satisfaction of

the Court:

"It is hereby ordered by the undersigned Judge of the Court of First Instance that, until further order, you, the said Association of Bank Employees, et al. and all your attorneys, representatives, agents, and any other person assisting you, refrain from engaging in mass picketing, violent picketing, boisterous picketing or any manner of unlawful picketing which prevents the free, normal and unhampered ingress into and egress from the bank's main entrance by any person; (b) coercing, intimidating, molesting, harassing, embarrassing, interfering with, injuring, and instilling or causing to be instilled or causing to be instilled fear into, the customers desiring to transact business with the bank, or any other person or persons including the plaintiff's employees who are now inside the bank, (c) preventing the free and unhampered entry into and removal from the Bank premises of any foodstuff, papers, mail-matter, clothing, or any matter whatsoever, whether in connection with the bank business or otherwise; (d) preventing the security guards of plaintiff from accompanying or escorting any person to and from the bank; (e) unlawfully impeding, obstructing, hampering or interfering with the business of the bank, until further orders from this Court." (Annex 1.)

Two (2) days thereafter, or on October 5, 1957, said labor organization instituted the present case against Judge Bayona and the Bank. In its petition, it alleged, among other things, that respondent Judge had unlawfully exceeded his jurisdiction and committed a grave abuse of discretion in issuing the aforementioned writ of preliminary injunction and in taking cognizance of said Case No. 33913 because: (a) the same involves a labor dispute, cognizable only by the Court of Industrial Relations; and (b) the provisions of Section 9(d) of Republic Act No. 875 had been violated.

In their answer, respondents herein alleged, in substance, that the picketing by members of petitioner's organization had been conducted in an illegal manner; that the writ of preliminary injunction issued by respondent Judge was effective for five (5) days only; that the Court of First Instance of Manila has exclusive jurisdiction to hear and decide the issues raised in said Case No. 33913, pursuant to PAFLU vs. Tan *supra*, and PAFLU vs. Barot (99 Phil., 1008; 52 Off. Gaz., 6544) ; that petitioner herein has a plain, adequate and speedy remedy in said Case No. 33913; that the issue raised in the case at bar "has become moot and academic" by reason of the expiration of said period of five (5) days, and is "no longer justiciable"; and that any question of damages suffered by petitioner herein in consequence of the issuance of the restraining order complained of, "should be heard and tried in said Civil Case No. 33913."

Although the issue between the parties in said case arose, admittedly, out of a labor dispute, this Court has already held in the aforementioned cases of PAFLU vs. Tan (*supra*), and PAFLU vs. Barot (*supra*), 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 (Sec. 10, Republic Act 875), and the controversy neither refers to minimum wage, under the Minimum Wage Law (Republic Act 602), or to hours of employment, under the Eight-Hour Labor Law (Commonwealth Act 444), nor involves an unfair labor practice (Sec. 5[a], Republic Act 875).

However, it is obvious that respondent Judge had exceeded his jurisdiction in issuing the restraining order complained of, upon the allegations of the verified complaint in said case No. 33913, without taking the testimony of any witness in support thereof. In *Reyes vs. Tan* (99 Phil., 880; 52 Off. Gaz. [14], 6187), this Court, in a unanimous decision, penned by Mr. Justice Reyes (J.B.L.), explicitly declared, more than a year before the institution of said Case No. 33913:

"Under section 9(d) of Republic Act 875, an injunction *ex parte* can be issued only 'upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon hearing after notice'. In other words, there is still necessity for a hearing at which sworn testimony for the applicants would be received, and

not only that, the court should be satisfied that such testimony would stand under cross-examination by the Court and be sufficient to overcome denial by the defendants. As no hearing was held in the Court below and the injunction issued on the basis of mere affidavits submitted by respondents (petitioners-applicants in the Court below), the injunction in question is void for not having been issued in accordance with the provisions of Republic Act 875." (*Italics ours.*)

This view was reiterated in *PAFLU vs. Barot* (*supra*), in which, after quoting section 9(d) of Republic Act 875, Mr. Justice Labrador, speaking for the Court, used the following language:

"Judged by the above-quoted provision, the order complained of is subject to the following objections: (1) there was no hearing of the testimonies of witnesses in open court; (2) there is no finding of fact by the court that unlawful acts have been threatened and will be committed nor that complainant has no adequate remedy at law, and that public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection." (*Italics ours.*)

With respect to respondents' allegation to the effect that the restraining order in question was effective for five (5) days only, that said order expired, therefore, on October 8, 1957, and that the question of validity of said order has, therefore, become "moot and academic" and is "no longer justiciable", it should be noted that the present case was instituted two (2) days after the issuance of said order and before the expiration of said period of five (5) days. Besides, the writ of preliminary injunction issued by respondent Judge specifically and explicitly enjoined the defendants in Case No. 33913 to refrain from performing the acts therein specified "until further orders from this Court." In other words, apart from neither holding the hearing, nor taking the testimony required in section 9 (d) of Republic Act No. 875, respondent Judge violated the same by imposing a restraint for a longer period than that authorized by said legal provision.

At any rate, the expiration of said period, after the institution of the proceedings questioning the legality of the writ of preliminary injunction, has not deterred this Court from nullifying similar orders in the past. Thus, referring to a temporary restraining order issued on May 10, 1955, this Court in a decision promulgated on August 31, 1956 or over fifteen (15) months later, held in *PAFLU vs. Tan* (*supra*):

"We believe however that in order that an injunction may be properly issued the procedure laid down in section 9(e) of Republic Act No. 875 should be followed and cannot be granted *ex parte* as allowed by Rule 60, section 6, of the Rules of Court. The reason is that the case, involving as it does a labor dispute, comes under said section 9(d) of the law. That procedure requires that there should be a hearing at which the parties should be given an opportunity to present witnesses in support of the complaint and of the opposition, if any, with opportunity for cross-examination; and that the other conditions required by said section as prerequisites for the granting of relief must be established and stated in the order of the court. Unless this procedure is followed, the proceedings would be invalid and of no effect. The court would then be acting in excess of its jurisdiction. (*Lauf vs. E. G. Shinner & Co., Inc., supra.*)

"It appearing that in the present case such procedure was not followed, we are persuaded to conclude that the order of respondent court of May 10, 1955 granting the writ of injunction prayed for by plaintiff-respondent is invalid and should be nullified.

"Petition is granted. The order of respondent court dated May 10, 1955 is set aside. Costs against RE MA, Incorporated." (*Italics ours.*)

Moreover, in *United Pepsi-Cola Sales Organization vs. Canizares, et al.*, 102 Phil., 887; 55 Off Gaz. [21], 3837 in which an *ex parte* writ of injunction was validly issued after taking the testimony of witnesses under oath, we had the following to say:

"Finally, a temporary restraining order issued *ex parte*, 'shall be effective for no longer than five days and shall

be void at the expiration of said five days', according to sec. 9(d) of Republic Act 875. The order of injunction in question having been issued ex parte, it became void and of no effect after the fifth day of its issuance, by operation of law and even without any judicial pronouncement of that effect (*Reyes vs. Tan*, 52 Off. Gaz. No. 14, 6197; *Allied Free Workers Union vs. Apostol*, 102 Phil., 292).

"Wherefore, the petition for certiorari is denied, but the writ of preliminary injunction, issued by the trial court on 25 April 1957, is declared no longer operative. No costs." (*Italics ours.*)

This notwithstanding, we agree with the respondents herein that the determination of the amount of damages sustained by petitioner herein, if any, on account of the restraining order in question, should be made, not in the case at bar, but in Case No. 33913, where the writ was issued.

Wherefore, the petition for a writ of certiorari is granted, but the writ of prohibition prayed for is denied, and the writ of preliminary injunction issued by respondent Judge on October 3, 1957, is hereby declared null and void, with costs against respondent People's Bank and Trust Company. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Endencia, JJ., concur.

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