

MANILA METAL CAPS AND TIN CANS MANUFACTURING COMPANY, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND MANILA METAL CAPS AND TIN CANS LABOR UNION (PAFLU), RESPONDENTS.

G.R. No. 17578. July 31, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

On September 23, 1957, the Manila Metal Caps and Tin Cans Labor Union (Union for short), filed a complaint, averring therein that sometime on September 5, 1957, Joseph Ting, asked Fred Cordero, an employee of petitioner company, if they have organized a union; and when Cordero answered in the affirmative and that he was the president of the Union, Joseph Ting dismissed him; and that on September 16, 1957, Joseph Ting gathered all the employees and asked them who the members of the Union were; and that the twelve^[1] who acknowledged their membership, were likewise immediately dismissed. The Union prayed that the Company be declared guilty of Unfair Labor Practice and ordered to (1) cease and desist from such unfair labor practice; reinstate the thirteen (13) employees, with back wages from the dates of dismissal, until reinstatement. Respondent denied that the persons named in the complaint were ever its employees and that Joseph Ting, was connected with the management of the company, although he was the son of the President and General Manager Ting Ting Chiang.

The case was heard and three (3) of the thirteen alleged employees testified that they had been employed with the company since 1953, in various capacities. Fred Cordero declared that he was a laborer of the company since 1953, and was paid a daily wage of P1.50; that after serving for three (3) months, he was made a machine operator at P3.50 a day and later, up to the time of his dismissal, he worked on the pakiao system; that he worked six (6) days a week and sometimes during Sundays; that he and his co-worker, collected their wages, thru one of their companions, Melecio Morales, who signed for them, and were paid by Joseph Ting; that he was the President of the Union in petitioner's company and that upon learning of his (Cordero's) affiliation with the Union, he and other employees who joined said union, were dismissed.

In addition to the facts stated by Cordero, Melecio Morales declared that upon their dismissal (after the company had come to know of their union affiliation), the PAFLU requested for their readmission to work, but the company refused. Federico Capallar told the Court that he was employed with the company since February, 1957; and that he and twelve (12) others were dismissed by Joseph Ting, after knowing of their affiliation with complainant union.

On the part of the petitioner company, Jose Gonzales, general foreman thereof, declared that during his stint with the company since 1952, up to the hearing of the case at bar, not one of the thirteen (13) persons mentioned had worked with said company; that all persons employed by the petitioner company were made to sign weekly payrolls and daily time records; that the names of said thirteen (13) persons did not appear in any of the payrolls of the company or daily time records for the whole duration of their supposed employment; that Jose Ting was not

the manager nor had he any connection with the management of the company and that the company did not undertake any pakiao work.

Antonio Cunanan, Jr., corroborated Gonzales. The testimonies of Romeo Oreta, Jose Huyo and Lorenzo Ronquillo ran along the same line as those of Gonzales and Cunanan.

Joseph Ting testified that he was a senior student of the Mapua Institute of Technology, at the time; that Ting Ting Chiang, his father, was the President and General Manager of petitioner corporation; that he did not know anyone of the 13 claimants and that he was not in any way connected with the management of petitioner company.

Ting Ting Chiang, the President and General Manager of petitioner company, declared that the thirteen (13) claimants were not at all employed by his company; that he had not dismissed any employee in September, 1957, for alleged union activities; that sometime in 1957, Cordero and some companions presented themselves at the factory asking for job; that he told them he not even have enough materials for his employees to work on; that a week later, Cordero's companions came back asking that they be taken in as workers, and when they were again refused, they threatened to make trouble; that thereafter, the claimants sent a letter, informing the company that they had a union; that not long afterwards, the petitioner received a complaint from the CIR and that all his employees signed their respective time cards and the payrolls when they were paid their wages.

Counsel for respondent Union presented three more of the supposed dismissed members, as rebuttal witnesses: Emilio Necio, Nemesio Morales and Fructuso Pesic. They testified that Joseph Ting and Ting Ting Chiang made them sign the payrolls and paid their wages. Petitioner presented Gonzales, who affirmed once more the fact that not one of the claimants, including the three (3) rebuttal witnesses had been employed by the company. Petitioner also presented its weekly payrolls for the whole year of 1957, and in them, the names of the claimants did not appear.

CIR Judge Villanueva rendered judgment, ordering respondents :

- "1. To cease and desist from dismissing their employees due to their union affiliation;
2. To reinstate with back wages (from September 16, 1957 until their actual reinstatement) Emilio Nesio and Fructuso Pesic to their former or equivalent position, without prejudice to their seniority or other rights and privileges accruing in their favor; and, * * *

A motion for reconsideration of the above judgment was presented by counsel, claiming that the same is not in accord with the evidence on record and reasoned out that if the time cards and payrolls supposedly signed by Necio and Pesic were not presented, it was because it was physically impossible to produce non-existing time cards and payrolls, since the two never signed any, as they have never been employed by petitioner. The Union also presented a motion for Reconsideration.

On June 17, 1960, an appearance was entered by a new counsel and on the same date a "Motion for Extension of Time to File Memorandum" in support of respondent's motion for reconsideration was presented. The motion for extension was denied on June 18, 1960, because of the "no extension policy" of the CIR.

On July 12, 1960, the respondent court promulgated a resolution, to wit—

"This is a motion filed by counsel for the complainants for the reconsideration of the Decision of the Trial Court dated May 31, 1960. After due perusal of the evidence as well as the arguments in support of said motion, the Court en banc fails to find sufficient justification for altering or modifying the aforesaid decision. motion denied. Respondent counsel's memorandum in support of its motion for reconsideration dated June 24, 1960 having been filed beyond the ten (10) day reglementary period as prescribed by the rules of the Court, let

said respondents motion for reconsideration dated June 7, 1960 be as it is hereby DISMISSED."

A petition to review the decision and the above Resolution was interposed by the company. Respondents Court and Union filed separate Answers, contending that the : decision and resolution complained of should not be reviewed by this Court, principally because the petition assails a finding of facts.

Petitioner alleges that the respondent Court erred in dismissing its motion for reconsideration, on the sole ground that the memorandum in support thereof, was filed beyond the 10 day reglementary period prescribed by the : Rules of said Court. It is argued that the motion for reconsideration having been filed on time, the fact that the memorandum was filed out of time, would not justify said court, for that reason alone, in dismissing the said motion, in the supposition that the motion is not pro-forma, and already contains arguments. The contention is partly wrong, and partly correct. It is partly wrong because the motion was dismissed or denied due to the fact that the arguments contained therein were not deemed meritorious by the court en banc. In other words, the respondent court considered the motion as not pro forma and concluded that the grounds thereof lacked merits. That is manifest from the court's resolution, stating—

"* * * After due perusal of the evidence as well as the arguments in support of said motion, the Court en banc fails to find sufficient justification for altering or modifying the aforesaid decision. Motion denied. * * *".

The argument correct because the filing of the late memorandum was not the sole reason for the denial or dismissal of the motion for reconsideration. In fact, from the tenor of the dismissal order, the memorandum was not taken into account, at all. This is evident from the following portion of the resolution—

"Respondents counsel's memorandum in support of its motion for reconsideration dated June 24, 1960, having been filed beyond the ten (10) day reglementary period as prescribed by the Rules of Court, let said respondent's motion fox reconsideration dated June 7, 1960 be, as it is hereby dismissed.

And even if this were the only ground for dismissal, it would seem that the said dismissal was correct, just the same, because the no-extension policy or rule of the rules of the CIR, in the case of motion for reconsideration and the filing of the memorandum supporting its arguments (sees. 15, 16 & 17, CIR), must be observed, otherwise the motion for reconsideration and supporting arguments may be dismissed (Luzon Stev. vs. CIR, G.R. No. L-16682, July 1963, citing Bien, et al., vs. Castillo, et al., G.R. No. L-7428, May 24, 1955).

It is contended that respondent court erred in finding that two of thirteen persons claimed by respondent labor union as employees of the petitioner Company were such employees, the finding not having been supported by substantial evidence. The petitioner, however, failed to satisfactorily show that the decision of the respondent Court is not supported by substantial evidence, as far as the two employees, Emilio Necio and Fructoso Pesic, are concerned. The record reveals that they had been employed in respondent company, and while therein, they were made to fill their time records and sign payrolls. Of course, and for obvious reasons, the petitioner company, despite the requirements of the respondent Court, did not want to produce the said time records and payrolls, claimed to have been signed by Pesic and Necio, during the time of their employment. Pesic even identified his former co-workers among respondent's witnesses-Gonzales, Cunanan and Oreta. If these employees were not really employed by the petitioner, they would not have gone to court to claim their wages. Pesic described his work as cutting wires, metal sheets, drilling, filing, bending handles and operated machine at the west central aisle of the factory and another machine at the southeastern portion near the main door, both machineries having been indicated by him during the ocular inspection. Necio stated that he worked in the company as a sprayman. The respondent Court believed their testimony and We find no plausible reason to disregard the findings of the said Court, as far as the credibility of the claimants-witnesses, is concerned. True it is that petitioner had offered its general foreman Gonzales, two managers and four laborers, to testify, but their interest in the outcome of the case

in favor of the petitioner, stands out in bold relief. Moreover, and as appropriately commented by the respondent Court, their testimonies "were molded in one pattern of denying that complainant union's members had never been employed in respondent company, and such denial was so uniform that the court was kept wondering as to the probability of the facts stated by them." As long as there is evidence to support a decision of the Industrial Court, We may not revoke or reverse it just because it is not based on over-whelming or preponderant evidence (Phil. Newspaper Guild vs. Evening News, Inc., 86 Phil. 303).

In view hereof, the writ is denied, the judgment appealed from is affirmed. Costs on the petitioner.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and MaKalintal, JJ., concur.

[1] Fructuoso Pesic y Arena, Francisco Pelle, Antonio Leoncio, Adolfo Bangcaya, Federico Catap y Garcia, Emilio Necio, Manuel Diamsin, Manuel Noble, Melecio Morales, Federico Capallar, Cornelio Landong, Vicente Belan.

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