

BIFLEX PHILS. INC. LABOR UNION (NAFLU), PATRICIA VILLANUEVA, EMILIA BANDOLA, RAQUEL CRUZ, DELIA RELATO, REGINA CASTILLO, LOLITA DELOS ANGELES, MARISSA VILLORIA, MARITA ANTONIO, ...

G.R. NO. 155679. December 19, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.

Assailed via Petition for Review on Certiorari is the Court of Appeals Decision[1] of May 28, 2002 setting aside the National Labor Relations Commission (NLRC) Resolution[2] of August 14, 1995 which reversed the December 15, 1992 Decision[3] of the Labor Arbiter.

Petitioners Patricia Villanueva, Emilia Bandola, Raquel Cruz, Delia Relato, Regina Castillo, Lolita delos Angeles, Marissa Villoria, Marita Antonio, Lolita Lindio, Eliza Caraulia, and Liza Sua were officers of Biflex (Phils.) Inc. Labor Union.

Petitioners Myrna dela Torre, Avelina Añonuevo, Bernice Borcelo, Narlie Yagin, Evelyn Santillan, Leony Serdoncilo, Trinidad Cuya, Andrea Lumibao, Gynie Arneo, Elizabeth Capellan, Josephine Detosil, Zenaida Francisco, and Florencia Anago were officers of Filflex Industrial and Manufacturing Labor Union.

The two petitioner-unions, which are affiliated with National Federation of Labor Unions (NAFLU), are the respective collective bargaining agents of the employees of corporations.

Respondents Biflex (Phils.) Inc. and Filflex Industrial and Manufacturing Corporation (respondents) are sister companies engaged in the garment business. Situated in one big compound along with another sister company, General Garments Corporation (GGC), they have a common entrance.

On October 24, 1990, the labor sector staged a *welga ng bayan* to protest the accelerating prices of oil. On even date, petitioner-unions, led by their officers, herein petitioners, staged a work stoppage which lasted for several days, prompting respondents to file on October 31, 1990 a petition to declare the work stoppage illegal for failure to comply with procedural requirements.[4]

On November 13, 1990, respondents resumed their operations.[5] Petitioners, claiming that they were illegally locked out by respondents, assert that aside from the fact that the *welga ng bayan* rendered it difficult to get a ride and the apprehension that violence would erupt between those participating in the *welga* and the authorities, respondents' workers were prevented from reporting for work.

Petitioners further assert that respondents were "slighted" by the workers' no-show, and as a punishment, the workers as well as petitioners were barred from entering the company premises.

On their putting up of tents, tables and chairs in front of the main gate of respondents' premises, petitioners, who claim that they filed a notice of strike on October 31, 1990,[6] explain that those were for the convenience of

union members who reported every morning to check if the management would allow them to report for work.

Respondents, on the other hand, maintain that the work stoppage was illegal since the following requirements for the staging of a valid strike were not complied with: (1) filing of notice of strike; (2) securing a strike vote, and (3) submission of a report of the strike vote to the Department of Labor and Employment.[7]

The Labor Arbiter, by Decision of December 15, 1992, finding for respondents, held that the strike was illegal.[8] The decretal text of its decision reads:

WHEREFORE, judgment is hereby rendered declaring the respondents guilty of an illegal strike. Consequently, their following officers are declared to have lost their employment status:

BIFLEX LABOR UNION (NAFLU)

1. Reynaldo Santos - President
2. Patricia Villanueva - Vice President
3. Emilia Bandola - Secretary
4. Raquel Cruz - Treasurer
5. Delia Relato - Auditor
6. Regina Castillo - Board Member
7. Lolita delos Angeles - Board Member
8. Marissa Villoria - Board Member
9. Marita Antonio - Board Member
10. Lolita Lindio - Board Member
11. Eliza Caranlia - Board Member
12. Liza Sua - Board Member

FIFLEX INDUSTRIAL AND MANUFACTURING LABOR UNION (NAFLU)

1. Myrna dela Torre - President
2. Avelina Anonuevo - Vice President
3. Barnice Borcello - Secretary
4. Nerlie Yagin - Treasurer
5. Evelyn Santillan - Auditor
6. Leony Serdoncilo - Director
7. Trinidad Cuga - Director
8. Andrea Lumibao - Director
9. Gynie Arneo - Director
10. Elizabeth Capellar - Director

11. Josephine Detosil - Director
12. Zenaida Francisco - Director
13. Florencia Anago - Director

SO ORDERED.[9]

Respondents thereupon terminated the employment of petitioners.

On appeal, the National Labor Relations Commission (NLRC) reversed the ruling of the Labor Arbiter, it holding that there was no strike to speak of as no labor or industrial dispute existed between the parties.[10] It accordingly ordered respondents to reinstate petitioners to their former positions, without loss of seniority rights, and with full backwages from the date of their termination. [11]

On respondents' petition for certiorari, the Court of Appeals, by Decision of May 28, 2002, reversed that of the NLRC and reinstated that of the Labor Arbiter.

In finding for respondents, the appellate court discredited petitioners' claim of having been illegally locked out, given their failure to even file a letter of protest or complaint with the management,[12] and their failure to comply with the legal requirements of a valid strike.[13]

The appellate court further noted that while petitioners claimed that they filed a notice of strike on October 31, 1990, no copy thereof was ever produced before the Labor Arbiter.[14]

Hence, the instant petition which faults the appellate court to have:

I

. . . ERRED IN INTERPRETING ART. 264 (A) OF THE LABOR CODE TO BE MANDATORY AND CALLING FOR THE AUTOMATIC DISMISSAL OF THE PETITIONERS FOR HAVING ENGAGED IN AN ILLEGAL STRIKE.

II

. . . ERR[ED] IN NOT RULING THAT RESPONDENTS ERRED IN IMMEDIATELY IMPLEMENTING THE DECISION OF THE LABOR ARBITER . . . DISMISSING PETITIONERS FROM WORK DESPITE THE FACT THAT THE SAID DECISION HAS NOT YET BECOME FINAL AND EXECUTORY.

III

. . . ERRED IN DECLARING THAT PETITIONERS WERE GUILTY OF HOLDING AN ILLEGAL STRIKE WHEN CIRCUMSTANCES SHOWED THAT RESPONDENTS WERE THE ONES WHO WERE GUILTY OF AN ILLEGAL LOCKOUT.

The petition fails.

That petitioners staged a work stoppage on October 24, 1990 in conjunction with the welga ng bayan organized by the labor sector to protest the accelerating prices of oil, it is not disputed.

Stoppage of work due to welga ng bayan is in the nature of a general strike, an extended sympathy strike. It affects numerous employers including those who do not have a dispute with their employees regarding their terms and conditions of employment.[15]

Employees who have no labor dispute with their employer but who, on a day they are scheduled to work, refuse to

work and instead join a welga ng bayan commit an illegal work stoppage.[16]

Even if petitioners' joining the welga ng bayan were considered merely as an exercise of their freedom of expression, freedom of assembly or freedom to petition the government for redress of grievances, the exercise of such rights is not absolute.[17] For the protection of other significant state interests such as the "right of enterprises to reasonable returns on investments, and to expansion and growth"[18] enshrined in the 1987 Constitution must also be considered, otherwise, oppression or self-destruction of capital in order to promote the interests of labor would be sanctioned. And it would give imprimatur to workers' joining demonstrations/rallies even before affording the employer an opportunity to make the necessary arrangements to counteract the implications of the work stoppage on the business, and ignore the novel "principle of shared responsibility between workers and employers"[19] aimed at fostering industrial peace.

There being no showing that petitioners notified respondents of their intention, or that they were allowed by respondents, to join the welga ng bayan on October 24, 1990, their work stoppage is beyond legal protection.

Petitioners, nonetheless, assert that when they returned to work the day following the welga ng bayan on October 24, 1990, they were refused entry by the management, allegedly as punishment for their joining the welga. Hence, they claim that they were illegally locked out by respondents.

If there was illegal lockout, why, indeed, did not petitioners file a protest with the management or a complaint therefor against respondents? As the Labor Arbiter observed, "[t]he inaction of [petitioners] betrays the weakness of their contention for normally a locked-out union will immediately bring management before the bar of justice." [20]

Even assuming *arguendo* that in staging the strike, petitioners had complied with legal formalities, the strike would just the same be illegal, for by blocking the free ingress to and egress from the company premises, they violated Article 264(e) of the Labor Code which provides that "[n]o person engaged in picketing shall ... obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares."

Even the NLRC, which ordered their reinstatement, took note of petitioners' act of "physically blocking and preventing the entry of complainant's customers, supplies and even other employees who were not on strike." [21]

In fine, the legality of a strike is determined not only by compliance with its legal formalities but also by the means by which it is carried out.

Petitioners, being union officers, should thus bear the consequences of their acts of knowingly participating in an illegal strike, conformably with the third paragraph of Article 264 (a) of the Labor Code which provides:

. . . Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike. (Emphasis and underscoring supplied)

In *Gold City Integrated Port Service, Inc. v. National Labor Relations Commission*, [22] this Court, passing on the use of the word "may" in the immediately quoted provision, held that "[t]he law . . . grants the employer the option of declaring a union officer who participated in an illegal strike as having lost his employment." Reinstatement of a striker or retention of his employment, despite his participation in an illegal strike, is a management prerogative which this Court may not supplant.

Costs against petitioners.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 29-42. Penned by Associate Justice Eriberto Rosario, Jr and concurred in by Associate Justices Oswaldo Agcaoili and Danilo Pine.

[2] Rollo, pp. 83-99.

[3] Id. at 51-61.

[4] Id. at 31.

[5] Id. at 12.

[6] Id. at 33.

[7] Id. at 31.

[8] Id. at 60.

[9] Id. at 61.

[10] Id. at 95-96.

[11] Id. at 98.

[12] Id. at 37-38.

[13] Id. at 40.

[14] Ibid.

[15] 2 Azucena, The Labor Code With Comments And Cases, 5th ed. 2004, p. 424.

[16] Ibid.

[17] Vide Jacinto v. Court of Appeals, G.R. No. 124540, November 14, 1997, 281 SCRA 657, 668; Zaldivar v. Gonzales, Nos. L-79690-707 and No.L-80578, October 7, 1988, 166 SCRA 316, 354.

[18] 1987 Constitution, Article XIII, Sec. 3(4).

[19] Id. at Sec. 3(3).

[20] Rollo, p. 59.

[21] Id. at 96.

[22] G.R. No. 103560, July 6, 1995, 245 SCRA 627, 641.

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