

BARDWILL BROS., PETITIONER, VS. JOSE G. GENEROSO, JUDGE OF THE COURT OF INDUSTRIAL RELATIONS, AND THE PHILIPPINE LABOR UNION, RESPONDENTS.

G.R. No. 46295. December 16, 1938

Ponente: DIAZ, J.

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DIAZ, J.:

Bardwill Brothers commenced this certiorari proceeding by way of appeal from the order of August 19, 1938 of the respondent judge of the Court of Industrial Relations in case No. 23 of said court entitled "Philippine Labor Union vs. Bardwill Brothers", for the purpose of having said order annulled and set aside on the ground alleged in the prayer of its petition that said judge lacked jurisdiction to try the case. The dispositive part of the order in question is as follows:

"Upon the foregoing findings and considerations, the court orders that, pending final decision of the conflict between the parties in this case:

"Respondent immediately reinstate in their work each and all of the following laborers: Angelita Beltran, Amparo Pereras, Ramona Cabanatan, Ambrosia Espiritu, Luz Dimacali, Josefina Milana, Josefa Jimenez, Erlina Lauz, Monica Melencio, Cirila Nery, Martina Rodriguez, Emilia de la Cruz, Leonidas Nery, Isabel Paico, Pilar Zapata, and Esperanza Yanguas, giving them the same work they had at the time of their separation from the service and it shall not dismiss them without just cause and without previous authorization from this court." This was precisely what the Philippine Labor Union had prayed for in its petition.

According to the statement of facts in the order in question, on April 6, 1938, thirty women employees of petitioner asked for an increase in wages up to P1 a day per person. Twelve of those who asked for an increase were members of the Philippine Labor Union. Petitioner promised to act on their demand before April 23, 1938, but without having done so and before the day on which it had promised to decide on the same, that is, on April 18, 1938, it dismissed the twelve employees who headed the movement. As a gesture of protest against this attitude of petitioner, other employees of the same, principally all the members of the Philippine Labor Union, abandoned their work on that same day and declared themselves on strike. The case having been submitted by the president of the Philippine Labor Union to the Secretary of Labor, the latter certified to the Court of Industrial Relations that there existed an industrial conflict between petitioner and its employees. Following the proper proceedings, the Philippine Labor Union commenced case No. 23 in the Court of Industrial Relations.

After the case had been submitted for trial on the days appointed for that purpose, namely, May 23 and 27, June 2 and 24, and July 12, 1938, in which proceedings petitioner was present and submitted its evidence, the respondent judge issued the order above-mentioned. Petitioner was notified of said order on August 24, 1938 and on September 1, 1938, that is, on the eighth day after having been notified, it filed a motion for reconsideration. Without, however, waiting for its resolution by the Court of Industrial Relations, it commenced this certiorari proceeding.

- The facts above related appear only in the order in question inasmuch as petitioner's petition for a writ of certiorari does not state them. What it contains is but a series of propositions which petitioner desires us to resolve.

It is a fundamental rule that complaints or pleadings by which trials and actions in courts of justice are commenced, must contain a brief statement of the facts which constitute the cause of action in clear and concise language and never conclusions of law (section 90, Act No. 190). When this rule is not complied with, the pleader is not allowed to adduce evidence to show the existence of this or that fact, and much less to draw conclusions from facts which are not known. However, if the copy of the order appealed from which is attached to petitioner's petition as part thereof, be accepted as such part and as taking the place of the statement of facts which petitioner is in duty bound to include in said petition, then the remedy sought by it cannot prosper because the conclusions reached by the respondent judge are based entirely on the facts which he declares to have been proved and states in the following terms:

"First. A petition signed by women workers of respondent asking, among other things, for an increase in wages, was submitted on April 6, 1938 to respondent's manager.

"Second. Twelve of the petitioners were dismissed from their work on April 18, 1938 because they submitted the aforesaid petition of April 6.

"Third. Four of the petitioners who desired to return to their work on the advice of the Department of Labor were not admitted for having made common cause with their fellow-workers in joining the strike.

"Fourth. That by reason of the dismissal of some women workers, a strike lasting some days took place in respondent's factory.

"Fifth. During the six years previous to the dismissal in question, the factory never reduced the number of its employees notwithstanding the alleged lack of work."

- In answering petitioner's petition for a writ of certiorari, the respondent judge alleges, among other special defenses, that the said petition does not allege facts which may justify the issuance of the writ prayed for. If we are to disregard the copy of the order appealed from above-mentioned, there is no doubt that said special defense is well-founded for the reasons set forth in the preceding paragraph. If we admit that the facts related with the issue are those which are stated in the order aforesaid, then there can be no question that the second special defense of the respondent judge is likewise well-founded. Said special defense consists in that this court has no jurisdiction to change or modify the conclusions of fact of the respondent judge. It is, to be sure, a well-settled rule, consistently followed in this jurisdiction, that a writ of certiorari is not the proper remedy to review the conclusions of fact of the lower court. Said remedy is available only to correct the acts of a court done without jurisdiction or in excess of jurisdiction. (Government of the Philippine Islands vs. Judge of First Instance of Iloilo and Bantillo, 34 Phil., 157; Perlas vs. Concepcion, 34 Phil., 559; Gala vs. Cui and Rodriguez, 25 Phil., 522; Campos vs. Wislizenus and Aldanese, 35 Phil., 373; Rule 47 (6), Rules of the Supreme Court; section 138 of the Revised Administrative Code as amended by Commonwealth Act No. 259.)

- The third special defense of the respondent judge consists in that he had authority granted by law to issue the order in question. This defense' is also well-founded because upon the admission of the facts on which said order is based, no other conclusion can be arrived at.

- The last special defense of the respondent judge which states that the petitioner brought its action prematurely and which is also a special defense of the Philippine Labor Union, is no less tenable than the preceding ones because the motion for reconsideration which petitioner filed with the respondent judge on September 1, 1938 not

having been resolved, there was, strictly speaking, no final judgment which may be appealed or which may be the subject of review by writ of certiorari. In order to meet this last special defense of the respondent judge, petitioner invokes the provisions of section 14 of Commonwealth Act No. 103 which says that at the expiration of ten days from the date of the order appealed from judgment shall be rendered in accordance therewith, "unless during said ten days an aggrieved party" shall appeal therefrom to this court by writ of certiorari. What petitioner means is that if it felt itself obliged to commence the certiorari proceeding on the tenth day after having been notified of the order in question it was because it wanted to avoid its losing its right to assail or question the legality or validity of the same. It, however, loses sight of the fact that subsequent to the promulgation of the law above-cited and much earlier than the birth of its pretended right of action to commence the present certiorari proceeding, or on March 4, 1938, the National Assembly promulgated Commonwealth Act No. 254 which allows the filing of motions for reconsideration of the orders or decisions rendered by the Court of Industrial Relations or by any of its judges. And it is precisely this remedy that the petitioner has made use of in order to question the validity of the order appealed from. To give a strict interpretation to the aforementioned provisions of section 14 of Commonwealth Act No. 103 by requiring that the appeals sought to be taken from the orders of said court be interposed within ten days from the date the aggrieved party is notified of the same, would be equivalent to giving no effect whatever to section 1 of Commonwealth Act No. 254. For the purpose of harmonizing said laws, which can be done easily, it is enough that it be understood and held, and we so hold that the said period of ten days does not begin to run except from the time the Court of Industrial Relations, sitting in banc, has resolved the motion for reconsideration.

In instituting this proceeding without waiting for the resolution on its motion for reconsideration, petitioner acted too hastily so that on this point respondents are fully justified in insisting on their special defense that petitioner's action was prematurely brought. We have, therefore, reached the conclusion that this case has been untimely commenced and that the findings made by the respondent judge in the order appealed from do not constitute a cause of action.

There is no special pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Laurel, and Concepcion, JJ., concur.

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