

**SIMEON CABAÑERO AND LUIS MANGORNONG, PETITIONERS, VS,
RAMON TORRES, AS SECRETARY OF LABOR, FAUSTINO AGUILAR, AS
UNDER SECRETARY OF LABOR, AND JOSE FLGUERAS, AS
INSPECTOR GENERAL...**

G.R. No. 43352. June 03, 1935

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is a petition for a writ of prohibition whereby the petitioners seek to have declared illegal, null and void the license to recruit laborers issued to the respondent Hawaiian Sugar Planters' Association, and to prohibit the other respondents from renewing the same or issuing any new license.

The facts which gave rise to these proceedings may be briefly stated as follows: The Hawaiian Sugar Planters' Association had, for many years, been licensed by the Government to recruit, contract and embark laborers for the Territory of Hawaii. On February 25, 1935 the association made an application for the renewal of its license. The herein petitioners objected to said application on the ground that the association had no juridical personality, in that it was neither incorporated nor licensed to do business in the Philippines in accordance with the provisions of the Corporation Law. In view of this objection, the respondent Secretary of Labor issued what he calls in his answer to the petition herein, "a provisional license, * * * authorizing the said Association to recruit, embark and contract laborers for the Territory of Hawaii from Manila, Cebu, Ilocos Norte and Uocos Sur; but subject to the condition that the license will ipso facto expire ninety (90) days from March 8, 1935, when a new license will be issued to the Association upon a satisfactory showing that it had already acquired a juridical personality under the laws of the Philippine Islands by registration as a foreign corporation, company or association; * * *."

The position taken by the Secretary of Labor is set forth in the reply memorandum filed in his behalf by the SolicitorGeneral, as follows:

"We submit that in view of the circumstances of this case, the issuance of the provisional license in question was a proper and reasonable exercise by said respondents of their discretion. The Hawaiian Sugar Planters' Association has not been granted the license for a period of one year as prayed for by it, but only a license that will expire ipso facto at the end of three months from its issuance and renewable only upon .due compliance by the association with the legal requirement to register itself in the Bureau of Commerce. In effect, therefore, while realizing that for the proper protection of the rights of the emigrant laborers, the association should be required to register itself, the Secretary of Labor has ruled that it should be given sufficient time to do so. This ruling certainly is reasonable and just. Outright denial of the application for the renewal of the license would have been arbitrary and unwarranted, specially because for many years in the past the Government had invariably renewed annually the license of said association to recruit, contract and embark laborers to Hawaii in view of its good reputation.

"Finally, the same provisional license in question practically gives notice to the Hawaiian Sugar Planters Association that unless it registers itself in the Bureau of Commerce it will have to discontinue its business in

the Islands. This being so, the order prayed for in these proceedings to the effect that the respondent public officials be directed to refrain from issuing any new license to the respondent association would be a surplusage. The Secretary of Labor has already announced that no license will be issued, unless the association duly registers itself, as petitioners contend should be done before any license may be issued under the law."

The function of the writ of prohibition is to prevent the doing of some act which is about to be done. It is not intended to provide a remedy for acts already accomplished. (Section 226 of the Code of Civil Procedure.) As stated by the Supreme Court of the United States: "The writ of prohibition, as its name imports, is one which commands the person to whom it is directed not to do something which, by the suggestion of the relator, the court is informed he is about to do. If the thing be already done, it is manifest the writ of prohibition cannot undo it, for that would require an affirmative act; and the only effect of a writ of prohibition is to suspend all action, and to prevent any further proceeding in the prohibited direction." (U. S. vs. Hoffman, 4 Wall., 158, 161; IS Law. ed., 354.)

Even if the Secretary of Labor had acted illegally or in excess of his authority when he issued the provisional or temporary license in question, prohibition is not the proper remedy. It is true that the petition also alleges:

"That respondents, Secretary of Labor, Ramon Torres and Under Secretary of Labor, Faustino guilar, by themselves and thru their duly authorized representatives threaten to, and unless restrained by this Honorable Court, would upon the expiration thereof, readily issue and renew again the license to recruit, contract with and embark Fill— pino laborers in the Philippine Islands, for the Territory of Hawaii, issued in behalf of a Non-existent person, the Hawaiian Sugar Planters' Association." But the answer of the respondent public officials and the reply memorandum filed in their behalf have completely negatived the foregoing allegation. In denying the application of the Hawaiian Sugar Planters' Association for renewal of the license issued under the provisions of section 3 of Act No. 2486, the Secretary of Labor said:

"With reference to the application of the Hawaiian Sugar Planters' Association for renewal of the license issued by this Office under the provisions of section 3 of Act No. 2486, I have the honor to inform you that after a due inquiry into the legal status of the association, it appears that it has no juridical personality in view of its failure to comply with the legal requirements regarding the obligatory registration of foreign corporations, companies or associations.

"In view thereof, this Office has deemed it advisable not to renew said license pending your compliance with the legal requirements above-mentioned. Meanwhile, a provisional license is hereby granted to said association to recruit, embarKand contract laborers for the Territory of Hawaii, from the following provinces to wit: Manila, Cebu, Ilocos Norte and Ilocos Sur, which license will ipso facto expire ninety (90) days from March 8, 1935, when a new license will be issued to the association upon a satisfactory showing that it has already acquired a juridical personality under the laws of the Philippine Islands." (Respondents Exhibit 2.)

Far from threatening to issue a license to recruit laborers, as alleged in the petition, the Secretary of Labor has thus announced that no new license will be issued, unless the Hawaiian Sugar Planters Association "duly registers itself, as petitioners contend should be done, before any license may be issued under the law.' We must assume that the Secretary of Labor will carry out his announced purpose; hence no ground exists for the issuance of a writ of prohibition.

In the view we have taken of this case, it is not necessary to discuss the other questions raised by the pleadings.

The petition for a writ of prohibition is denied without costs. So ordered.

Malcolm, Butte, Goddard, and Diaz, JJ., concur.

Writ denied.

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