

CENTRAL AZUCARERA DE SAN ANTONIO, INC. AND THE HEIRS OF ANTONIO STEVEN CHAN, PETITIONERS, VS. CASA SUGAR MILL WORKERS UNION-FFW, RESPONDENT.

G.R. No. 259683, January 28, 2026

Ponente: INTING, J.

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INTING, J.:

Before the Court is a Petition for Review on Certiorari[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated May 28, 2021, and the Resolution[3] dated November 18, 2021, of the Court of Appeals (CA) in CA-G.R. SP No. 12380. The CA agreed with the ruling of the National Labor Relations Commission (NLRC) that the labor tribunals do not have jurisdiction over the counterclaim for damages and attorney's fees of Central Azucarera De San Antonio, Inc. (Central Azucarera) against CASA Sugar Mill Workers Union-FFW (CASA) as it was not in connection with a case for illegal dismissal. Nevertheless, the CA held that Central Azucarera is not entitled to its counterclaim for damages and attorney's fees.[4]

Version of CASA

CASA is the sole bargaining representative of all the rank-and-file employees of Central Azucarera, a domestic corporation engaged in the business of milling and trading sugar. The late Antonio Steven Chan (Chan) was the former president of Central Azucarera.[5]

On August 16, 2017, CASA filed a complaint for unfair labor practices against Central Azucarera and Chan because of their alleged bad faith in bargaining, refusal to negotiate, and discrimination in the grant of milling bonus.[6]

CASA alleged that in the course of its prolonged negotiation for a Collective Bargaining Agreement (CBA) with Central Azucarera, a deadlock ensued. As a consequence, CASA requested the National Conciliation and Mediation Board (NCMB) of the Department of Labor and Employment (DOLE) to intervene.[7]

Due to the long and fruitless negotiations before the NCMB, CASA conducted a strike vote, wherein 95% of its members voted to go on strike against Central Azucarera. Despite the intervention of the NCMB officials, Central Azucarera rejected the proposed Memorandum of Agreement of CASA. Thus, its members staged a strike on March 29, 2017.[8]

As the strike continued, the sugar planters, the local government of Passi City, Iloilo, and the officials of the DOLE and the NCMB, implored the union to lift the strike so as not to deprive the workers of their livelihood and to avert an economic shutdown. Consequently, CASA agreed to end the strike on April 12, 2017. This was after Central Azucarera agreed to accept back the workers who went on strike.[9]

However, after returning to their posts, the officers and certain members of CASA received a Notice to Explain from Central Azucarera for their alleged serious misconduct, willful disobedience, gross habitual neglect of duties, and breach of trust and confidence. Thus, the president of the union, Roberto A. Otero, explained to

Central Azucarera the reason why they staged a strike. Notwithstanding the explanation, Central Azucarera still dismissed the officers and certain members of CASA.[10]

The NCMB exerted efforts to reconcile the parties, but Central Azucarera refused to reinstate the dismissed officers and members of CASA.[11] As such, CASA filed its Complaint against Central Azucarera and prayed that the latter be (1) held liable for unfair labor practice; (2) ordered to adopt the union's proposals for the CBA; and (3) ordered to pay damages to the union in the amount of PHP 1,000,000.00.[12]

Version of Central Azucarera

For its part, Central Azucarera averred that in consonance with its duty to bargain collectively, it agreed to negotiate with CASA and even provided the venue for their negotiation. By April 26, 2016, Central Azucarera had already finished discussing its counterproposals with CASA. However, the representatives of CASA expressed that they needed to confer with their members and counsel. On August 9, 2016, CASA affiliated with the Federation of Free Workers.[13]

On August 14, 2016, CASA wrote a letter to Central Azucarera, declared a deadlock in the CBA negotiation, and manifested its intent to refer the matter to the NCMB. Thereafter, on September 15, 2016, CASA filed a Notice of Strike (First Notice) before the NCMB on the grounds of bargaining deadlock and unfair labor practice of Central Azucarera.[14] After several conciliations and conferences, on November 21, 2016, the NCMB declared the First Notice to be invalid for its noncompliance with the rules. However, even after more conferences and negotiations, CASA again submitted a strike vote to the NCMB (Second Notice) on March 8, 2017.[15]

On March 29, 2017, CASA began staging a strike at the sugar central of Central Azucarera in Passi City, Iloilo. The strike lasted until April 12, 2017. During the first few days of the strike, the striking employees would allow ingress to and egress from the sugar central. However, during the second week, or on April 5, 2017, the officers and members of CASA, using motorcycles, amakan, and palay, barricaded the road junction leading to Gate 1 of the sugar central, thereby obstructing the free entry and exit of all persons, even those with legitimate business with Central Azucarera. According to Central Azucarera, the acts of CASA in preventing the entry and exit of its co-employees and trucks loaded with sugar canes negatively affected its business. Worse, CASA even prevented some non-striking employees and other guests, including children, from exiting the sugar central causing them to be trapped inside the central. Consequently, Central Azucarera filed a petition for injunction against CASA before the NLRC. While the petition was still pending, CASA lifted the strike and removed their barricades at the entry and exit gates of the sugar central on April 12, 2017.[16]

On April 18, 2017, CASA requested from Central Azucarera that a meeting be held to resolve the deadlock or unresolved CBA proposals. In response, Central Azucarera informed CASA that it will resume negotiations, but will take legal action for the illegal strike that they staged for 14 days. Subsequently, in June 2017, Central Azucarera sent notices to explain to errant employees and union members who committed serious misconduct and other prohibited acts during the union's illegal strike.

Incidentally, July 4, 2017, the last day of operations for the milling year of 2017, was the start of the "dead season." Work ended at 12 noon and Central Azucarera gave all employees a bonus equivalent to two months' salary. However, it temporarily withheld half of the bonus of the employees who were involved in the illegal strike and with pending disciplinary cases because its grant was conditional to the employees' exoneration from the charges.[17]

Resultantly, on July 5, 2017, CASA filed a Notice of Strike (Third Notice) before the NCMB to get a commitment from Central Azucarera that its members would not be disciplined for the misconduct committed during the illegal strike. On July 27, 2017, CASA restored their Notice of Strike after several of its members were found guilty of

serious misconduct and received Notices of Termination.[18]

Ruling of the Labor Arbiter

In the Decision[19] dated April 10, 2018, the Labor Arbiter dismissed the Complaint of CASA for lack of cause of action. It held that Central Azucarera did not commit unfair labor practice when it dismissed the employees who performed illegal acts during the strike as there was just cause to terminate their employment. Moreover, the Labor Arbiter found that it was CASA who actually had unreasonable and unfair demands from Central Azucarera which led to the parties' failure to reach a settlement. Further, the Labor Arbiter ruled that Central Azucarera was not guilty of discrimination in withholding the, milling bonus of the union members with pending disciplinary cases for being involved in the illegal strike. According to the Labor Arbiter, such union members were not similarly situated to those who were not administratively charged with any offense. However, as Central Azucarera failed to prove that CASA filed its Complaint in bad faith and with malice, the Labor Arbiter denied Central Azucarera's counterclaims for damages and attorney's fees.[20] The Labor Arbiter disposed of the case in this wise:

WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the instant case filed by the [respondent] against the [petitioners] for lack of cause of action.

On the other hand, the counterclaim of the [petitioners] against the [respondent] is hereby DENIED for lack of merit.

SO ORDERED.[21]

Aggrieved, CASA appealed to the NLRC.[22] Likewise, Central Azucarera sought recourse to the NLRC to assail the Labor Arbiter's denial of their counterclaims.[23]

Ruling of the NLRC

In the Decision[24] dated June 29, 2018, the NLRC affirmed in toto the ruling of the Labor Arbiter and echoed the finding that Central Azucarera was not guilty of unfair labor practices. Likewise, the Commission agreed with the Labor Arbiter's denial of Central Azucarera's counterclaims for damages and attorney's fees against CASA and opined as follows:

[T]he [CASA] was merely asserting its right over what it honestly perceived as a violation of its right as a legitimate labor organization and the sole bargaining agent in [petitioners'] establishment.

Hence, [CASA] should not be faulted, much less be made to pay for merely exercising its right to vindicate what it genuinely believed was a wrongful act of the respondents.[25]

The dispositive portion of the NLRC Decision reads:

WHEREFORE, the foregoing considered, the appeals filed by both the complainant and the respondent are, hereby, DISMISSED. The assailed Decision of Labor Arbiter Rodrigo P. Camacho is AFFIRMED [IN TOTO].

SO ORDERED.[26]

Central Azucarera moved for reconsideration,[27] but the NLRC denied its Motion in the Resolution[28] dated September 17, 2018. In so ruling, the NLRC cited Article 287 of the Labor Code, as amended, which provides that those who commit prohibited acts during a strike are punished with fine and/or imprisonment. In this regard, the NLRC concluded that it is the regular courts which have jurisdiction over Central Azucarera's claim for damages, as a result of the illegal strike staged by CASA. The NLRC expounded:

A perusal of said provision, however, would readily show that for the fine and/or imprisonment to be imposed, there must be a determination by a proper court of the perpetrator's guilt after an appropriate prosecution

proceeding.

Prescinding [sic], therefrom, it is the considered opinion of this Commission that it is not within the domain of this quasi-judicial tribunal to determine the culpability of the union and its officers, as regards the purported damages, which were alleged [sic] caused by the holding of the strike.

Conversely, it is for the regular courts of law to resolve [petitioners'] claim for economic damage and other damages against the union and its officers, as a result of the latter's commission of the alleged prohibited acts during the strike.

The Ruling of the CA

In the Decision dated May 28, 2021, the CA affirmed the NLRC's denial of Central Azucarera's counterclaim for damages and attorney's fees against CASA, as it was not in connection with a case for illegal dismissal. According to the CA, CASA is a labor organization with a separate and distinct personality from its officers or members who are the actual employees of Central Azucarera. It found that absent any employer-employee relationship between Central Azucarera and CASA, Central Azucarera's counterclaim for damages against CASA could not have ensued from an illegal dismissal case; thus, the counterclaim is not within the jurisdiction of the labor tribunals.[29]

Nevertheless, the CA explained why Central Azucarera is not entitled to actual damages, moral damages, exemplary damages, and attorney's fees, viz.:

Here, petitioners claim that they suffered actual damages in the amount of [PHP] 64,759,254.72. However, the Sugar Regulatory Administration Reports can hardly be considered as concrete proof of petitioner's alleged financial losses. Petitioner merely gave an estimate of the value of the raw sugar on a particular week, but did not offer any evidence on how they came up with the alleged value of their economic loss. In other words, there was no convincing proof that petitioners would have actually sold sugar in the amount they are claiming, if not for the strike conducted by private respondent's members.

As for moral damages, the labor tribunals were correct in declaring that the same cannot be awarded to petitioners in the absence of a wrongful act or omission, or of fraud or bad faith. Indeed, private respondent was merely under the impression that it was acting well within its rights as a legitimate labor organization. Also, other than petitioner's bare allegations, the records are bereft of any proof that petitioners, as a corporation, in fact suffered moral damages in the form of a tarnished reputation. Furthermore, pursuant to Article 2234 of the Civil Code, exemplary damages may be awarded only in addition to moral, temperate, liquidated, or compensatory damages. Since petitioners are not entitled to actual or moral damages, then their claim for exemplary damages is bereft of merit. Finally, considering the absence of any of the circumstances under Article 2208 of the Civil Code where attorney's fees may be awarded, the same cannot be granted to petitioners.[30]

The dispositive portion of the CA Decision reads:

WHEREFORE, the Petition is DISMISSED. The assailed Decision dated June 29, 2018 and Resolution dated September 17, 2018, of the National Labor Relations Commission, Seventh (7[th]) Division, Cebu City, in NLRC Case No. VAC-05-000300-2018, are hereby AFFIRMED.

SO ORDERED.[31]

Central Azucarera moved for reconsideration,[32] but the CA denied its Motion in the Resolution dated November 18, 2021.

Thus, the instant Petition.

Arguments of Central Azucarera

Central Azucarera argues that the labor tribunals, not the regular courts of law, have jurisdiction over its counterclaim for damages arising from the illegal strike committed by CASA. As such, the CA erred in finding no grave abuse of discretion against the NLRC when the latter refused to resolve its counterclaim for damages.[33]

Moreover, Central Azucarera points out that during the strike, CASA committed the illegal act of barricading the ingress and egress of the sugar central which paralyzed its milling operations. On account of the disruption of its business, Central Azucarera contends that it is entitled to moral, actual, and exemplary damages, and attorney's fees.[34]

The Issues

The following are the issues to be resolved in the case: (1) whether the CA committed a reversible error in agreeing with the NLRC that it is the regular courts of law which have jurisdiction over Central Azucarera's claim for damages against CASA; and (2) whether the CA committed a reversible error in agreeing with the labor tribunals that Central Azucarera is not entitled to moral, actual, and exemplary damages, and attorney's fees.

The Ruling of the Court

"It is an established rule that only questions of law may be raised in a petition for review on certiorari under Rule 45. The basic principle is set forth in the rule itself." [35] The question as to whether it is the regular courts of law which have jurisdiction over Central Azucarera's counterclaim for damages against CASA for the latter's illegal acts during the strike is a question of law; thus, it is a proper subject of the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court.

Article 224 [formerly 217], of the Labor Code provides for the jurisdiction of labor arbiters and the NLRC:

ARTICLE 224. [217] Jurisdiction of the Labor Arbiters and the Commission. — (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

....

(4) Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations[.]

In *National Federation of Labor v. Eisma*, [36] the labor union National Federation of Labor, staged a strike after the employer Zamboanga Wood Products dismissed the union president. Almost two months after the strike began, the employer filed a complaint for damages against the officers and members of the union before the Court of First Instance, now the Regional Trial Court. The employer alleged that the union blockaded the road leading up to its manufacturing facility, thus, it prevented its customers and suppliers free ingress to and egress from the premises. The National Federation of Labor moved for the dismissal of the employer's complaint and argued that incidents arising from picketing and strikes belong to the exclusive jurisdiction of the labor arbiter. However, the judge denied the motion, prompting the union to file a petition for certiorari before the Court. Resultantly, the Court granted the petition and held that the labor arbiters, not the regular courts, have original and exclusive jurisdiction to resolve claims for damages arising from picketing and strikes; thus:

1. Article 217 is to be applied the way it is worded. The exclusive original jurisdiction of a labor arbiter is therein provided for explicitly. It means, it can only mean, that a court of first instance judge then, a regional trial court judge now, certainly acts beyond the scope of the authority conferred on him by law when he entertained the suit for damages, arising from picketing that accompanied a strike.

2. On the precise question at issue under the law as it now stands, this Court has spoken in three decisions. They all reflect the utmost fidelity to the plain command of the law that it is a labor arbiter, not a court, that possesses original and exclusive jurisdiction to decide a claim for damages arising from picketing or a strike.[37]

The Court reiterated the principle in the case of *Bañez v. Valdevilla*[38] and maintained that jurisdiction over an employer's claim for damages resulting from unfair labor practices committed by a union does not lie with the regular courts, viz.:

Even under Republic Act No. 875 (the "Industrial Peace Act," now completely superseded by the Labor Code), jurisprudence was settled that where the plaintiff's cause of action for damages arose out of, or was necessarily intertwined with, an alleged unfair labor practice committed by the union, the jurisdiction is exclusively with the (now defunct) Court of Industrial Relations, and the assumption of jurisdiction of regular courts over the same is a nullity. To allow otherwise would be "to sanction split jurisdiction, which is prejudicial to the orderly administration of justice." Thus, even after the enactment of the Labor Code, where the damages separately claimed by the employer were allegedly incurred as a consequence of strike or picketing of the union, such complaint for damages is deeply rooted from the labor dispute between the parties, and should be dismissed by ordinary courts for lack of jurisdiction.[39] (Citations omitted)

Being established that it is the labor arbiters, not the regular courts, which have jurisdiction to resolve the employers' claim for damages arising from the unions' illegal acts during strikes, the CA erred when it agreed with the NLRC's opinion that it is for the courts of law to resolve Central Azucarera's claim for damages against CASA.

The Court resolves the issue of whether Central Azucarera is entitled to its claim for damages and attorneys fees

In *Aquino v. Aquino*,[40] the Court explained the difference between an issue which presents a question of law and that which presents a question of fact, viz.:

There is a "question of law" when the doubt or difference arises as to what the law is on a certain state of facts, and which does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to fact, the question of whether or not the conclusion drawn therefrom is correct, is a question of law.[41]

It bears noting that in the Resolution[42] dated April 17, 2017, the NLRC issued a Temporary Restraining Order to restrain CASA from continuing the prohibited act of barricading the ingress and egress of the sugar central during their strike, viz.:

[Central Azucarera] has presented various pieces of evidence, including affidavits and pictures proving that [CASA] is in fact blocking the entry and exit from the premises of the sugar central, an act specifically prohibited in the afore-quoted provision of the Labor Code.

....

WHEREFORE, premises considered, upon the filing by the [Central Azucarera] of an undertaking to answer for the damages and the posting of a cash bond . . . let a Temporary Restraining Order (TRO) be issued, ordering [CASA], its officers, and anybody acting for and in its behalf, to immediately refrain from further blocking or otherwise restricting the ingress and egress from the premises of petitioner Central Azucarera de San Antonio, Inc. Action on the application for a writ of injunction is deferred pending receipt of [CASA's]

comment.

....

SO ORDERED.[43]

A strike is considered illegal and violative of the employer's rights where the means employed by the employees are unlawful, i.e., within the prohibitions under Article 279, formerly 264(e), of the Labor Code, viz.:

No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares.

In this regard, there is no dispute that CASA committed an illegal strike when it barricaded the entry and exit points of the sugar central. Thus, except for the factual question of whether Central Azucarera proved the actual amount of its financial loss, the issue of whether it is entitled to moral, temperate, and exemplary damages, and attorney's fees, in view of the illegal strike, is a question of law and is thus a proper subject of the present Petition.

The insightful views of Associate Justice Ramon Paul L. Hernando on the right to strike are discussed below.

The Constitution protects and guarantees the right to strike. However, like all rights, it must be exercised in compliance with the law

The right to strike is a constitutional right of all workers. Article XIII, Section 3 of the Constitution states:

SECTION 3....

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The Labor Code likewise upholds the right to strike, subject to the limitations prescribed therein, viz.:

ART. 257. [246] Non-Abridgment of Right to Self-Organization. – It shall be unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. Such right shall include the right to form, join, or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection, subject to the provisions of Article 264 of this Code.

....

ART. 278. [263] Strikes, Picketing, and Lockouts. – (a) It is the policy of the State to encourage free trade unionism and free collective bargaining.

(b) Workers shall have the right to engage in concerted activities for purposes of collective bargaining or for their mutual benefit and protection. The right of legitimate labor organizations to strike and picket and of employers to lockout, consistent with the national interest, shall continue to be recognized and respected. However, no labor union may strike and no employer may declare a lockout on grounds involving inter-union and intra-union disputes. (Emphasis supplied)

This right to strike is constitutionally guaranteed and functions as a crucial tool for labor to safeguard itself against exploitation by management. Through this right, workers are empowered to assert their demands for

improved terms and conditions of employment with greater vigor and persuasiveness, using the threat of a strike as a response to an employer's obstinacy. In this way, the strike becomes a potent and effective instrument for the working class in their struggle for survival.[44]

Similarly, especially because the right to strike is a powerful tool, it must be exercised with caution, like a delicate weapon, to prevent it from causing harm to the very workers who wield it.[45] The right to strike, as a means of achieving social justice, was never intended to oppress or harm employers. Thus, the exercise of this right is not absolute, and the law imposes certain limitations on its use.[46] The Constitution itself qualifies the workers' exercise of their right to strike with the provision "in accordance with law." This clearly demonstrates that the State may, through law, regulate the exercise of this right or even withhold it from certain sectors.[47]

Article 263 of the Labor Code outlines the limitations on the exercise of the right to strike, including the procedural requirements. The language of the provision clearly underscores the obligatory nature of these limitations.

Strikes may be deemed illegal under the following circumstances:

(1)

[when it] is contrary to a specific prohibition of law, such as strike by employees performing governmental functions; or

(2)

[when it] violates a specific requirement of law, [such as Article 263 of the Labor Code on the requisites of a valid strike]; or

(3)

[when it] is declared for an unlawful purpose, such as inducing the employer to commit an unfair labor practice against non-union employees; or

(4)

[when it] employs unlawful means in the pursuit of its objective, such as a widespread terrorism of non-strikers [for example, prohibited acts under Art. 264(e) of the Labor Code]; or

(5)

[when it] is declared in violation of an existing injunction, [such as injunction, prohibition, or order issued by the DOLE Secretary and the NLRC under Art. 263 of the Labor Code]; or

(6)

[when it] is contrary to an existing agreement, such as a no strike clause or conclusive arbitration clause.[48]

Illegal acts committed during a strike are also prohibited. In *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*,^[49] the Court noted that the illegal acts enumerated in Article 279 of the Labor Code include various actions that contravene existing labor or criminal laws, including, but not limited to, the following:

1)

Violation of Art. [279 (264)(e)] of the Labor Code, which provides that "[n]o person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares;"

2)

Commission of crimes and other unlawful acts in carrying out the strike; and

3)

Violation of any order, prohibition, or injunction issued by the [Department of Labor and Employment] Secretary or NLRC in connection with the assumption of jurisdiction/certification Order under Art. 263(g) of the Labor Code.[50]

Thus, even when the objective of a strike is legitimate, it may still be deemed illegal if the methods employed are unlawful. The use of violence, intimidation, restraint, or coercion in the course of concerted activities that infringe upon the right to property renders a strike illegal. Similarly, picketing or obstructing the free use of property or the peaceful enjoyment of life or property, when coupled with intimidation, threats, violence, or coercion to the extent of constituting a nuisance, is likewise unlawful.[51]

In fact, although strike is the foremost economic tool available to workers to compel management to agree to a fair distribution of the joint product of labor and capital, it can produce unsettling effects not only on the labor-management relationship, but also on the general peace, societal progress, and economic welfare of the State. If this tool is to be employed, it must be used judiciously and within the confines of the law, in the interest of maintaining industrial peace and safeguarding public welfare.[52]

In line with this principle, the Court has repeatedly stressed that the policy of social justice is not meant to excuse wrongdoing merely because it is committed by laborers. At most, it may serve to mitigate the penalty, but it does not absolve the offense. It must be emphasized that social justice cannot be allowed to serve as a refuge for those who have engaged in illegal acts, just as equity cannot obstruct the punishment of the guilty. Those who invoke social justice may do so only when their actions are lawful and their motives beyond reproach, and not merely because they are disadvantaged.[53]

Thus, Article 279(a), paragraph 3 of the Labor Code provides that any worker or union officer who knowingly engages in illegal acts may be subject to termination from employment viz.:

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. 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 [their] employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of [their] employment, even if a replacement had been hired by the employer during such lawful strike.

A central issue before the Court is whether an employer may be granted damages for illegal acts, even in the absence of an explicit provision in the Labor Code imposing civil liability for harm caused to the employer.

Even though the Labor Code does not explicitly provide, the award of damages to employers for illegal acts carried out in bad faith during a strike finds basis in Articles 19 and 20 of the Civil Code

Although the Labor Code prescribes termination from employment as the sole penalty for union officers or employees who commit illegal acts during a strike, Article 279(a), paragraph 3 does not contain language that expressly or implicitly bars the imposition of civil or criminal liability arising from such acts. In the absence of any provision to the contrary, the penalty of dismissal from employment does not preclude the application of civil

or criminal sanctions for the same conduct, where provided by law.

Significantly, Article 279 of the Labor Code acknowledges that crimes may occur during a strike and classifies such crimes as illegal acts under the Labor Code. Moreover, Article 289[54] of the Revised Penal Code penalizes the use of violence and threats in the pursuit of labor rights. In *Toyota*, the Court, in citing examples of illegal acts under Article 279, emphasized that the enumeration is not exhaustive, and that illegal acts may include other violations of existing laws.[55]

The commission of illegal acts during a strike, such as the destruction of company property or the use of coercion, intimidation, or violence, may cause damage to the employer and give rise to a right to redress. In this regard, Article 19 of the Civil Code, which enshrines the principle of abuse of rights, provides:

Art. 19. Every person must, in the exercise of [their] rights and in the performance of [their] duties, act with justice, give everyone [their] due, and observe honesty and good faith.

Article 19 permeates the entire legal system and ensures that persons who suffer damage as a result of another's exercise of a right or performance of a duty are not left without remedy. It establishes the standard of conduct for all persons, whether natural or juridical, requiring that, in the exercise of rights and the fulfillment of obligations, one must (a) act with justice, (b) give everyone his or her due, and (c) observe honesty and good faith. The mere invocation of a right does not authorize one to act to the prejudice or detriment of another.[56]

Moreover, Article 20 of the Civil Code provides:

Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

The Code Commission incorporated Article 20 to afford relief to a person who suffers damage as a result of another's violation of a legal provision.[57]

While Article 19 imposes upon all persons exercising their legal rights the duty to act with justice, give everyone their due, and to observe honesty and good faith, failure to discharge such duty is compensable under Article 20 if the act is contrary to law.[58] Taken together, Articles 19 and 20 constitute the legal foundation for awarding damages to a party who sustains injury as a result of another's unlawful act.[59]

In *Yuchengco v. The Manila Chronicle Publishing Corp.*,[60] the Court explained that Article 19 establishes the standard of conduct in the exercise of all rights, while Article 20 offers a remedy to those who suffer damage or injury as a result of the abuse of such rights, viz:

[Article 19], known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights, but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone [their] due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be held responsible. But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.[61]

Whether the principle of abuse of rights has been violated, giving rise to damages under Articles 20 and 21 or other applicable laws, depends on the specific circumstances of each case. This principle may be invoked when it

is shown that a right or duty was exercised in bad faith, regardless of whether the primary intent was to harm another. The critical factor for applying this principle is the lack of good faith.[62]

Articles 19 and 20 of the Civil Code are sufficiently comprehensive to encompass damages sustained by an employer as a result of illegal acts committed in bad faith by union officers or employees during a strike. However, bad faith is never presumed and should not be equated merely with poor judgment or negligence.[63] Good faith pertains to a state of mind, reflected in an individual's actions, characterized by the intention to refrain from taking unconscionable or unscrupulous advantage of another. In contrast, bad faith denotes a deliberate and intentional plan to commit a wrongful act for a dishonest or morally improper purpose.[64]

In summary, the Civil Code provides a legal basis to compensate employers for damages resulting from illegal acts committed during a strike. However, before a claim for such damages can be granted, the employer must establish the following by substantial evidence: (a) that union officers or members committed illegal acts during the strike; (b) that these acts were carried out in bad faith; and (c) that the employer suffered injury or damage as a result of these acts.

The Court now addresses the issue of who may be held liable for damages arising from illegal acts committed during a strike.

Civil liability for illegal acts committed during a strike must be borne exclusively by the individuals who committed such acts

As previously discussed, Articles 19 and 20 of the Civil Code provide the foundation for employers to claim damages resulting from illegal acts committed during a strike. Article 20 explicitly states that "[e]very person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same." When read in conjunction with Article 19, only those union officers or employees who, in bad faith, commit illegal acts causing damage to others during a strike can be held liable for such damages. While Article 2180 of the Civil Code establishes who may be held vicariously liable for quasi-delicts under Article 2176, there is no corresponding provision addressing liability for acts governed by Articles 19 and 20 of the same Code.

Regarding the Labor Code, it does not address civil liability for damages incurred by employers during a strike. However, Article 279(a), paragraph 3, may serve as a reference, under which only the following individuals may be terminated from employment for knowingly participating in an illegal strike or committing illegal acts during a strike:

- A union officer, who knowingly participates in an illegal strike or commits illegal acts during a strike; and
- A union member who knowingly participates in the commission of illegal acts during a strike.

Accordingly, a regular worker cannot be terminated merely for taking part in an illegal strike.[65] It must be established that the employee knowingly engaged in the commission of illegal acts during the strike. Thus, in *First City Interlink Transportation Co., Inc. v. Sec. Confessor*,^[66] the Court ruled that only union officers and strikers who committed violent, illegal, or criminal acts against the employer are considered to have forfeited their employment. In making this determination, the Court emphasized that liability for such acts must be individual, not collective. Although the strike itself was deemed illegal due to these acts, only those who actively engaged in violent or unlawful conduct against the employer lost their employment. Union members who were merely influenced to participate in the illegal strike are to be treated differently.[67]

Jurisprudence further establishes that mere membership in a labor union does not give rise to liability or responsibility in our jurisdiction, viz.:

Noted labor law expert, Professor Cesario A. Azucena, Jr., traced the history relating to the liability of a union member in an illegal strike, starting with the "rule of vicarious liability," thus: Under [the rule of vicarious liability], mere membership in a labor union serves as basis of liability for acts of individuals, or for a labor activity, done on behalf of the union. The union member is made liable on the theory that all the members are engaged in a general conspiracy, and the unlawful acts of the particular members are viewed as necessary incidents of the conspiracy. It has been said that in the absence of statute providing otherwise, the rule of vicarious liability applies.

Even the Industrial Peace Act, however, which was in effect from 1953 to 1974, did not adopt the vicarious liability concept. It expressly provided that:

No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable for the unlawful acts of individual officers, members, or agents, except upon proof of actual participation in, or actual authorization of, such acts or of ratifying of such acts after actual knowledge thereof.

Replacing the Industrial Peace Act, the Labor Code has not adopted the vicarious liability rule.

Thus, the rule of vicarious liability of a union member was abandoned and it is only when a striking worker "knowingly participates in the commission of illegal acts during a strike" that [they] will be penalized with dismissal.[68]

The rejection of collective or vicarious liability for illegal acts or the conduct of illegal strikes in our jurisdiction functions as a crucial safeguard of the workers' right to strike. Thus, in the 1972 case of *Shell Oil Workers' Union v. Shell Company of the Philippines*,^[69] the Court held that the mere commission of illegal acts during a strike does not automatically render the strike illegal, emphasizing that liability for such acts must be individual rather than collective, lest the right to strike be rendered illusory. The same rationale applies here—great care must be taken to limit responsibility for illegal acts and their consequent liability for damages to only the responsible union officers or employees, and to avoid casting any liability on innocent union members. To rule otherwise may result in an unintended chilling effect on the workers' ability and willingness to freely strike and diminish their strongest weapon in appealing to employers for better working conditions and a living wage.

Along the same lines, the union itself must not be held liable for damages for illegal acts during a strike. While a union acquires legal personality upon the issuance of a certificate of registration^[70] and has the right to hold property, and to sue or be sued,^[71] to hold the union liable for damages would, in effect, result in imposing liability on all union members, irrespective of their individual participation in the acts that caused the alleged damage. Ultimately, the union's funds are derived from dues and assessments contributed by the members from their own wages.

Indeed, to hold union funds—sourced from the contributions of union members—liable for illegal acts, without regard to each member's individual participation or non-participation in such acts during the strike, would run counter to the principle of individual responsibility embodied in the pertinent provisions of the Labor Code and Articles 19 and 20 of the Civil Code. Moreover, to indiscriminately impose liability on the union for damages caused by individual officers or employees would undermine, if not imperil, the right to self-organization guaranteed under Article 257 of the Labor Code. Such a course would deplete union funds and, in turn, threaten the union's very existence and effectiveness, as well as its capacity to engage in concerted activities and to bargain on behalf of its members.

In sum, and in light of the foregoing principles, liability for damages arising from illegal acts committed in the course of a strike may be imposed only upon those union officers or employees who personally engaged in such acts with bad faith. Their direct involvement, as well as the presence of bad faith, must be proven by substantial evidence. Any award of damages must, therefore, rest on individualized culpability, rather than on a collective attribution of liability to the union or its entire membership.

Damages awarded to the employer must correspond to the actual harm suffered, but they must be reasonably mitigated to avoid excessive or unduly burdensome obligation on the responsible union officer or employee

To stress, a clear and necessary distinction must be made between the lawful conduct of a strike and permissible acts undertaken in pursuit of legitimate objectives, on the one hand, and the commission of illegal acts during a strike that cause injury to the persons or property of others, on the other. No one is above the law, and both employers and employees are entitled to the protection of the State. Illegal acts that result in harm to persons or property shall neither be tolerated nor excused.

Thus, the protection afforded to labor and the resolution of doubts in its favor cannot be carried to the extent of deliberately sanctioning a miscarriage of justice. The right to seek and obtain justice belongs to every member of society, regardless of wealth, status, occupation, or citizenship. Justice belongs to all and must not be impaired or restrained by a party's economic disadvantage.[72]

Nonetheless, the maxim that those with less in life should receive greater protection under the law remains equally compelling. Social justice and the protection of workers are firmly enshrined in the Constitution, as well as in our labor laws and regulations.[73] Article II, Section 18 of the Constitution provides:

SECTION 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Article XIII, Section 3 of our Constitution further states:

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

The safeguards built into our legal framework that afford special protection to labor arise from the recognition that workers generally stand on unequal footing with employers. For this reason, labor is regarded as a distinct class deserving constitutional protection due to the inherent imbalance between capital and labor.[74] The condition of our workers remains a present reality, and the Court must continue to stand resolute as a steadfast guardian of their right to strike.

Lastly, it is important to emphasize that strikes frequently represent the final recourse for workers in their struggle to obtain fair wages, decent working conditions, and to safeguard their livelihoods and the well-being of their families. While the Court does not condone illegal acts committed during a strike, it acknowledges that such acts may arise from the intense emotions and pressures experienced when one's means of survival—and that of one's family—is on the line.

In conclusion, the following principles should govern the award of damages to employers for losses resulting from illegal acts committed during a strike:

1. Before an employer can succeed in a claim for damages arising from illegal acts during a strike, they must prove with substantial evidence that (a) union officers or members committed illegal acts during the strike; (b)

these acts were carried out in bad faith; and (c) the employer suffered harm or losses as a direct result of such acts.

2. Liability for damages rests solely on the union members or officers who personally engaged in illegal acts during the strike, not on the union as a whole. Before such liability can be imposed, substantial evidence must demonstrate the individual involvement of the officers or members in the unlawful acts.

3. In assessing a fair award of damages, the tribunals must ensure that it accurately reflects the harm suffered by the employer. Nonetheless, where circumstances justify and in the interest of social justice, the award may be adjusted downward to prevent it from being excessive or unduly burdensome on the union officer or employee responsible.

Complementing the above principles is the doctrine articulated by Associate Justice Amy C. Lazaro-Javier that damages should be confined to exceptional circumstances, i.e., cases where the losses sustained by the employer go beyond the ordinary and foreseeable consequences of a strike, whether legal or illegal. Strikes, by their very nature, inherently disrupt operations, cause temporary losses, and create inconveniences. These effects are typically considered part of the expected risk of industrial action and do not, on their own, justify compensation.

The exceptional circumstances principle ensures that only extraordinary, disproportionate, or severe losses—those directly attributable to illegal acts committed in bad faith—warrant an award of damages. This limitation prevents employers from claiming damages for losses that are incidental, minor, or foreseeable in the normal course of a strike. It also safeguards workers' rights by ensuring that the threat of damages does not chill lawful concerted activities or the exercise of the right to strike, which is constitutionally protected.

By integrating this principle with the other established guidelines—requiring proof of illegal acts and bad faith, imposing individual rather than collective liability, and ensuring proportionality and fairness—the courts maintain a careful balance between holding wrongdoers accountable and protecting the broader rights of the labor force. In effect, the exceptional circumstances principle acts as a threshold filter, reserving damages for truly extraordinary cases while preventing the misuse of the legal system to penalize ordinary consequences of industrial action.

This principle ensures that the award of damages is not automatic or routine, but reserved for situations where the employer suffers extraordinary harm, thus, harmonizing the goals of accountability, proportionality, and social justice.

Applying the foregoing principles, Central Azucarera's claim for actual, moral, and exemplary damages, as well as attorney's fees, cannot be granted where the record fails to clearly establish the participation of specific union officers or members in the commission of illegal acts or the presence of bad faith in their conduct. The award of damages under Articles 19 and 20 of the Civil Code, as well as the Labor Code, requires substantial evidence demonstrating both the unlawful acts and the bad faith of the individuals directly responsible. Without such proof, liability cannot be imposed. This approach upholds the principles of individual responsibility, proportionality, and social justice, ensuring that innocent union members or officers are not penalized for acts they did not commit or in which bad faith cannot be established.

ACCORDINGLY, the Petition for Review on Certiorari filed by Central Azucarera De San Antonio, Inc. is DENIED.

The Decision dated May 28, 2021, and the Resolution dated November 18, 2021, of the Court of Appeals in CA-G.R. SP No. 12380 are AFFIRMED with MODIFICATION. The counterclaim of Central Azucarera De San Antonio, Inc. against CASA Sugar Mill Workers Union-FFW for actual, moral, and exemplary damages, as well as attorney's fees, is denied for failure to establish by substantial evidence the individual participation of specific union officers or members and the presence of bad faith in the commission of illegal acts during the strike.

SO ORDERED.

Gesmundo, C.J., Zalameda, Gaerlan, Rosario, Lopez, Dimaampao, Marquez, Kho, Jr., and Villanueva, JJ., concur. Leonen, SAJ., I concur. See separate concurring opinion.

Caguioa and Hernando, JJ., see concurring opinion.

Lazaro-Javier, J., see concurrence.

Singh,[*] J., on leave.

[*] On leave.

[1] Rollo, pp. 12-58.

[2] Id. at 61-72. Penned by Associate Justice Roberto P. Quiroz and concurred in by Associate justices Marilyn B. Lagura-Yap and Nancy C. Rivas-Palmones of the Twentieth Division, Court of Appeals, Cebu City.

[3] Id. at 75-76. Penned by Associate Justice Roberto P. Quiroz and concurred in by Associate Justices Marilyn B. Lagura-Yap and Nancy C. Rivas-Palmones of the Twentieth Division, Court of Appeals, Cebu City.

[4] Id. at 68-71.

[5] Id. at 14-15.

[6] Id. at 25.

[7] Id. at 17.

[8] Id.

[9] Id.

[10] Id. at 18.

[11] Id. at 25.

[12] Id.

[13] Id. at 18-19.

[14] Id. at 19.

[15] Id. at 21-22.

[16] Id. at 22-23.

[17] Id. at 24.

[18] Id.

[19] Id. at 532-555.

[20] Id. at 553-554.

[21] Id. at 554-555.

[22] Id. at 638-639.

[23] Id. at 680.

[24] *Id.* at 78-92. Penned by Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug and Commissioner Nendell Hanz L. Abella of the Seventh Division, National Labor Relations, Cebu City.

[25] *Id.* at 91.

[26] *Id.* at 91-92.

[27] *Id.* at 672-681.

[28] *Id.* at 94-95. Penned by Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug and Commissioner Nendell Hanz L. Abelia of the Seventh Division, National Labor Relations Commission, Cebu City.

[29] *Id.* at 68-69.

[30] *Id.* at 69-70.

[31] *Id.* at 71.

[32] *Id.* at 735-756.

[33] *Id.* at 34.

[34] *Id.* at 34-35.

[35] *Coca-Cola Femsa Philippines, Inc. v. Congress of Independent Organization-Iloilo Coca-Cola Sales Force Union*, Panay Chapter, G.R. No. 240493, June 19, 2019 [Notice], citing *Heirs of Pacencia Racaza v. Sps. Abay-abay*, 687 Phil. 584, 590 (2012) [Per J. Reyes, Second Division].

[36] 212 Phil. 382 (1984) [Per C.J. Fernando, En Banc].

[37] *Id.* at 388-389.

[38] 387 Phil. 601 (2000) [Per J. Gonzaga-Reyes, Third Division].

[39] *Id.* at 608.

[40] 918-A Phil. 371 (2021) [Per J. Leonen, En Banc].

[41] *Id.* at 460, citing *Fantastico v. Malicse, Sr.*, 750 Phil. 120, 130 (2015) [Per J. Peralta, Third Division].

[42] *Rollo*, pp. 372-375.

[43] *Id.* at 374-375.

[44] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 30 (2016) [Per J. Bersamin, First Division]; *Pasvil/Pascual Liner, Inc., Workers Union v. National Labor Relations Commission*, 370 Phil. 473, 478 (1999) [Per J. Bellosillo, Second Division].

[45] *Pasvil/Pascual Liner, Inc., Workers Union v. National Labor Relations Commission*, *id.*

[46] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 30-31 (2016) [Per J. Bersamin, First Division]; *A. Soriano Aviation v. Employees Association of A. Soriano Aviation*, 612 Phil. 1093, 1103-1104 (2009) [Per J. Carpio Morales, Second Division].

[47] *Government Service Insurance System v. Kapisanan ng mga Manggagawa sa GSIS*, 539 Phil. 677, 691 (2006) [Per J. Garcia, Second Division].

[48] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 790 (2007) [Per J. Velasco, Jr., Second Division].

[49] *Id.*

[50] *Id.* at 800.

[51] *A. Soriano Aviation v. Employees Association of A. Soriano Aviation*, 612 Phil. 1093, 1104 (2009) [Per J. Carpio Morales, Second Division].

[52] *Id.* at 1109-1110.

[53] *Philippine Long Distance Telephone Company v. National Labor Relations Commission*, 247 Phil. 641, 650 (1988) [Per J. Cruz, En Banc].

[54] Article 289. Formation, maintenance and prohibition of combination of capital or labor through violence or threats. – The penalty of *arresto mayor* and a fine not exceeding 300 pesos shall be imposed upon any person who, for the purpose of organizing, maintaining or preventing coalitions of capital or labor, strike of laborers or lockout of employers, shall employ violence or threats in such a degree as to compel or force the laborers or employees in the free and legal exercise of their industry or work, if the act shall not constitute a more serious offense in accordance with the provisions of this Code.

[55] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 800 (2007) [Per J. Velasco, Jr., Second Division].

[56] *Pantaleon v. American Express International*, 643 Phil. 488, 512 (2010) [Per J. Brion, Special Second Division].

[57] *Garcia, Jr. v. Salvador*, 547 Phil. 463, 475 (2007) [Per J. Ynares-Santiago, Third Division].

[58] *Tocoms Philippines, Inc. v. Philips Electronics and Lighting, Inc.*, 870 Phil. 241, 254-255 (2020) [Per J. Reyes, A., Jr., Second Division].

[59] *Carpio v. Valmonte*, 481 Phil. 352, 362-363 (2004) [Per J. Tinga, Second Division].

[60] 677 Phil. 423, 433-434 (2011) [Per J. Peralta, Special Third Division].

[61] *Id.* at 433-434.

[62] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 790 (2007) [Per J. Velasco, Jr., Second Division].

[63] *Solidbank Corp. v. Gamier*, 649 Phil. 54, 83 (2010) [Per J. Villarama, Jr., Third Division].

[64] *California Clothing, Inc. v. Quiñones*, 720 Phil. 373, 381 (2013) [Per J. Peralta, Third Division].

[65] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 799 (2007) [Per J. Velasco, Jr., Second Division].

[66] 338 Phil. 635 (1997) [Per J. Mendoza, Second Division].

[67] *Id.* at 646.

[68] Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission, 562 Phil. 759, 799-800 (2007) [Per J. Velasco, Jr., Second Division].

[69] Shell Oil Workers Union and Shell and Affiliates Supervisors' Union v. Shell Company of the Philippines, 162 Phil. 335 (1976) [Per J. Esguerra, First Division].

[70] LABOR CODE, art. 240.

[71] LABOR CODE, art. 252.

[72] See Reyes v. Rural Bank of San Rafael (Bulacan), Inc., 921 Phil. 670, 684-685 (2022) [Per J. Hernando, Second Division].

[73] Id. at 684.

[74] Id. at 683.

SEPARATE CONCURRING OPINION

LEONEN, SAJ.:

I concur in the result that the Petition should be denied. Although the labor arbiter had jurisdiction over the counterclaim filed by Central Azucarera de San Antonio, Inc. (Central Azucarera), the counterclaim must be dismissed. A labor union, such as CASA Sugar Mill Workers Union-FFW (CASA Sugar Mill Workers Union), cannot be held vicariously or collectively liable for damages arising from an illegal strike or from unlawful acts committed during a strike.

The Constitution mandates the full protection of "labor, local and overseas[.]" It likewise guarantees the rights of workers to strike in accordance with the law:[1]

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion, and growth.[2] (Emphasis supplied)

The right to strike is the "most preeminent economic weapon of workers to force management to agree to an equitable sharing of the joint product of labor and capital." [3] It nevertheless produces "disquieting effects" on labor-management relations, on the economy and peace in general.[4] As a means to attaining social justice, however, the right to strike is not intended to oppress employers. Thus, the Labor Code regulates the exercise of this right.[5]

Article 279(a) of the Labor Code prohibits union officers from knowingly participating in an illegal strike or

knowingly committing illegal acts during a strike. Union members, on the other hand, are prohibited only from knowingly participating in the commission of illegal acts during a strike. Article 279(a) states:

Article 279. [264] Prohibited Activities. — (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. 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.[6] (Emphasis supplied)

Apart from the loss of employment, a violation of Article 279 of the Labor Code likewise carries a penalty of a fine of not less than PHP 1,000.00 and/or imprisonment of not less than three months but not more than three years:[7]

Article 287. [272] Penalties. — (a) Any person violating any of the provisions of Article 264 of this Code shall be punished by a fine of not less than one thousand pesos (P1,000.00) nor more than ten thousand pesos (P10,000.00) and/or imprisonment for not less than three months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court. Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code, and vice versa.[8] (Emphasis supplied)

Under the Labor Code, the sanctions for an illegal strike or for illegal acts committed during a strike are directed only against the union officers or members who knowingly participate therein, and not against the union or the membership as a whole. Moreover, the mere participation of a union member in an illegal strike, absent the commission of illegal acts, is not penalized. This limited imposition of penalties is deliberate to preserve the meaningful exercise of the right to strike.

Jurisprudence affirms that liability for an illegal strike or for illegal acts committed during a strike is neither vicarious nor collective.

The legal fiction of vicarious liability is embodied in Article 2180 of the Civil Code, which enumerates persons who may be held liable for the fault or negligence of those under their control.[9] Liability is imposed on persons who are deemed morally responsible because they are in a position to exercise absolute or limited control over the conduct of another. The doctrine rests on considerations of public policy—to ensure that an injured party is able to recover damages, and to hold liable those who failed to properly select or supervise persons under their control.[10]

However, in *Benguet Consolidated, Inc. v. BCI Employees & Workers Union-PAFLU*,^[11] this Court declared that the doctrine of vicarious liability for damages arising from an illegal strike had been legislated out by the enactment of the Industrial Peace Act. There, the employer sought damages amounting to approximately PHP 2,000,000.00 against the union, its affiliate, and its president. This Court further held that liability on the part of the union, its officers, and its members cannot be sustained absent clear proof of actual participation in, authorization of, or ratification of the illegal acts committed:[12]

On the second question, it suffices to consider, in answer thereto, that the rule of vicarious liability has, since the passage of Republic Act 875, been expressly legislated out. The standing rule now is that for a labor union and/or its officials and members to be liable, there must be clear proof of actual participation in or authorization or ratification of the illegal acts. While the lower court found that some strikers and picketers resorted to intimidation and actual violence, it also found that defendants presented uncontradicted evidence that before and during the strike, the strike leaders had time and again warned the strikers not to resort to violence but to conduct peaceful picketing only. Assuming that the strikers did not heed these admonitions coming from their leaders, the failure of the union officials to go against the erring union members pursuant to the UNION and PAFLU constitutions and by-laws exposes, at the most, only a flaw or weakness in the defense which, however, cannot be the basis for plaintiff BENGUET to recover.[13] (Citations omitted)

Although the Industrial Peace Act has already been repealed, the non-adoption of the vicarious liability in the Labor Code has been affirmed by this Court in *Toyota Motor Phils. Corp. Workers Association (TMPCWA) v. National Labor Relations Commission*:^[14]

Art. 264(a) of the Labor Code provides that a member is liable when he knowingly participates in an illegal act "during a strike." While the provision is silent on whether the strike is legal or illegal, we find that the same is irrelevant. As long as the members commit illegal acts, in a legal or illegal strike, then they can be terminated. However, when union members merely participate in an illegal strike without committing any illegal act, are they liable?

This was squarely answered in *Gold City Integrated Port Service, Inc. v. NLRC*, where it was held that an ordinary striking worker cannot be terminated for mere participation in an illegal strike. This was an affirmation of the rulings in *Bacus v. Ople* and *Progressive Workers Union v. Aguas*, where it was held that though the strike is illegal, the ordinary member who merely participates in the strike should not be meted loss of employment on the considerations of compassion and good faith and in view of the security of tenure provisions under the Constitution. In *Esso Philippines, Inc. v. Malayang Manggagawa sa Esso (MME)*, it was explained that a member is not responsible for the union's illegal strike even if he voted for the holding of a strike which became illegal.

Noted labor law expert, Professor Cesario A. Azucena, Jr., traced the history relating to the liability of a union member in an illegal strike, starting with the "rule of vicarious liability," thus: Under [the rule of vicarious liability], mere membership in a labor union serves as basis of liability for acts of individuals, or for a labor activity, done on behalf of the union. The union member is made liable on the theory that all the members are engaged in a general conspiracy, and the unlawful acts of the particular members are viewed as necessary incidents of the conspiracy. It has been said that in the absence of statute providing otherwise, the rule of vicarious liability applies.

Even the Industrial Peace Act, however, which was in effect from 1953 to 1974, did not adopt the vicarious liability concept. It expressly provided that: No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable for the unlawful acts of individual officers, members, or agents, except upon proof of actual participation in, or actual authorization of, such acts or of ratifying of such acts after actual knowledge thereof.

Replacing the Industrial Peace Act, the Labor Code has not adopted the vicarious liability rule.

Thus, the rule on vicarious liability of a union member was abandoned and it is only when a striking worker "knowingly participates in the commission of illegal acts during a strike" that he will be penalized with dismissal.[15] (Emphasis supplied, citations omitted)

Further, in *Hongkong & Shanghai Banking Corporation Employees Union v. National Labor Relations Commission*,^[16] this Court ruled that the liability arising from an illegal strike attaches individually, not

collectively. To hold otherwise would render the recognition of the workers' right to strike illusory:

As a general rule, the mere finding of the illegality of the strike does not justify the wholesale termination of the strikers from their employment. To avoid rendering the recognition of the workers' right to strike illusory, the responsibility for the illegal strike is individual instead of collective. The last paragraph of Article 264 (a) of the Labor Code defines the norm for terminating the workers participating in an illegal strike, viz.:Article 264. Prohibited Activities. — ...

xxx xxx xxx

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. 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 supplied)

Conformably with Article 264, we need to distinguish between the officers and the members of the union who participate in an illegal strike. The officers may be deemed terminated from their employment upon a finding of their knowing participation in the illegal strike, but the members of the union shall suffer the same fate only if they are shown to have knowingly participated in the commission of illegal acts during the strike. Article 264 expressly requires that the officer must have "knowingly participated" in the illegal strike. We have explained this essential element in *Club Filipino, Inc. v. Bautista*, thusly:

Note that the verb "participates" is preceded by the adverb "knowingly." This reflects the intent of the legislature to require "knowledge" as a condition sine qua non before a union officer can be dismissed from employment for participating in an illegal strike. The provision is worded in such a way as to make it very difficult for employers to circumvent the law by arbitrarily dismissing employees in the guise of exercising management prerogative. This is but one aspect of the State's constitutional and statutory mandate to protect the rights of employees to self-organization.[17] (Emphasis supplied, citations omitted)

Clearly, the Labor Code does not impose upon the union, as collective entity, the moral responsibility to answer for an illegal strike or for illegal acts committed during a strike by a union officers or members. Since the law rejects vicarious and collective liability, claims for damages arising from an illegal strike or from illegal acts committed during a strike must likewise be governed by the rule on actual participation and individual liability.

This is consistent with the policy embodied in the Constitution and the law. As the ponencia likewise points out, to hold the union, as an entity, liable for damages arising from the illegal acts of a few would be effectively deter workers from exercising their right to strike.

Moreover, a union held liable for damages arising from illegal acts committed by some of its members during a strike would necessarily satisfy such liability through the collection of union dues. This is not the purpose for which union dues are collected. Union dues are intended to support the union's role in advancing the interests of the members of the bargaining unit.[18] These resources should remain devoted to that purpose, rather than be diminished or depleted by claims for damages arising from the acts of a few.

Thus, the counterclaim for actual, moral, and exemplary damages as well as attorney's fees, filed against CASA Sugar Mill Workers Union should be dismissed. The union cannot be held liable for the damages allegedly incurred by Central Azucarera because, as established, liability attaches only to the particular union officers or members who caused the damages arising from an illegal strike or from illegal acts during a strike.[19]

ACCORDINGLY, I vote to DENY the Petition.

[1] CONST., art. XIII, sec. 3.

[2] CONST., art. XIII, sec. 3.

[3] *Pilipino Telephone Corporation v. Philippine Telephone Employees Association*, 552 Phil. 432, 452 (2007) [Per C.J. Puno, First Division].

[4] *Id.*

[5] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 30-31 (2016) [Per J. Bersamin, First Division].

[6] LABOR CODE, as renumbered in 2015, art. 279.

[7] LABOR CODE, as renumbered in 2015, art. 287.

[8] *Id.*

[9] CIVIL CODE, art. 2180.

[10] *Imperial v. Heirs of Neil Bayaban*, 841 Phil. 53, 65-66 (2018) [Per J. Leanen, Third Division].

[11] 131 Phil. 994 (1968) [Per J. Bengzon, J.P., En Banc].

[12] *Id.* at 1004-1006.

[13] *Id.*

[14] 562 Phil. 759, 773 (2007) [Per J. Velasco, Jr., Second Division].

[15] *Id.* at 798-800.

[16] 776 Phil. 14 (2016) [Per J. Bersamin, First Division].

[17] *Id.* at 38-39.

[18] *South Cotabato Integrated Port Services, Incorporated (SCIPSI) v. Montefalco, Jr.*, 949 Phil. 1137, 1147 (2023) [C.J. Gesmundo, First Division].

[19] The May 28, 2021 Decision of the Court of Appeals, Cebu City, Twentieth Division, was penned by Associate Justice Roberto P. Quiroz and concurred by Associate Justice Marilyn B. Lagura-Yap and Associate Nancy C. Rivas-Palmones.

CONCURRING OPINION CAGUIOA, J.:

I agree that an employer is not entitled to damages for losses incurred in the course of a strike. Such losses are deemed part of the normal incidents of a strike and are not compensable, save for highly exceptional circumstances, as elucidated in the ponencia. Even then, only the individual workers who committed illegal acts and intentionally caused damage shall be held liable.[1]

At the outset, no less than the Constitution dictates that it is the State's duty to protect and guarantee every employee's right to self-organization, which includes the right to conduct a strike among others, viz.:

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and

promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.[2] (Emphasis supplied)

With this in mind, awarding damages and attorney's fees due to a strike, whether legal or illegal, lacks basis in law and is irreconcilable with the nature and purpose of a strike. To set the premise, Republic Act No. 386 or the Civil Code of the Philippines, is a general statute[3] which governs all private and civil relationships. Thus, while the Civil Code defines the different types of damages and the respective bases for entitlement, it is the Labor Code, being the special law that specifically governs labor relations, which should prevail. The Court has consistently pronounced this doctrine in statutory construction in a catena of cases,[4] including the case of National Power Corporation [(NPC)] v. Presiding Judge, RTC, 10[th] Judicial Region, Br. XXV, Cagayan de Oro City[5] (NPC), thus:

It is a basic tenet in statutory construction that between a general law and a special law, the special law prevails. GENERALIA SPECIALIBUS NON DEROGANT.

Where a later special law on a particular subject is repugnant to, or inconsistent with, a prior general law on the same subject, a partial repeal of the latter will be implied to the extent of the repugnancy or an exception grafted upon the general law.

A special law must be intended to constitute an exception to the general law in the absence of special circumstances forcing a contrary conclusion.[6]

In fact, even the Civil Code itself yields to the Labor Code as the controlling law in the regulation of the relationship between capital and labor. Under Article 1700 of the Civil Code, "such [labor] contracts are subject to the special laws on labor unions, collective bargaining, strikes and lockouts, closed shop, wages, working conditions, hours of labor and similar subjects." [7]

Following these premises, it is my considered view that it is Article 279 (formerly Article 264) of the Labor Code which should primarily apply in determining the liability arising from the conduct of illegal strikes. Notably, the said provision does not only define the prohibited activities during a strike, it also enumerates specific individuals who may be held liable for an illegal strike while providing for their concomitant penalty, thus:

ARTICLE 279. [264] Prohibited Activities. — (a) ...

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. 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 supplied)

The said provision clearly states that there are only two possible actors to whom liability for an illegal strike may attach, namely: (1) a union officer who knowingly participated in an illegal strike; and (2) a union officer or member who knowingly participated in the commission of illegal acts during a strike.

Interestingly, the Court has interpreted this provision to mean that ascribing liability in an illegal strike is determined on an individual basis only. In other words, it is a requirement that the guilty illegal striker must be specifically identified in order to impose the appropriate sanction. As ruled by the Court in *A. Soriano Aviation v. Employees Association of A. Soriano Aviation*[8] (Soriano):

As to the issue of loss of employment of those who participated in the illegal strike, Sukhothai instructs: . . .

In *Samahang Manggagawa sa Sulpicio Lines, Inc.-NAFLU v. Sulpicio Lines, Inc.*, this Court explained that the effects of such illegal strikes, outlined in Article 264, make a distinction between workers and union officers who participate therein: an ordinary striking worker cannot be terminated for mere participation in an illegal strike. There must be proof that he or she committed illegal acts during a strike. A union officer, on the other hand, may be terminated from work when he knowingly participates in an illegal strike, and like other workers, when he commits an illegal act during an illegal strike. In all cases, the striker must be identified. But proof beyond reasonable doubt is not required. Substantial evidence available under the attendant circumstances, which may justify the imposition of the penalty of dismissal, may suffice.

The liability for prohibited acts has thus to be determined on an individual basis. A perusal of the Labor Arbiter's Decision, which was affirmed in toto by the NLRC, shows that on account of the staging of the illegal strike, individual respondents were all deemed to have lost their employment, without distinction as to their respective participation.[9] (Emphasis supplied)

Clearly, there is no legal basis to hold a union, as a juridical entity, liable for damages due to an illegal strike or for the illegal acts committed by its officers or members during a strike.

Proceeding to the determination of the only recognized sanction for conducting an illegal strike, the same quoted portion in Soriano also settles that the Labor Code does not sanction an award for any type of damages in favor of an employer when an illegal strike is conducted. The Labor Code only recognizes the sole penalty of dismissal for the individually identified union officers or union members, at the employer's discretion.[10] This interpretation has been sustained by the Court in an array of cases[11] where there was a finding of an illegal strike.

While the Court had previously awarded nominal damages in the case of *National Federation of Labor (NFL) v. NLRC*[12] (NFL), I submit that NFL should be revisited.

A reading of the Court's ruling in NFL traces back to the proceedings before the Labor Arbiter (LA), which ruled that no probative value could be accorded to the certifications submitted by the employer on the amount of spoiled fish and loss of customer commitments on account of the illegal strike. According to the LA, these pieces of evidence were self-serving, for which reason no actual damages could be awarded. Instead, the LA awarded moral and exemplary damages.[13]

Subsequently, the National Labor Relations Commission (NLRC) modified the LA's ruling by deleting moral and exemplary damages and awarded actual damages amounting to PHP 300,000.00 in favor of the employer and against NFL. According to the NLRC, the "compensatory damages assessed upon NFL [was] more than justified,"[14] considering that the company sustained huge losses brought about by the illegal strike.

Surprisingly, when the case reached the Court, it modified the NLRC award by deleting the actual damages but imposing nominal damages amounting to PHP 300,000.00 ratiocinating that the "strike dragged on for nearly 50 days, paralyzing [the company's] operations"[15]—thus concluding that some species of injury was suffered by it.

The entire discussion of the Court on the award of damages in NFL reads as follows:

Finally, as to the amount of damages awarded, respondent company submitted mere certifications by company officials that P300,000.00 worth of cooked fish were spoiled during the January 25-26 strike and that the respondent company lost about \$3,431,630.00 in US commitments due to the paralyzation of company operations brought about by the February 11-March 29 strike. The same were found by the Labor Arbiter to be self-serving and of no probative value; hence it only awarded moral and exemplary damages. The NLRC, on the other hand, deleted the award of moral and exemplary damages but awarded compensatory damages of P300,000.00, justifying the same in this wise: "The compensatory damages assessed upon NFL is more than justified. PERMEX has sustained huge damages and losses as a consequence of the illegal strike staged by NFL and its affiliated workers under the able direction of the union leadership. While it may be true that the NFL under Amado Magbanua and National President Ibarra Malonzo has appeared to have tried to diffuse and resolve the dispute, its intercession obviously came after so much damage has been done upon the company."

It is only too clear that the damages awarded are not based on concrete proof. This Court has ruled that "(i)n order that damages may be recovered, the best evidence obtainable by the injured party must be presented. Actual or compensatory damages cannot be presumed, but must be duly proved, and so proved with a reasonable degree of certainty. A court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered and on evidence of the actual amount thereof. If the proof is flimsy and insubstantial, no damages will be awarded."

However, the strike dragged on for nearly 50 days, paralyzing respondent's operations; thus, "there is no room for doubt that some species of injury was caused to private respondent. In the absence of competent proof on the actual damages suffered, private respondent is entitled to nominal damages — which, as the law says, is adjudicated in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated and recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered." We consider the amount of P300,000.00 just and reasonable under the circumstances.[16] (Citations omitted)

I submit that the entire discussion of the Court on damages in NFL was improper.

First, no legal basis was cited by the Court in arriving at the award of nominal damages in favor of the company against the union other than the case of *Lufthansa German Airlines v. CA*,[17] a completely unrelated precedent which involved the liability of an airline company for failure to properly endorse one of its passengers despite having a flight reservation and confirmation. Second, the type of damages awarded in NFL was nominal damages. However, nominal damages are never meant to indemnify a party for losses actually suffered. This was explained by the Court in *Pryce Properties Corporation v. Spouses Octobre*,[18] when it ruled that "nominal damages may be awarded in order that the plaintiffs right, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered." [19] Notably, the Court in NFL ruled that it cannot consider the pieces of evidence submitted to prove compensatory damages. However, given the duration of the strike and the fact that the business operations were paralyzed, the Court opined that some form of injury was suffered, thus, the award of nominal damages.[20] This reasoning gravitates towards compensation instead of the vindication of a right. Neither did NFL specify the right allegedly transgressed in order to justify the award of nominal damages.

All things considered, our labor laws and jurisprudence clearly impose sanctions on account of an illegal strike only on an individual basis as against the guilty strikers—not the union as a juridical entity—and with the sole allowable penalty of dismissal, not damages, at the employer's discretion.

To qualify, however, and only if clearly proven with substantial evidence, the only type of damages which to my opinion may be possibly awarded in relation to an illegal strike is actual damages, limited to the intentional

destruction of company property or harm against another person. This liability is premised on the abuse of right doctrine under the Civil Code as cited in the ponencia,[21] coupled with the guidelines introduced by Associate Justice Ramon Paul L. Hernando.[22]

This way, the award of actual damages is not hinged on the conduct of a strike or its negative economic impact to an employer's business, but rather, it is based on the deliberate destructive behavior of the concerned individual which is never sanctioned under any law. It is then emphasized that such compensation is to indemnify based on the separate and tortious act of damage to property or harm against persons.

The ponencia thus creates the balance between the constitutionally protected right to self-organization and the rights of an employer. First, a union, as a collective unit, is not made liable as only those identified individuals who committed the tortious act shall be adjudged to pay. Second, the award of damages shall be limited to the quantifiable injury suffered by the employer—following the guidelines adopted by the ponencia.[23]

Otherwise, I find that it is highly paradoxical for an employer to file a claim for any other type of damages on account of a strike, especially for business losses suffered by an employer in such a strike. The same holds true regardless of whether the strike conducted is later on determined to be legal or illegal.

A strike is, in essence, a legally sanctioned form of work stoppage. Hence, the natural and logical objective of a strike is to effectuate an inconvenience—with the inevitable consequence of business losses. All this in the hope of impressing upon an employer the idea that the workforce is essential in every business; and that without labor, no business can flourish and generate income.

To bolster this point, the Court in *Phimco Industries, Inc. v. Phimco Industries Labor Association*[24] (*Phimco*) ruled that a strike is an avenue for employees to obtain an economic concession from an employer when there is a disagreement between management and labor, viz.:

A strike is the most powerful weapon of workers in their struggle with management in the course of setting their terms and conditions of employment. Because it is premised on the concept of economic war between labor and management, it is a weapon that can either breathe life to or destroy the union and its members, and one that must also necessarily affect management and its members.[25] (Emphasis supplied)

With the foregoing, even if premised on the Civil Code or Article 224 (formerly Article 217) of the Labor Code, the argument that damages were sustained in the process of conducting a strike is unavailing. A strike, as a matter of course, not only affects the operations of the company concerned, but also the livelihood of its employees as they will not be paid their wages for the duration of the strike.[26] Simply put, both the employer and the employees suffer respective losses due to the holding of a strike.

As mentioned by the Court in *Phimco*, staging a strike entails an underlying "economic war," which, in turn, evinces an existing tension within the dynamic of management and labor. It thus necessarily follows that such concerted activity is inherently disruptive in nature. Hence, to my mind, the Court cannot discount the fact that although a strike, or even a lockout for that matter, is initiated by one party, it is in effect, a culmination of how both parties have adversely engaged with each other, or their utter failure to come to an agreement on the terms and conditions of employment. Following the foregoing premises, an employer cannot later on cry foul knowing fully well that any damage it suffered were but a logical consequence of their individual or mutual actions, or their failure of negotiations. Hence, the Court must simply let the law take its natural and usual course.

ff not, or if the Court were to specifically carve out a precedent which allows an employer to claim damages due to a strike from a union, then the purpose by which the law created such a medium in furthering an employee's right to self-organize is eroded. It cannot be further emphasized that the decision to go on strike, and the actual

conduct of the strike, are not taken lightly as it is held only as a last resort under the Labor Code. There are existing safeguards in place to sufficiently regulate a strike, such as, the stringent procedure and timeline to be observed before the declaration thereof (i.e., notice requirement, cooling-off period, strike-vote, strike-ban, and reportorial requirements), the delineation of illegal acts, and the imposition of the penalty of dismissal to those individuals found guilty of committing illegal acts. The Court need not add sanctions outside of what the law provides which, in the end, might outweigh the benefits which such collective action seeks to achieve and ultimately diminish the right to self-organization. The Court must always ensure that this right is preserved especially given that this is a constitutionally protected right.[27] That being the case, the award of damages on account of a strike must remain as the exception, not the rule; and only after meeting the rigid requirements imposed by the ponencia.

ACCORDINGLY, I find that the position of Central Azucarera on its entitlement to damages for the disruption of its milling operations not only lacks basis in law but is also antithetical to the very concept of a strike. With this, I vote to DENY the Petition for Review on Certiorari.

[1] See ponencia, pp. 23-24.

[2] CONST., art. XIII, sec. 3.

[3] *Baga v. Philippine National Bank*, 99 Phil. 889, 892 (1956) [Per J. J.B.L. Reyes, En Banc].

[4] *Commissioner of Internal Revenue v. Bases Conversion and Development Authority*, 868 Phil. 567 (2020) [Per J. Lazaro-Javier, First Division]; *Mandanas v. Ochoa*, 851 Phil. 545 (2019) [Per CJ. Bersamin, En Banc]; *Commissioner of Internal Revenue v. Semirara Mining Corporation*, 844 Phil. 755 (2018) [Per J. A. Reyes, Jr., Second Division]; *Bagatsing v. Ramirez*, 165 Phil. 909 (1976) [Per J. Martin, En Banc]; *Butuan Sawmill, Inc. v. City of Butuan*, 123 Phil. 575 (1966) [Per J. J.B.L. Reyes, En Banc]; *Garcia v. Pascual*, 113 Phil. 632 (1961) [Per J. Labrador, En Banc]; and *Baga v. Philippine National Bank*, *id.*

[5] 268 Phil. 507 (1990) [Per C.J. Fernan, Third Division].

[6] *Id.* at 513.

[7] Emphasis supplied.

[8] 612 Phil. 1093 (2009) [Per J. Carpio Morales, Second Division].

[9] *Id.* at 1110-1111.

[10] *Id.*

[11] *Magdala Multipurpose & Livelihood Cooperative v. Kilusang Manggagawa ng LGS, Magdala Multipurpose and Livelihood Cooperative*, 675 Phil. 861 (2011) [Per J. Velasco, Jr., Third Division]; *G & S Transport Corporation v. Infante*, 559 Phil. 701 (2007) [Per J. Tinga, Second Division]; *Pilipino Telephone Corp. v. Pilipino Telephone Employees Association (PILTEA)*, 552 Phil. 432 (2007) [Per C.J. Puno, First Division]; *Biflex Phils. Inc. Labor Union (NAFLU) v. Filflex Industrial and Manufacturing Corporation*, 540 Phil. 269 (2006) [Per J. Carpio Morales, Third Division]; *Times Transportation Co. Inc. v. National Labor Relations Commission*, 538 Phil. 285 (2006) [Per J. Chico-Nazario, First Division]; *Samahang Manggagawa sa Sulpicio Lines, Inc.-NAFLU v. Sulpicio Lines, Inc.*, 470 Phil. 115 (2004) [Per J. Sandoval-Gutierrez, Third Division].

[12] 347 Phil. 555 (1997) [Per J. Romero, Third Division].

- [13] Id. at 569.
- [14] Id.
- [15] Id. at 570.
- [16] Id. at 569-570.
- [17] 313 Phil. 503 (1995) [Per C.J. Narvasa, Second Division].
- [18] 802 Phil. 391 (2016) [Per J. Jardeleza, Third Division].
- [19] Id. at 398.
- [20] National Federation of Labor (NFL) v. NLRC, *supra* note 12, at 569-570.
- [21] Ponencia, p. 17.
- [22] J. Hernando, Concurring Opinion, pp. 14-15.
- [23] Ponencia, p. 23.
- [24] 642 Phil. 275 (2010) [Per J. Brion, Third Division].
- [25] Id. at 289.
- [26] See Escario v. NLRC (Third Div.), 645 Phil. 503, 513-515 (2010) [Per J. Bersamin, Third Division].
- [27] CONST., art. XIII, sec. 3.

CONCURRING OPINION

HERNANDO, J.:

I fully concur in the disquisitions of the ponencia of Our esteemed colleague, Mr. Justice Henri Jean Paul B. Inting.

To recall, Casa Sugar Mill Works Union-FFW (the Union) committed illegal acts during the strike when it barricaded the entry and exit points to the Central Azucarera de San Antonio, Inc. (Central Azucarera), which impeded the company's operations and obstructed the free movement of non-striking employees, the company's customers, and suppliers. Consequently, Central Azucarera filed a counterclaim for damages and attorney's fees against the Union.

I agree that labor tribunals may award damages to employers on account of the commission of illegal acts by union officers or employees during a strike. However, any award of damages to the employer on account of illegal acts committed during strikes must be circumscribed by the following limitations:

- (a) Only individual members or officers of the union who in bad faith committed illegal acts during a strike may be held liable for damages arising from such illegal acts; and
- (b) The courts, in determining the proper award of damages to be paid by the responsible officers and employees, must ensure that the award is commensurate to the injury suffered by the employer. However, in the interest of social justice, such amount may be equitably reduced to ensure that the amount shall not be excessive and unconscionable to the responsible union officer or employee.

For context, a discussion on the right to strike is in order.

I.

The right to strike is protected and guaranteed by the Constitution. Nevertheless, as with all rights, it must be exercised in accordance with law.

The right to strike is a constitutional right of all workers. Article XIII, Section 3 of the Constitution provides:

SECTION 3. ...

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. (Emphasis supplied)

The Labor Code further affirms the right to strike, subject to the limitations provided in the Labor Code:

ART. 257. [246] Non-Abridgment of Right to Self-Organization. – It shall be unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. Such right shall include the right to form, join, or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection, subject to the provisions of Article 264 of this Code.

ART. 278. [263] Strikes, Picketing, and Lockouts. – (a) It is the policy of the State to encourage free trade unionism and free collective bargaining.

(b) Workers shall have the right to engage in concerted activities for purposes of collective bargaining or for their mutual benefit and protection. The right of legitimate labor organizations to strike and picket and of employers to lockout, consistent with the national interest, shall continue to be recognized and respected. However, no labor union may strike and no employer may declare a lockout on grounds involving inter-union and intra-union disputes. (Emphasis supplied)

This right is guaranteed by the Constitution and serves as a vital instrument of labor for its protection against exploitation by management. By virtue of this right, the workers are able to press their demands for better terms and conditions of employment with more energy and persuasiveness, poising the threat to strike as their reaction to their employer's intransigence. The strike is thus a powerful and effective weapon of the working class in their struggle for existence.[1]

The Court's discussion of the right to strike, its history, and its role as the great equalizer in labor disputes, is apropos:

Strike has been considered the most effective weapon of labor in protecting the rights of employees to improve the terms and conditions of their employment. It may be that in highly developed countries, the significance of strike as a coercive weapon has shrunk in view of the preference for more peaceful modes of settling labor disputes. In underdeveloped countries, however, where the economic crunch continues to enfeeble the already marginalized working class, the importance of the right to strike remains undiminished as indeed it has proved many a time as the only coercive weapon that can correct abuses against labor. It remains as the great equalizer.

In the Philippine milieu where social justice remains more as a rhetoric than a reality, labor has vigilantly fought to safeguard the sanctity of the right to strike. Its struggle to gain the right to strike has not been easy and effortless. Labor's early exercise of the right to strike collided with the laws on rebellion and sedition and

sent its leaders languishing in prisons... [O]n June 17, 1953, Congress gave statutory recognition to the right to strike when it enacted [Republic Act No.] 875, otherwise known as the Industrial Peace Act. For nearly two (2) decades, labor enjoyed the right to strike until it was prohibited on September 12, 1972 upon the declaration of martial law in the country. The 14-year battle to end martial rule produced many martyrs and foremost among them were the radicals of the labor movement. It was not a mere happenstance, therefore, that after the final battle against martial rule was fought at EDSA in 1986, the new government treated labor with a favored eye. Among those chosen by then President Corazon C. Aquino to draft the 1987 Constitution were recognized labor leaders like Eulogio Lerum, Jose D. Calderon, Blas D. Ople and Jaime S.L. Tadeo. These delegates helped craft into the 1987 Constitution its Article XIII [titled] Social Justice and Human Rights. For the first time in our constitutional history, the fundamental law of our land mandated the State to "[. . .] guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law." This constitutional imprimatur given to the right to strike constitutes signal victory for labor. Our Constitutions of 1935 and 1973 did not accord constitutional status to the right to strike. Even the liberal US Federal Constitution did not elevate the right to strike to a constitutional level. With a constitutional matrix, enactment of a law implementing the right to strike was an inevitability. [Republic Act No.] 6715 came into being on March 21, 1989, an intentional replication of [Republic Act No.] 875. In light of the genesis of the right to strike, it ought to be obvious that the right should be read with a libertarian latitude in favor of labor.[2] (Emphasis supplied)

In the same vein, precisely because the right to strike is a powerful weapon, it must be handled carefully like a sensitive explosive to prevent it from blowing up in the workers' own hands.[3] The right to strike as a means to attain social justice was never meant to oppress or destroy employers. Hence, the exercise of this right is not absolute and the law prescribes limits on its exercise.[4] The Constitution itself qualifies the workers' exercise of their right to strike with the provision "in accordance with law." This is a clear manifestation that the State may, by law, regulate the use of this right or even deny certain sectors such right.[5]

Article 263 of the Labor Code specifies the limitations on the exercise of the right to strike including procedural requirements. The language of the law itself unmistakably reflects the mandatory character of the limitations it has prescribed.[6] Strikes may be declared illegal in the following circumstances:

(1)

[when it] is contrary to a specific prohibition of law, such as strike by employees performing governmental functions; or

(2)

[when it] violates a specific requirement of law[, such as Article 263 of the Labor Code on the requisites of a valid strike]; or

(3)

[when it] is declared for an unlawful purpose, such as inducing the employer to commit an unfair labor practice against non-union employees; or

(4)

[when it] employs unlawful means in the pursuit of its objective, such as a widespread terrorism of non-strikers [for example, prohibited acts under Art. 264(e) of the Labor Code]; or

(5)

[when it] is declared in violation of an existing injunction[, such as injunction, prohibition, order issued by the DOLE Secretary and the NLRC under Art. 263 of the Labor Code]; or

(6)

[when it] is contrary to an existing agreement, such as a no-strike clause or conclusive arbitration clause.[7]

Illegal acts committed during a strike are also prohibited. In *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*,^[8] the Court observed that illegal acts as found in Article 279 of the Labor Code encompass a number of acts that violate existing labor or criminal laws, such as but not limited to the following:

1)

Violation of Art. [279 (264) (e)] of the Labor Code, which provides that "[n]o person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employer's premises for lawful purposes, or obstruct public thoroughfares";

2)

Commission of crimes and other unlawful acts in carrying out the strike; and

3)

Violation of any order, prohibition, or injunction issued by the [Department of Labor and Employment] Secretary or NLRC in connection with the assumption of jurisdiction/certification Order under Art. 263 (g) of the Labor Code.[9]

Thus, even if the purpose of a strike is valid, the strike may still be held illegal where the means employed are illegal. The employment of violence, intimidation, restraint or coercion in carrying out concerted activities which are injurious to the right to property renders a strike illegal. And so is picketing or the obstruction to the free use of property or the comfortable enjoyment of life or property, when accompanied by intimidation, threats, violence, and coercion as to constitute a nuisance.[10]

Indeed, "[w]hile the strike is the most preeminent economic weapon of workers to force management to agree to an equitable sharing of the joint product of labor and capital, it exerts some disquieting effects not only on the relationship between labor and management, but also on the general peace and progress of society and economic well-being of the State. If such weapon has to be used at all, it must be used sparingly and within the bounds of law in the interest of industrial peace and public welfare." [11]

Consistent thereto, the Court has time and again emphasized that the policy of social justice is not intended to countenance wrongdoing simply because it is committed by our laborers. At best, it may mitigate the penalty, but it certainly will not condone the offense. It bears emphasis that social justice cannot be permitted to be a refuge of those who have committed illegal acts, any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless, and not simply because they happen to be underprivileged.[12]

Accordingly, the Labor Code under Article 279 (a), par. 3 provides that any worker or union officer who knowingly participates in the commission of illegal acts may be terminated from employment:

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. 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 [their] employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of [their] employment, even if a replacement had been hired by the employer during such lawful strike. (Emphasis supplied)

One of the core questions before the Court is whether damages may be awarded to the employer on account of illegal acts, notwithstanding the absence of an express imposition of civil liability under the Labor Code for damages caused to the employer.

Considering the foregoing precepts and the discussion below, I agree with the ponencia that damages may be awarded to the employer on account of illegal acts committed during strike.

II.

Damages may be awarded to employers on account of illegal acts committed by union officers or members during a strike

A.

The jurisdiction of the Labor Arbiter is broad enough to include an award of damages in favor of the employer arising from illegal acts committed during a strike

Article 224[13] of the Labor Code provides that labor arbiters have original and exclusive jurisdiction to hear and decide cases involving claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations, as well as cases involving questions of legality of strikes and lockouts. In interpreting this provision, the Court has recently explained that the jurisdiction of labor tribunals is comprehensive enough to include claims for all forms of damages arising from employer-employee relations. Labor tribunals thus have jurisdiction to award not only the reliefs provided by labor laws, but also damages governed by the Civil Code.[14]

On this score, as early as 1972, the Court already held in *National Federation of Labor v. Eisma*[15] that pursuant to Article 224 (then numbered Article 217) of the Labor Code, the labor arbiter can pass on a suit for damages filed by the employer, as it has exclusive original jurisdiction over claims for damages arising from employer-employee relations, particularly those involving picketing or strikes. It stressed that a civil suit for damages allegedly incurred because of a strike or picketing of the union should be dismissed by ordinary courts for lack of jurisdiction, as the claim for damages arises from the labor dispute between the parties.[16]

Even under the Industrial Peace Act that was later superseded by the Labor Code, it was clear that where a plaintiff's cause of action for damages arose out of or was necessarily intertwined with an alleged unfair labor practice committed by the union, the jurisdiction is exclusively vested with the Court of Industrial Relations, and the assumption of jurisdiction of regular courts over the same is a nullity. This was rooted in the rationale that separating the claim for damages with the labor dispute would be to sanction the splitting of jurisdiction, which would be prejudicial to the orderly administration of justice.[17]

In fine, I agree with the ponencia that the jurisdiction of labor tribunals is sufficiently broad to rule on an award of damages in favor of the employer for illegal acts committed during a strike.

B.

While the Labor Code does not provide for an award for damages in favor of the employer on account of the strike, neither do our laws carve out an exception for union members or officers who have caused damages to the employer by committing illegal acts during a strike; there is basis under Articles 19 and 20 of the Civil Code to award damages for illegal acts committed in bad faith during a strike

While termination from employment is the only penalty imposed by the Labor Code on responsible union officers or employees for the commission of illegal acts during a strike, Article 279 (a), par. 3 does not use a sufficiently restrictive language that expressly or impliedly precludes the imposition of civil or criminal liability arising from the commission of illegal acts. Absent any express or implied provision to the contrary, the imposition of the penalty of dismissal from employment is without prejudice to the imposition of criminal or civil penalties for the same act, if so provided for by law.

It is worthy of note that Article 279 of the Labor Code also recognizes that crimes may be committed during a strike, and deems such crimes as illegal acts under the Labor Code. An esteemed labor expert has also observed that Article 289 of the Revised Penal Code punishes the employment of violence and threats in pursuing labor rights.[18] The Court in *Toyota*, when enumerating examples of illegal acts under Article 279, noted that the list therein is not exclusive and illegal acts may cover other breaches of existing laws.[19]

I emphasize that the commission of illegal acts in the course of a strike, such as the destruction of company property or acts of coercion, intimidation, or violence, may result in damages to the employer that would warrant redress. On this score, Article 19 of the Civil Code, which embodies the principle of abuse of rights, provides:

Art. 19. Every person must, in the exercise of [their] rights and in the performance of [their] duties, act with justice, give everyone [their] due, and observe honesty and good faith.

Article 19 pervades the entire legal system and ensures that persons suffering damage because of another's exercise of right or performance of duty, should find themselves without relief. It sets the standard for the conduct of all persons, whether artificial or natural, and requires that everyone, in the exercise of rights and the performance of obligations, must: (a) act with justice, (b) give everyone their due, and (c) observe honesty and good faith. It is not because a person invokes their rights that they can do anything, even to the prejudice and disadvantage of another.[20]

In addition, Article 20 of the Civil Code states:

Art. 20. Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.

Article 20 was incorporated by the Code Commission to provide relief to a person who suffers damage because another has violated some legal provision.[21]

Taken together, Articles 19 and 20 provide the legal bedrock for an award of damages to a party who suffers damage whenever one commits an act in violation of law.[22] While Article 19 imposes upon all persons exercising their legal rights the duty to act with justice, give everyone their due, and to observe honesty and good faith, failure to discharge such duties is compensable under Article 20 if the act is contrary to law.[23]

The Court in *Yuchengco v. The Manila Chronicle Publishing Corp.*[24] aptly explained that while Article 19 sets out the rule of conduct in the exercise of all rights, Article 20 provides a remedy for those who may sustain damage or injury when such rights are abused, viz.:

[Article 19], known to contain what is commonly referred to as the principle of abuse of rights, sets certain standards which must be observed not only in the exercise of one's rights, but also in the performance of one's duties. These standards are the following: to act with justice; to give everyone [their] due; and to observe honesty and good faith. The law, therefore, recognizes a primordial limitation on all rights; that in their exercise, the norms of human conduct set forth in Article 19 must be observed. A right, though by itself legal because recognized or granted by law as such, may nevertheless become the source of some illegality. When a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed/or which the wrongdoer must be held responsible. But while Article 19 lays down a rule of conduct for the government of human relations and for the maintenance of social order, it does not provide a remedy for its violation. Generally, an action for damages under either Article 20 or Article 21 would be proper.[25] (Emphasis supplied)

The question of whether the principle of abuse of rights has been violated, resulting in damages under Articles 20 and 21 or other applicable provision of law, depends on the circumstances of each case. It may be invoked if it is proven that a right or duty was exercised in bad faith, regardless of whether it was for the sole intent of injuring another. It is the absence of good faith which is essential for the application of this principle.[26]

Articles 19 and 20 of the Civil Code are sufficiently broad to cover damages to the employer that were caused by the illegal acts of union officers or employees in the course of a strike, provided such illegal acts were committed in bad faith. Nevertheless, bad faith is never presumed. It does not simply connote bad judgment or negligence.[27] While good faith refers to the state of mind, manifested by the acts of the individual concerned, and consists of the intention to abstain from taking an unconscionable and unscrupulous advantage of another, bad faith implies a conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity.[28]

In fine, there is legal basis under the Civil Code to recompense employers who incur damages because of the commission of illegal acts during a strike. However, before any claim for damages for illegal acts committed during a strike may be granted, the employer must establish the following by substantial evidence: (a) illegal acts were committed by union officers or members during the strike; (b) such illegal acts were committed in bad faith; and (c) the employer incurred injury or damage by reason of such acts.

In addition, any award of damages to the employer must be necessarily circumscribed with two limitations, as discussed below.

III.

Only the union officers or employees who in bad faith committed illegal acts during a strike may be held liable for damages arising from such acts; their individual participation, and the attendance of bad faith in the commission of such acts, must be established with substantial evidence; Moreover, the union may not be held liable for such acts

Another core question before Us is who may be held liable for damages for illegal acts committed by the union officers or members during a strike.

Upon a review of the pertinent civil and labor laws and jurisprudence, I submit that responsibility, and the imposition of civil liability, for illegal acts committed during a strike must be shouldered solely by the individuals responsible for such illegal acts.

I previously stated that Articles 19 and 20 serve as bases for employers to recover damages it incurred for illegal acts committed during a strike. As worded, Article 20 of the Civil Code clearly states that "[e]very person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same." Interpreted together with Article 19 of the Civil Code, only the union officers or employees who in bad faith committed illegal acts that caused damage to others during the strike may be held liable for damages. I further note that while Article 2180 of the Civil Code provides for persons who may be held vicariously liable for quasi-delicts committed by other persons under Article 2176, no equivalent provision may be found for acts covered by Articles 19 and 20 of the same Code.

As regards the Labor Code, it is silent on the civil liability for damages caused to employers during a strike. However, Article 279 (a), par. 3 of the Labor Code may serve as a guidepost, under which only the following may be terminated from employment for knowingly participating in an illegal strike and/or committing illegal acts during a strike:

- A union officer, who knowingly participates in an illegal strike or commits illegal acts during a strike; and
- A union member who knowingly participates in the commission of illegal acts during a strike.

Corollary thereto, an ordinary striking worker cannot be terminated for mere participation in an illegal strike.^[29] Proof of individual participation is essential before a union member or officer may be terminated from employment. Thus, in *First City Interlink Transportation Co., Inc. v. Sec. Confessor*,^[30] the Court held that only the union officers and strikers who engaged in violent, illegal, and criminal acts against the employer are deemed to have lost their employment status. In so ruling, the Court stressed that responsibility for these illegal acts must be on an individual and not collective basis. Although the strike was illegal because of the commission of illegal acts, only the union officers, and striking members who were shown to have engaged in violent, illegal and criminal acts against the employer, were deemed to have lost their employment status. Union members who were merely instigated to participate in the illegal strike should be treated differently.^[31]

Jurisprudence also teaches that responsibility and the imposition of liability on account of mere membership in a labor union has not been adopted in our jurisdiction.

Noted labor law expert, Professor Cesario A. Azucena, Jr., traced the history relating to the liability of a union member in an illegal strike, starting with the "rule of vicarious liability," thus: Under [the rule of vicarious liability], mere membership in a labor union serves as basis of liability for acts of individuals, or for a labor activity, done on behalf of the union. The union member is made liable on the theory that all the members are engaged in a general conspiracy, and the unlawful acts of the particular members are viewed as necessary incidents of the conspiracy. It has been said that in the absence of statute providing otherwise, the rule of vicarious liability applies.

Even the Industrial Peace Act, however, which was in effect from 1953 to 1974, did not adopt the vicarious liability concept. It expressly provided that:

No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute shall be held responsible or liable for the unlawful acts of individual officers, members, or agents, except upon proof of actual participation in, or actual authorization of, such acts or of ratifying of such acts after actual knowledge thereof.

Replacing the Industrial Peace Act, the Labor Code has not adopted the vicarious liability rule.

Thus, the rule on vicarious liability of a union member was abandoned and it is only when a striking worker "knowingly participates in the commission of illegal acts during a strike" that [they] will be penalized with

dismissal.[32] (Emphasis supplied)

I note that the rejection of collective or vicarious liability for the commission of illegal acts or the conduct of illegal strikes in our jurisdiction serves as a vital safeguard to our workers' right to strike. In a 1972 case, the Court, in holding that the commission of illegal acts during a strike does not automatically render such strike illegal, emphasized that responsibility for illegal acts should be individual and not collective, to avoid rendering illusory the right to strike.[33] I submit that the same rationale applies here – great care must be taken to limit responsibility for illegal acts and their consequent liability for damages to only the responsible union officers or employees, and to avoid casting any liability on innocent union members. To rule otherwise may result in an unintended chilling effect on our workers' ability and willingness to freely strike and diminish their strongest weapon in appealing to employers for better working conditions and a living wage.

In the same vein, the union itself must not be held liable for damages for illegal acts during a strike. While a union acquires legal personality upon the issuance of a certificate of registration[34] and has the right to hold property, and to sue or be sued,[35] to hold the union liable for damages will entail indirectly holding all union members liable for damages, regardless of their participation in the cause of such damages incurred by the claimant. After all, the union's funds are ultimately from union dues and assessments paid by the union members from their own wages.

Verily, to use the union funds that were sourced from union members to answer for liability for illegal acts, regardless of their individual participation or non-participation in the commission of illegal acts during the strike, would be anathema to the concept of individual responsibility that is evident in relevant Labor Code provisions and Articles 19 and 20 of the Civil Code. Moreover, to indiscriminately hold the union liable for damages committed by individual officers or employees would diminish, if not threaten the right to self-organization in contravention of Article 257 of the Labor Code; it would affect the union's funds and therefore, threaten the very existence and efficacy of a union, as well as its ability to hold concerted activities and bargain for its members.

In fine, based on the foregoing legal precepts, I agree with the ponencia that only the union officers, or employees who in bad faith committed illegal acts during a strike, may be held liable for damages arising from such acts. Their individual participation, and the attendance of bad faith in the commission of such acts, must be established by substantial evidence. Responsibility for any award of damages on account of illegal acts must be based on individual participation, and not collectively imposed on the union or all union members.

IV.

The Courts, in determining the award of damages due the employer, must ensure that the award is commensurate to the injury suffered by the employer. However, in the interest of social justice, such amount may be equitably reduced to ensure that the amount shall not be excessive and unconscionable to the responsible union officer or employee

To recapitulate, a necessary and important line must be drawn between the conduct of a legal strike and the commission of allowed acts during a strike impelled by legitimate objectives, vis-à-vis the conduct of illegal acts during the strike that cause harm to other persons. No one is above the law, and both employers and employees are entitled to the State's protection. The commission of illegal acts that causes harm to others' persons or property by any person shall not be countenanced nor condoned.

Withal, "protection to labor and resolution of doubts in favor of labor cannot be pursued to the point of

deliberately committing a miscarriage of justice. The right to obtain justice is enjoyed by all members of society, rich or poor, worker or manager, alien or citizen. Justice belongs to everyone. It is not to be blinded or immobilized by the fact of one's being economically underprivileged."[36]

Nevertheless, the adage that "those who have less in life should have more in law" equally rings true. Social justice and protection for our workers is deeply embedded in our Constitution, and our labor laws and regulations.[37] Article II, Section 18 of the 1987 Constitution provides:

SECTION 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Article XIII, Section 3 of our Constitution further states:

SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

The measures embedded in our legal system which accord specific protection to labor stems from the reality that the laborer stands on unequal footing as opposed to an employer. The labor force remains to be a special class that is constitutionally protected because of the inequality between capital and labor.[38] The plight of our laborers still holds true today, and the Court should stand firm as the vanguard to their right to strike.

Finally, it is crucial to underscore that strikes often serve as a last resort or the final stand of our laborers in securing reasonable wages and working conditions, and in protecting their livelihood and the survival of their families. Ultimately, and while not condoning the commission of illegal acts in the course of a strike, the Court recognizes that such illegal acts may stem from high tensions and emotions, which inevitably happens when it is one's livelihood and survival – and that of their families – care at stake.

In view of the foregoing, I submit that the Court may, if the circumstances warrant, temper the amount of damages to be paid by the responsible officer or employee, who faces not only termination from employment but the obligation to recompense the employer for any damages incurred for illegal acts committed in bad faith during the strike. In determining the proper award of damages, the courts must weigh, on a case-to-case basis, the necessity to recompense the employer for damages it incurred arising from illegal acts committed in the course of the strike, to the need to equitably reduce such penalty to ensure that it is not excessive and unconscionable to the responsible union officer or employee.

In fine, I submit that the following guidelines must be observed in the award of damages to employers incurred in the course of the strike:

- Before any claim for damages for illegal acts committed during a strike may be granted, the employer must establish the following by substantial evidence: (a) illegal acts were committed by union officers or members during the strike; (b) Such illegal acts were committed with bad faith; and (c) the employer incurred injury or damage by reason of such acts.
- Only the union members or officers who committed illegal acts during the strike, to the exclusion of the union, may be held liable for damages. Before they may be held liable, the individual participation of the officers or members must be established by substantial evidence.
- In determining the reasonable award of damages, the courts must ensure that the award is commensurate to the injury suffered by the employer. However, if the circumstances so warrant and in the interest of social justice, such award may be reduced to ensure that the amount shall not be excessive and unconscionable to the responsible union officer or employee.

ACCORDINGLY, I vote to DENY the Petition, considering that the participation of responsible officers and

employees in the commission of the illegal acts and the attendance of bad faith in the commission of such acts were not established by substantial evidence.

[1] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 30 (2016) [Per J. Bersamin, First Division]; *Pasvil/Pascual Liner, Inc., Workers Union v. National Labor Relations Commission*, 370 Phil. 473,478 (1999) [Per J. Bellosillo, Second Division].

[2] *Bisig ng Manggagawa sa Concrete Aggregates, Inc. (BIMCAI) FSM v. National Labor Relations Commission*, 297 Phil. 559, 571-572 (1993) [Per J. Puno, Second Division].

[3] *Pasvil/Pascual Liner, Inc., Workers Union v. National Labor Relations Commission*, 370 Phil. 473, 478 (1999) [Per J. Bellosillo, Second Division].

[4] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 30-31 (2016) [Per J. Bersamin, First Division]; *A. Soriano Aviation v. Employees Association of A. Soriano Aviation*, 612 Phil. 1093, 1103-1104 (2009) [Per J. Carpio Morales, Second Division].

[5] *Government Service Insurance System v. Kapisanan ng mga Manggagawa sa GSIS*, 539 Phil. 677, 691 (2006) [Per J. Garcia, Second Division].

[6] *Hongkong & Shanghai Banking Corp. Employees Union v. National Labor Relations Commission*, 776 Phil. 14, 32-33 (2016) [Per J. Bersamin, First Division].

[7] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 790 (2007) [Per J. Velasco, Jr., Second Division].

[8] 562 Phil. 759 (2007) [Per J. Velasco, Jr., Second Division].

[9] *Id.* at 800.

[10] *A. Soriano Aviation v. Employees Association of A. Soriano Aviation*, 612 Phil. 1093, 1104 (2009) [Per J. Carpio Morales, Second Division].

[11] *Id.* at 1109-1110. (Emphasis supplied)

[12] *Philippine Long Distance Telephone Company v. National Labor Relations Commission*, 247 Phil. 641, 650 (1988) [Per J. Cruz, En Banc].

[13] ART. 224. [217] Jurisdiction of the Labor Arbiters and the Commission. – (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural: may file involving wages, rates of pay, hours of work and other terms and conditions of employment; (4) Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations; (5) Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts[.]

[14] *Conscentre PIDLS., Inc. v. Rocio*, 869 Phil. 147, 155-156 (2020) [Per J. Lazaro-Javier, First Division].

[15] 212 Phil. 382 (1984) [Per C.J. Fernando, En Banc].

[16] *Id.* at 388, 391-392.

[17] *Bañez v. Valdevilla*, 387 Phil. 601, 608 (2000) [Per J. Gonzaga-Reyes, Third Division].

[18] 2 CESARIO A. AZUCENA JR., *THE LABOR CODE WITH COMMENTS AND CASES* 632 (2021), citing REV. PEN. CODE, art. 289, which states:

ART. 289. Formation, Maintenance and Prohibition of Combination of Capital or labor Through Violence or Threats. — The penalty of *arresto mayor* and a fine not exceeding Sixty thousand pesos ([PHP] 60,000) shall be imposed upon any person who, for the purpose of organizing, maintaining or preventing coalitions of capital or labor, strike of laborers or lockout of employers, shall employ violence or threats in such a degree as to compel or force the laborers or employees in the free and legal exercise of their industry of work, if the act shall not constitute a more serious offense in accordance with the provisions of this Code.

[19] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 790 (2007) [Per J. Velasco, Jr., Second Division].

[20] *Pantaleon v. American Express International, Inc.*, 643 Phil. 488, 512 (2010) [Per J. Brion, Special Second Division].

[21] *Garcia, Jr. v. Salvador*, 547 Phil. 463, 475 (2007) [Per J. Ynares-Santiago, Third Division].

[22] *Carpio v. Valmonte*, 481 Phil. 352, 362 (2004) [Per J. Tioga, Second Division].

[23] *Tocoms Philippines, Inc. v. Philips Electronics and Lighting, Inc.*, 870 Phil. 241, 254-255 (2020) [Per J. Reyes, A., Jr., Second Division].

[24] 677 Phil. 423, 433-434 (2011) [Per J. Peralta, Special Third Division].

[25] *Id.*

[26] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 790 (2007) [Per J. Velasco, Jr., Second Division].

[27] *Solidbank Corp. v. Gamier*, 649 Phil. 54, 83 (2010) [Per J. Villarama, Jr., Third Division].

[28] *California Clothing, Inc. v. Quiñones*, 720 Phil. 373, 381 (2013) [Per J. Peralta, Third Division].

[29] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 800 (2007) [Per J. Velasco, Jr., Second Division].

[30] 338 Phil. 635, 645-646 (1997) [Per J. Mendoza, Second Division].

[31] *Id.*

[32] *Toyota Motor Phils. Corp. Workers Association v. National Labor Relations Commission*, 562 Phil. 759, 799-800 (2007) [Per J. Velasco, Jr., Second Division].

[33] *Shell Oil Workers' Union v. Shell Company of the Philippines*, 150 Phil. 257, 262 (1972) [Per J. Fernando, First Division].

[34] LABOR CODE, art. 240.

[35] LABOR CODE, art. 252.

[36] *Reyes v. Rural Bank of San Rafael (Bulacan), Inc.*, 921 Phil. 670, 684-685 (2022) [Per J. Hernando, Second Division], citing CESARIO A. AZUCENA, JR., *THE LABOR CODE WITH COMMENTS AND CASES* 26 (2010).

[37] Id. at 682.

[38] Id. at 683.

CONCURRENCE

LAZARO-JAVIER, J.:

The ponencia pronounced that all claims arising from picketing, strikes, or lockouts fall under the jurisdiction of labor tribunals and not the regular courts, but denied the claim for actual, moral; and exemplary damages, as well as attorney's fees of employer, Central Azucarera De San Antonio, Inc. (Central Azucarera) against labor union, CASA Sugar Mill Workers Union-FFW (CASA).

I concur.

The Court has previously discussed the issue of jurisdiction when it comes to awarding damages on account of an illegal strike. In *Philippine Airlines, Inc. v. Airline Pilots Associations of the Philippines, et al.*[1], We deemed the claim for damages included when the SOLE assumed jurisdiction over the labor dispute. Therein, Philippine Airlines' failure to assert its claim during the proceedings before the SOLE was taken as a waiver of its right to claim damages. More, in *Filipino Pipe and Foundry Corporation v. National Labor Relations Commission, et al.*,[2] while no damages were awarded, We nonetheless declared that the primary responsibility for any damages that may arise from the illegal strike rests with the local union, which is deemed the principal, as opposed to the mother union, which is deemed the agent.

As such, while the Court has refrained from awarding damages in cases involving strikes, it nonetheless recognized its jurisdiction and determined the corresponding liability of the strikers, thereby affirming that the grant of damages is an available remedy to an aggrieved employer. Even then, the grant of damages should be confined to exceptional circumstances, and only when the losses sustained transcend the ordinary and foreseeable consequences of a strike—be it legal or illegal.

The right to strike is a constitutional and legal right of all workers aimed at advancing or improving the terms and conditions of employment. It is recognized as an effective weapon of labor in their struggle for a decent existence.[3] Like any weapon, a strike reasonably carries with it the possibility of injury or loss to the opposing party. It is precisely this risk which makes it an effective tool in labor's struggle for decent livelihood, for it provides meaningful leverage at the negotiation table. Verily, without the risk of possible injury or loss, a strike produces no effect.

Hence, to permit the award of damages for losses ordinarily suffered by an employer due to a strike would, in effect, undermine the very essence of the right itself. Labor unions would be dissuaded from exercising this constitutionally protected tool out of fear of financial reprisal, while employers could wield the threat of legal action for damages to stifle or prematurely terminate collective action.

Truly, this goes against the policy and intent of the law to protect labor. As it is, the sheer inequality that characterizes employer-employee relations, where the scales generally tip against the employee, often scarcely provides them with other real and better options. The very purpose of our labor laws is to balance the conflicting interests of labor and management and to guaranty that they stand on equal footing when bargaining in good faith with each other.[4]

Here, there is no showing that Central Azucarera sustained losses outside the ordinary consequences of a strike.

Relevantly, Central Azucarera had already dismissed the union officers and members of CASA, a punishment expressly sanctioned under Article 264 of the Labor Code. Such dismissal, which resulted in the loss of their means of livelihood, sufficiently redresses the injury suffered by Central Azucarera.

In sum, while the award of damages is a sanctioned remedy for an employer in the conduct of an illegal strike, the established principles of social justice underlying our labor laws require that such award be circumscribed by strict parameters. While social justice does not demand favor for one at the expense of injustice to the other, the Court remains mindful of the reality that the laborer stands in a position of relative disadvantage as opposed to the employer. Commendably, the ponencia treads this delicate balance inherent in employer-employee relations.

[1] 826 Phii. 599, 616-617 (2018) [Per J. Martires, Third Division].

[2] 376 Phil. 178, 190 (1999) [Per J. Purisima, Third Division].

[3] The Hongkong & Shanghai Banking Corp., Employees Union, et al. v. NLRC, et al., 776 Phil. 14, 30-31 (2016) [Per J. Bersamin, First Division].

[4] *Portuguez v. GSIS Family Bank (Comsavings Bank) and the Hon. Court of Appeals*, 546 Phil. 140, 158 (2007) [Per J. Chico-Nazario, Third Division].

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