

NATIONAL UNION OF RESTAURANT WORKERS (PTUC), PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, ET AL., RESPONDENTS.

G.R. No. 20044. April 30, 1964

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On June 9, 1960, a complaint for unfair labor practice was lodged against the owners of Tres Hermanas Restaurant, particularly Mrs. Felisa Herrera, on the ground, among others, that respondents refused to bargain collectively with the complaining union; respondents made a counter-proposal in the sense that they would bargain with said union and would accept its demands if the same would become a company union, and one Martin Briones, an employee, was separated from the service because he was found to be the organizer and adviser of the complaining union.

After respondents had filed their answer, wherein they denied the charges of unfair labor practice filed against them, Judge Emiliano C. Tabigne, who was assigned to act on the complaint, received the evidence, and on July 28, 1961, rendered decision exonerating respondents. He found that the charges were not proven and dismissed the complaint.

The case was taken to the court en banc, where in a split decision the court affirmed the decision of Judge Tabigne. The case is now before us on a petition for review.

The important findings of the court a quo which are now disputed by the union are: (1) respondents did not refuse to bargain collectively with the union as in fact they met its members with the only particularity that they were not able to accept all the demands of the union; (2) respondents did not interfere, coerce or restrain their employees in the exercise of their right to join the complaining union; and (3) the dismissal of Martin Briones was due to the concern of Mrs. Herrera for her life on account of the hatred that Briones had entertained against her, she being always with him in the car he used to drive during their business routine. It is claimed that Judge Tabigne committed a grave abuse of discretion in making the above findings.

Anent the first issue, the court a quo found that in the letter sent by the union to respondents containing its demands marked in the case as Exhibit 1, there appears certain marks, opposite each demand, such as a check for those demands to which Mrs. Felisa Herrera was agreeable, a cross signifying the disapproval of Mrs. Herrera, and a circle regarding those demands which were left open for discussion on some future occasion that the parties may deem convenient. Such markings were made during the discussion of the demands in the meeting called by respondents on May 3, 1960 at their restaurant in Quezon City. The court a quo concluded that the fact that respondent Herrera had agreed to some of the demands shows that she did not refuse to bargain collectively with the complaining union.

We can hardly dispute this finding, for it finds support in the evidence. The inference that respondents did not refuse to bargain collectively with the complaining union because they accepted some of the demands while they refused the others even leaving open other demands for future discussion is correct, especially so when those

demands were discussed at a meeting called by respondents themselves precisely in view of the letter sent by the union on April 29, 1960. It is true that under Section 14 of Republic Act 875 whenever a party serves a written notice upon the employer making some demands the latter shall reply thereto not later than 10 days from receipt thereof, but this condition is merely procedural, and as much its non-compliance cannot be deemed to be an act of unfair labor practice. The fact is that respondents did not ignore the letter sent by the union so much so that they called a meeting to discuss its demands, as already stated elsewhere.

It is contended that respondents refused to bargain with the complaining union as such even if they called a meeting of its officers and employees hereby concluding that they did not desire to enter into a bargaining agreement with said union. This conclusion has no rational relation with the main premise of the union for it is belied by the fact that respondents did actually agree and bargain with the representatives of the union. While it is true that respondents denied the capacity of the complaining union to bargain collectively with the respondents this is because they were of the impression that before a union could have that capacity it must first be certified by the Court of Industrial Relations as the duly authorized bargaining unit, as in fact this is what they stated in their answer to the petition for certification filed by said union before the Court of Industrial Relations (See Case No. 763-MC). In said case, another union known as the International Labor and Marine Union of the Philippines claimed to represent the majority of the employees of respondent restaurant, and this is what it alleged in a letter sent to the manager of respondents dated May 25, 1962.

Anent the second issue, the claim of the complaining union has also no basis. This is premised on a document marked Exhibit C which contains certain alleged counter-proposals tendered to complainant union the nature of which would apparently indicate that respondents made use of coercion which interferes with the right of the employees to self-organization. On this document certain notations were made by one Ernesto Tan which are indeed derogatory and which were allegedly made by him upon instructions of respondent Felisa Herrera. Thus, this pertinent notation on which the union relies is one which states that respondent Herrera would be willing to recognize the union "if union would become company union", which would indeed show that Mrs. Herrera interfered with the employees' right to self-organization. But respondents denied that they ever authorized Ernesto Tan to make such notation or to represent them in the negotiations, for he was merely a bookkeeper whose duties were confined to the keeping and examination of their books of accounts and sales invoices. It appears that he was not even invited to the meeting but merely volunteered to be present and made those notations on his own account and initiative. The court a quo gave credence to this stand of respondents, as can be seen in the following finding: "There is no evidence to show that Ernesto Tan was authorized to represent management in the meeting held on May 3, 1960, and that Ernesto Tan being a mere bookkeeper of respondents, he is not a part of management although he is the nephew of Mrs. Herrera." We are not prepared to disturb this finding of the court a quo.

Finally, it is alleged in connection with the third issue that respondent Herrera dismissed Martin Briones without sufficient cause other than his being the organizer and adviser of the complaining union. It however appears from the very testimony of Martin Briones that he is not the only one who organized the complaining union but together with Galicano Apiz, Pablo Cabrerros and Juan Morales, with the particularity that, as Briones himself had intimated, Apiz, Cabrerros and Morales were more active than himself in organizing the union so much so that they were appointed officers of that union. And yet Apiz, Cabrerros and Morales were never touched and continued to be employed in respondents' restaurant. For this reason, the court a quo discredited the claim that Briones was dismissed because of union activities but rather because of the threats he made on Mrs. Herrera, as communicated to her by her sister Aureata. The following is the finding made by the court a quo on this point: "If it is the union activities of complainant's members that Mrs. Herrera did not like, Apiz, Cabrerros and Morales should have been dismissed by her also, because said persons were more active than Briones in the organization of the union. Verily, it was not the union activities of Martin Briones that prompted Mrs. Herrera to dismiss him,

but her fear for the safety of her life on account of the smouldering embers of hatred that the former had against the latter, the said persons being always together in her car driven by Briones during business routine." This finding finds support in the evidence.

On the strength of the foregoing considerations, we find no justification for disturbing the findings of the court a quo which led to the dismissal of the complaint under consideration.

WHEREFORE, the decision appealed from is affirmed. No costs.

Bengzon, C.J., Labrador, Concepcion Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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