

MANILA HOTEL EMPLOYEES ASSOCIATION, PETITIONER, VS. MANILA HOTEL COMPANY AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. 48524. November 01, 1941

Ponente: OZAETA, J.

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OZAETA, J.:

The principal question to determine in this case is whether or not the Court of Industrial Relations has jurisdiction over controversies or disputes affecting the employees and laborers of a government-controlled corporation. The industrial dispute involved herein arose in the 'Manila Hotel, a subsidiary of the Manila Railroad Company.

The petitioner is a labor organization authorized and permitted to operate as such under the provisions of Commonwealth Act No. 213. Sometime before the year 1940 it presented a petition requesting the Manila Hotel Company to adopt certain rates of minimum compensation for the employees and laborers of the company and a scale of automatic increases in salaries and wages in accordance with the length of service. On September 9, 1940, the Secretary to the President wrote to Mr. Francisco David, president of the Manila Hotel Employees Association, advising him that after a careful consideration of the comment of the managing director, concurred in by the board of directors of the company, "this office does not deem it advisable to press upon the company to take further action," it appearing "that because of unsettled world conditions, the hotel business has fallen off to where the company now estimates a loss of not less than P100,000 during 1940, and that its financial condition precludes favorable consideration of further wage increases until world conditions improve and a profit may be realized."

On December 14, 1940, the petitioner filed an urgent petition in the Court of Industrial Relations, alleging:

That the management of the hotel dismissed Francisco Solivar on August 2, 1940, without justifiable cause and in order to discourage membership in the Manila Hotel Employees Association; that in order to curtail the union activities of the president of the association, Francisco David, the management ordered his transfer from his position in the Manila Hotel to the Mayon Hotel, Legaspi, Albay, without any increase in salary; that on refusal of the management to reconsider that transfer, the petitioner proposed to stage a manifestation on the morning of November 4, 1940, to Malacaian in order to present the employees' grievances to those called upon to decide their pending petition, on the ground that their side had been misrepresented by the management; that only the employees off duty were to join that manifestation; that while the members of the association who were off duty were awaiting instruction as to whether or not the proposed manifestation to Malacanán would be staged on the morning of November 4, 1940, Messrs. H. M. Cavender and F. Mendoza, managing director and assistant managing director, respectively, took advantage of the ignorance of those members who were on duty by driving them away from their work with the help of the special policemen of the hotel in order to make it appear that the members of the association had staged a strike, and that those who were reporting for duty were refused entrance into the hotel in order to make it appear that they voluntarily refused to go to their work; that after the

manifestation had been postponed because the President could not receive them, those employees who were living in the dormitory building of the hotel were refused entrance; that at about nine o'clock a. m. (on November 4, 1940), after all the employees had been driven from the premises of the hotel, the management informed them that they could no longer be admitted to their work, more especially those appearing in the list annexed to the petition, numbering 157 in all; that the officers of the association requested a conference with the management but the request was denied; that thereupon the officers of the association sent a petition to His Excellency, the President of the Philippines, copy of which was sent to General Manager Paez of the Manila Railroad Company, requesting that said employees be re-admitted and that their case be ordered investigated; that no answer had been received by the association to their petition either from the Office of the President of the Philippines or from the general manager of the Manila Railroad Company, and that the management of the hotel continued to refuse to admit the said employees. The petition concluded by submitting for the consideration by the court of the following issues:

"1. The readmission of all those employees whose names appear in Annex 'A' hereof, who were dismissed for discrimination and union activities, and the payment of their back wages from the time they were dismissed up to the time they were readmitted;

"2. The readmission of Francisco Solivar who was dismissed without justifiable cause and the payment of his back wages from the time he was discharged up to the time he is readmitted, and

"3. To prevent the transfer of Francisco David from Manila Hotel to Mayon Hotel, Legaspi, Albay." To that petition the Manila Hotel Company, thru the Corporate Counsel, filed an answer containing a general denial and several special defenses, which may be briefly summarized as follows:

That the petition did not state sufficient cause of action against the respondent company upon which relief could be granted; that the Manila Hotel Company is a subsidiary of the Manila Railroad Company, which is a government-owned-and-controlled corporation and hence its employees are in fact, if not in law, employees of the Government; that in spite of a previous warning, the employees listed in the annex to the petition walked out and voluntarily left their respective duties and refused to work on the morning of November 4, 1940, leaving the service of the hotel practically crippled; that said employees, having walked out on November 4, 1940, lost their status as employees of the respondent hotel company in accordance with the policy enunciated by the President of the Philippines in annex 2 of the answer; that Francisco Solivar was dismissed from the service on August 10, 1940, for inefficiency, insubordination, and disrespect to his immediate superior; that the order transferring Francisco David, a waiter, to the Mayon Hotel was issued solely for the good of the service, but that he refused to report for duty and that he forfeited his status as an employee of the company for disobedience, and was considered dismissed from the service.

Subsequent to the filing of said petition in the Court of Industrial Relations, with the intervention of said court, a partial amicable settlement was arrived at by the parties, consisting in the readmission of all, except seven, of the dismissed employees; so that the only matters left for adjudication by the court were the back wages of those readmitted and the readmission of the seven employees, including Francisco David and Francisco Solivar. As to Francisco David, it appears that on November 4, 1940, Secretary Vargas wrote to the vice-president of the Manila Hotel Employees Association as follows:

"In reply to your letter dated October 30, 1940, appealing from a decision made by the Board of Directors of the Manila Hotel Company to effect the transfer of Waiter Francisco David to Mayon Hotel, Legaspi, please be informed that this Office is satisfied with the explanation given by the Management of said Hotel. In this connection, your attention is invited to the fact that Executive Order No. 276 providing for a hearing in the event of administrative charges, does not apply in this case."

As to Francisco Solivar, Assistant Secretary Benitez wrote to him on December 12, 1941 (1940), as follows:

"In connection with your request for the intervention of this Office to secure your reinstatement in your former position as an employee of the Manila Hotel, I beg to quote hereunder 2nd Indorsement of the President of that Company, dated November 18, 1940, which is self-explanatory:

"Respectfully returned to the Asst. Secretary to the President, Office of the President of the Philippines, Manila, with the information that on September 17, 1940, Mr. Cavender, Managing Director of the Manila Hotel Company, wrote to Mr. Francisco Solivar in answer to his letter of September 2nd to the effect that he had reviewed Solivar's case and had again arrived at the conclusion, as expressed in his former letter of August 10th, i. e., that in the best interest of harmony and cooperation, within the organization, Solivar should be dismissed from the service of the Hotel Company. It may be added that this action was taken for various specific reasons: Certain of the Hotel Guests objected to his caring for the rooms they occupied; he himself admitted that on one occasion he prevented Mrs. Wahlgren, the Hotel Housekeeper, from entering a room temporarily vacated by guests and in general his attitude was disrespectful toward his superiors. He was not dismissed merely because he failed to report his absence on account of sickness, but because of his previous record which was not altogether satisfactory and on account of his defiant attitude toward his superior.'

"Desirous as this Office is in helping you in the matter, I regret to inform you that, in view of the reasons stated in the aforequoted indorsement and the need of maintaining proper discipline among the employees of the hostelry, it does not deem its intervention in your case advisable."

On January 27, 1941, the attorney for the respondent Manila Hotel Company filed a motion in the Court of Industrial Relations to dismiss the urgent petition herein before mentioned, in which motion he alleged among other things the following:

"8. It is respectfully submitted that in the cases of Francisco David and Francisco Solivar their respective cases having been decided by the Office of the President of the Philippines, this Court has no jurisdiction to revise the decision rendered thereon. In the matter of the 5 employees who can not be readmitted on account of their unsatisfactory records, this Court neither has jurisdiction following the policy of the administration enunciated in Annexes '1' and '2' to the answer of the respondent Company dated December 26, 1940."

That motion to dismiss was strenuously opposed by the petitioner. After considering the written and oral arguments adduced by both parties, the court, thru Associate Judge Jose G. Generoso, dismissed the case upon the following considerations:

"Si los siete obreros hasta ahora privados de su trabajo en el Manila Hotel, lo estan sin o con causa justificada, es punto que no necesita ser resuelto por este Tribunal porque. a juicio del mismo, no constituye 'cuestion, asunto, conflicto o disputa' que deba ser arbitrado, decidido o ajustado mediante la autoridad que al Tribunal connere la Ley No. 103 del Commonwealth, tal como habla de jurisdiccion en sus articulos 1 y 4. No constituye, porque:

"Los meritos del caso son tales, que bien pueden quedar sometidos a la autoridad de decidirlos, que reside en lo organismos que manejan el negocio del Manila Hotel.

"De acuerdo con la finalidad de la ley que creo este Tribunal, no puede equipararse una empresa privada a otra cuyo capital esta controlado por el gobierno. Esta, como patrono, tiene que ser considerada en un nivel distinto de aquella, en sus relaciones con los obreros.

"Manila Hotel Company esta funcionando con capital, en su mayoria perteneciente a fondos del Estado. El interes publico necesariamente tiene que estar vinculado en esa empresa, porque el exito de sus negocios o la perdida en ellos, seria perdida o exito del gobierno.

"Los funcionarios y empleados que tienen a su cargo la direccion en el funcionamiento de la empresa, realizan su cometido como hombres que representan en ella el interes del gobierno.

"Se presume que los responsables en la direccidn del negocio o la empresa cumplen con la disposicion constitucional y las leyes vigentes que hacen obligatorio el velar por el interes y el bienestar de la clase proletaria de Filipinas. Si ellos no cumplen con tales preceptos, la ley senala el castigo correspondiente.

"Este Tribunal no debe arbitrar en los conflictos o disputas entre obreros y patrono, cuando no consta que el mandato constitucional contenido en el articulo 6 del Titulo XIII de nuestra Constituci6n, asi lo requiere."

A motion for reconsideration filed by the petitioner was denied in a resolution promulgated by the court in bane on June 30, 1941. Hence the present petition for mandamus to compel the respondent Court of Industrial Relations to hear and decide the case on the merit.

In contending that the Court of Industrial Relations has no jurisdiction over the controversies involved herein, counsel for the respondent Manila Hotel Company relies upon the letters written by the President to the general manager of the Manila Railroad Company and to the Secretary of Labor on April 18, 1938, with reference to the then impending strike by the employees of the Manila Railroad Company under the leadership of an ex-employee named Felix Cortes. In his letter to General Manager Paez the President directed him "to issue a circular to all the employees of the Manila Railroad Company to the effect that as de facto government employees they should only belong to such labor organizations or associations as they themselves may form for purposes of mutual aid and benefit; that if they have any complaint to make either because of their salaries or conditions under which they work, they have to make their complaint directly to you; that if they are not satisfied with your decision they may appeal to the Board of Directors, and that in case they are not satisfied with the decision of the Board of Directors they may appeal to me; * * * that any strike on the part of the employees of the Manila Railroad Company will be taken by the government as a voluntary separation on their part from the service of the company, and they will never be admitted again in the service of the company." In his letter to Secretary of Labor Torres, the President referred to the case brought before the Department of Labor by Felix Cortes in behalf of the employees of the Manila Railroad Company. He called attention to the fact that the Manila Railroad Company is owned by the Government and is operated thru an agency of the Government; that since the employees of the Manila Railroad Company are de facto employees of the Government and furthermore are in the employ of a public service enterprise, any attempt at a strike on their part would be met with effective measures by the Government to maintain discipline and to protect the public from being deprived of the essential service of transportation which the Manila Railroad Company is rendering to the public. He requested the Secretary of Labor, first, to inform Felix Cortes that the Secretary was directed by the President not to recognize Cortes as lawfully representing the employees of the Manila Railroad Company and, second, "to inform the employees of the Manila Railroad Company who would avow being represented by Felix Cortes that if they have any complaint to make regarding the salaries that they are receiving, or for any other cause, they should present their complaint to the management of the Manila Railroad Company, and if in their opinion the management of the Manila Railroad Company fails to do them justice they can appeal to me for redress." (The two letters of the President are set forth in full in the margin.)

"My Dear Mr. Paez:

"In reference to the alleged complaint presented by one Felix Cortes on behalf of some employees of the Manila Railroad Company, you are hereby directed to issue a circular to all the employees of the Manila Railroad Company to the effect that as de facto government employees, they should only belong to such labor organizations or associations as they themselves may form for purposes of mutual aid and benefit; that if they have any complaint to make either because of their salaries or conditions under which they work, they have to make their complaint directly to you; that if they are not satisfied with your decision they may appeal to the Board of Directors, and that in case they are not satisfied with the decision of the Board of Directors they may appeal to me; that I shall not tolerate any strike on the part of the employees of the Manila Railroad Company

for the reasons stated in the letter which I am writing on this date to the Secretary of Labor, copy of which I am sending to you; that any strike on the part of the employees of the Manila Railroad Company will be taken by the government as voluntary separation on their part from the service of the company, and they will never be admitted again in the service of the company; that the government is ready now and will be ready at any time to replace any employee or group of employees of the Manila Railroad Company just as it is ready to replace all the employees of the Manila Railroad Company if they should all decide to strike; that in case of a strike of great proportions among the Manila Railroad employees, I will use the Army to run the Manila Railroad Company and to protect the Company from any violence on the part of the strikers. It is my desire that the employees of the Manila Railroad be duly informed of my stand on this matter in order that they may not allege lack of knowledge of the consequences of their action if they should violate any of the rules herein laid down.

"The management of the Manila Railroad Company is informed of the policies of my administration regarding the treatment of labor, and your company is expected to give an outstanding example of how a corporation should deal with its employees and laborers. In case, by this time, you have not been able to put into practice the policies of the government in this respect, please take immediate steps to carry them out. And if any complaint that is presented to you by the employees of the Manila Railroad Company is well founded, it is my hope and expectation that you will grant them the proper remedy.

"Very sincerely,

"(Sgd.) Manuel L. Quezon
"President of the Philippines"

"MY DEAR SECRETARY TORRES:

"My attention has been called to the case brought before your department by one Felix Cortes on behalf of the employees of the Manila Railroad Company, and of which your department has taken cognizance. I am informed by the manager of the Manila Railroad Company that Felix Cortes is a former employee of that company who had been twice separated from its service; that after his separation from the service, following: which he had been out of work for some time, the manager of the company yielded to his request to be taken back, but had subsequently to expel him for cause in the month of November last year.

"As you know, the Manila Railroad Company is owned by the Government and is operated through an agency of the Government. The employees of the Manila Railroad Company therefore are, in fact, if not in law, employees of the government, so much so that the Board of Directors of the Manila Railroad Company generally follows the policies of the Legislature in reference to salaries of the employees of said company. In fact the minimum wage for government laborers which I have fixed by executive order has been complied with by the management of the Manila Railroad Company.

"As the employees of the Manila Railroad Company are de facto employees of the government, and furthermore, as they are in the employ of a public service enterprise, any attempt at a strike on their part will be met with effective measures by the government to maintain discipline, and to protect the public from being deprived of the essential service of transportation which the Manila Railroad Company is rendering to the public. Moreover, the people of the Philippines have an investment in the Manila Railroad Company worth nearly one hundred million pesos, and it is equally my duty to protect it from undue or preventable loss.

"In view of the foregoing considerations, I request you to inform Felix Cortes; first, that you are directed by me not to recognize Cortes as lawfully representing the employees of the Manila Railroad Company; second, to inform the employees of the Manila Railroad Company who would avow being represented by Felix Cortes, that if they have any complaint to make regarding the salaries that they are receiving, or for any other cause, they should present their complaint to the management of the Manila Railroad Company, and if in their opinion the management of the Manila Railroad Company fails to do them justice they can appeal to me for

redress.

"Very sincerely,

"(Sgd.) Manuel L. Quezon

"President of the Philippines"

Counsel's theory as amplified by him during the oral argument before this court is briefly as follows: The two letters of the President above mentioned laid down the policy of the Administration with regard to labor disputes arising in government-owned corporations. Under that policy the ultimate decision in such disputes rests in the President. The Court of Industrial Relations is an administrative branch or agency of the Government and, as such, it cannot review and reverse a decision of the President.

The Court of Industrial Relations did not sustain counsel's contention that it had no jurisdiction to decide the case. It held that the two letters of the President applied only to the Manila Railroad Company and not to other government-controlled corporations whose activities are not immediately affected with public interest. However, the court adopted the view that whether the seven employees in question were dismissed with or without cause need not be resolved by said court; that the merits of the case were such that it could well be submitted to the management of the Manila Hotel for decision. It ruled that a private enterprise cannot be treated on the same level as one whose capital is controlled by the Government; that a government-controlled enterprise has to be treated in a level distinct from a private enterprise. And on the assumption that those responsible for the management of a government-owned enterprise comply with the constitutional and statutory provisions which impose the obligation of looking after the interest and welfare of the laboring class, the court refused to take cognizance of the case. We think the respondent court was right in holding that it had jurisdiction, but wrong in refusing to exercise that jurisdiction in the case at bar.

First Counsel for the Manila Hotel Company would attribute to the President's letters the force and effect of a statute governing all controversies and industrial disputes arising in government-owned corporations and excluding the latter from the operation of Commonwealth Act No. 103, as amended by Commonwealth Acts Nos. 254 and 559, creating the Court of Industrial Relations. Those letters were not intended to, nor could they, have such implication. They were only a measure taken by the Government as owner of the Manila Railroad Company to prevent an impending strike instigated by an interloper. Their main purpose, and the salutary effect they produced, was to disauthorize a meddling, disgruntled ex-employee of the Manila Railroad Company, and to prevent him from agitating and stirring up trouble and discontent within the organization. That measure will no doubt apply to similar future situations arising in the Manila Railroad Company. As a matter of fact, section 19 of Commonwealth Act No. 103 has since been amended by section 5 of Commonwealth Act No. 559 by exempting employers engaged in the operation of public services from the prohibition against engaging the services of strikebreakers within fifteen days after the declaration of the strike. Altho the Manila Hotel Company is a subsidiary of the Manila Railroad Company because the latter owns practically all the shares of stock of the former, it is doubtful that the President's letters in question were intended to apply also to the employees of the Manila Hotel, the latter not being a public service corporation like the Manila Railroad Company.

Second, Commonwealth Act No. 103 was enacted, as its title indicates, "to afford protection of labor by creating a Court of Industrial Relations empowered to fix minimum wages for laborers and maximum rentals to be paid by tenants, and to enforce compulsory arbitration between employers or landlords, and employees or tenants, respectively; and by prescribing penalties for the violation of its orders." Section 1 of said Act, as amended, invests the Court of Industrial Relations with jurisdiction over the entire Philippines to consider, investigate, decide, and settle all questions, matters, controversies, or disputes arising between, and/or affecting, employers and employees or laborers and regulate the relations between them, subject to the provisions of said Act. Section 4

provides that the court shall take cognizance for purposes of prevention, arbitration, decision, and settlement, of any industrial dispute causing or likely to cause a strike or lockout, arising from differences as regards wages or compensation, dismissals, layoffs, or suspensions of employees or laborers, provided that the number of employees or laborers involved exceeds thirty and such industrial dispute is submitted to the court by the Secretary of Labor or by any or by both parties to the controversy. Section 19 of the same Act, as amended, makes it an implied condition, among others, of every contract of employment, whether verbal or written, that when any dispute between the employer and the employees has been submitted to the Court of Industrial Relations for settlement or arbitration, and pending award or decision by the court of such dispute, the employer shall refrain from accepting other employees unless with the express authority of the court, and shall permit the continuation in the service of his employees under the last terms and conditions existing before the dispute arose. A violation by the employer of such an order or the implied contractual condition shall constitute contempt of the Court of Industrial Relations and shall be punished by the court itself in the same manner and with the same penalties as in the case of a contempt of a Court of First Instance. In the case of corporations, the person or persons responsible shall be the manager or the person who has charge of the management of the business of the corporation and the directors thereof who have ordered and/or authorized the act of contempt. It is further provided that no employer shall suspend, lay off, or dismiss any employee or laborer without just cause, from the time a labor association or organization or group of laborers has presented to an employer a petition or complaint regarding any matter likely to cause a strike or lockout and a copy thereof has been furnished the Department of Labor, or while an industrial dispute is pending before the court. And if it is proved that during the said period an employee or laborer has been suspended or dismissed without just cause, the court may direct his reinstatement and the payment of his salary or back wage during the time of his suspension or dismissal, or of any sum which he should have received had he not been suspended or dismissed, without prejudice to any criminal liability of the employer as prescribed by section 24 of the Act. Section 24 provides that any violation of the provisions of said Act or of any order, award, or decision of the Court of Industrial Relations shall be punished with a fine not exceeding P1,000 or imprisonment not exceeding one month, or both, in the discretion of the court.

The case of the employees of the Manila Hotel Company comes within the purview of said Commonwealth Act No. 103, as amended. Differences arose between said employees and the hotel management as regards wages and suspensions of employees. More than 157 of said employees were dismissed or suspended during the pendency of their petition before the management. The case was subsequently submitted by the parties to the Court of Industrial Relations. It was obligatory upon the court to take cognizance of and decide that case. (Section 4.) It was incumbent upon the court (a) to determine whether the suspension of the employees who were later readmitted was with or without just cause and whether or not said employees were entitled to back wages, and (b) to determine whether the dismissal of the seven employees, including Francisco Solivar and Francisco David, was with or without just cause and whether or not they are entitled to reinstatement and the payment of back wages. (Section 19.)

There is nothing in the law that could be construed to exclude the employees and laborers of government-owned corporations from the benefit and protection thereof or to exempt such corporations from the operation of that law. On the other hand, it is well settled that when the government enters into commercial business, it abandons its sovereign capacity and is to be treated like any other corporation. (*Bank of the United States v. Planters' Bank*, 9 Wheat. 904, 6 L. ed. 244.) By engaging in a particular business thru the instrumentality of a corporation, the government divests itself pro hoc vice of its sovereign character, so as to render the corporation subject to the rules of law governing private corporations. (*Arkansas State Highway Commission v. Dodge*, 55 S. W. [2d] 71, 72.) When the state acts in its proprietary capacity, it is amenable to all the rules of law which bind private individuals. (*South Carolina v. United States*, 199 U. S. 437, 55 L. ed. 261, 4 Ann. Cas. 737; *Vicksburg v.*

Vicksburg Water Works Co., 206 U. S. 496, 51 L. ed. 1155; Los Angeles v. Gas & Electric Corporation, 251, U. S. 32, 64 L. ed. 121; Maumee Valley Electric Co. v. Schlesinger 33 Fed. [2d] 318.) "There is not one law for the sovereign and another for the subject, but when the sovereign engages in business and the conduct of business enterprises, and contracts with individuals, whenever the contract in any form comes before the courts, the rights and obligation of the contracting parties must be adjusted upon the same principles as if both contracting parties were private persons. Both stand upon equality before the law, and the sovereign is merged in the dealer, contractor and suitor." (People v. Stephens, 71 N. Y. 549.) Furthermore, the ruling of the Court of Industrial Relations would permit the Board of Directors of the Manila Hotel Company to assume the double role of litigant and judge—which is intolerable.

Third. It was also contended by counsel during the oral argument that the Court of Industrial Relations had lost jurisdiction over the case by reason of the fact that after the partial amicable settlement only seven employees remained involved herein. Such argument is also untenable. Once the Court of Industrial Relations acquires jurisdiction over a case under the law of its creation, it retains that jurisdiction until the case is completely decided. The dispute originally involved more than thirty employees of the Manila Hotel Company. The fact that all but seven of said employees have since the filing of the case been readmitted, cannot divest the court of jurisdiction to decide not only the question as to the reinstatement of said seven employees but also that as to the payment of the back wages of those who have been readmitted. Similar cases involving private companies have been decided by that court, and there is no reason at all to treat the instant case differently.

Let the writ of mandate issue commanding the Court of Industrial Relations forthwith to reinstate and to try and decide on the merit case No. 476 of the said court, entitled "Manila Hotel Employees Association, petitioner, vs. Manila Hotel Company, respondent." The respondent Manila Hotel Company shall pay the costs of this proceeding. So ordered.

Diaz, Laurel, Moran, and Horrilleno, JJ., concur.

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