

RUBEN DELFIN, BENITO DOLOSA, CORNELIO AGUILAR, ANASTACIO GORDOLA, CESAR PANALIGAN, LUIS VIESCA, VICENTE GUADAMOR, JUAN CAGATIN, SIMEON CHICA, REYNALDO CINCO, WILFREDO IPAS, SIME...

G.R. No. 50661. December 10, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks the reversal of the decision of then Deputy Minister of Labor Amado Inciong which affirmed the decision of the National Labor Relations Commission in NLRC Case No. LR-4320. The said decision of the NLRC reversed the decision of Labor Arbiter Jose T. Collado, Jr., which ordered the reinstatement of complainants (herein petitioners) to their former positions without loss of seniority and other personnel privileges.

The facts of the case, as succinctly stated by the Solicitor General, are as follows:

“The 136 petitioners herein are former employees of private respondent Atlantic Container Corporation (hereinafter called Atlantic for brevity). Petitioners organized themselves into the Atlantic Container Employees Organization and affiliated with the Federation of Democratic Labor Unions (hereinafter called FEDLU for brevity). (petition, pp. 1-4)

“On February 11, 1964, Atlantic and FEDLU executed a Collective Bargaining Agreement which was amended on August 31, 1964. Claiming that Atlantic and its General Manager, private respondent Roberto Jacinto, refused to implement the Collective Bargaining, Agreement and its amendment, petitioners and FEDLU struck on February 16, 1966. Thereafter, the Atlantic Container Employees Organization and FEDLU filed Case No. 5195-ULP in the Court of Industrial Relations (hereinafter called CIR for brevity) charging Atlantic, Roberto Jacinto and one Hedy F. Jacinto as follows:

‘Through the verified complaint filed by the Prosecutor of the Court, complainants charge the respondents of unfair labor practice within the meaning of Section 4(a), subsections 1, 2, and 6 in relation to Section 13 of Republic Act No. 875. It is specifically alleged that on February 11, 1964 and August 31, 1964, the company and complainants entered into a collective bargaining agreement and a supple-mental agreement respectively, which provide, among others, for union shop, grievance procedure, check-off of union dues and increase of salary; that respondents, in bad faith refused to implement said provisions of the agreements notwithstanding complainants’ repeated demands; that soon thereafter, respondents rotated the permanent employees who are active members of the union; that on account of said acts of respondents, the union filed a notice of strike on February 9, 1966 and on February 16, 1966 it actually declared a strike; and that during the strike, respondents told Benito Dolosa that he would be reinstated if he resigned as president of the union and dissolved the same.’ (Petition, ANNEX A, pp. 1-2)

“On November 16, 1972, a Decision was rendered by the CIR in Case No. 5195-ULP (Petition, ANNEX “A”), dismissing the case with respect to Hedy F. Jacinto, but finding:

‘x x x Atlantic Container Corporation and Roberto Jacinto, x x x guilty of unfair labor practice (and ordering them) to cease and desist from further committing the same; to reinstate complainants striking members Benito Dolosa, Anastacio Gordola, Antonio Moreno, Jose Orzal, Cornelio Aguilar, Ernesto Hausan and Mauro Wagan, with back wages from February 16, 1966 up to a period of three years, without loss of seniority and to make good the benefits herein found to have been denied them.’

“On November 27, 1972 and December 6, 1972, the Atlantic Container Employees Organization and FEDLU filed motions to reconsider aforesaid Decision, presumably for the reinstatement of all the petitioners herein, but the CIR denied the motions for being pro forma and for having been filed out of time (Petition, ANNEX “B”).

“Because Atlantic allegedly stopped operating prior to the rendition of the Decision in Case No. 5195-ULP, which stoppage of operation petitioners claim they actually learned in 1973 after an investigation, the 136 petitioners herein filed Charge No. 5701-ULP (Petition, ANNEX “C”) in the CIR on February 12, 1974, alleging in part as follows:

‘3. The complainants, members of the Atlantic Container Employees Organization, or ACEO affiliated with the Federation of Democratic Labor Unions (FEDLU) are employees of the Atlantic Container Corporation with whom it had a subsisting collective bargaining agreement that Atlantic wastesly (sic) traversed directly and/or indirectly to the extent that, in protest of the latter’s unfair labor practices, complainants staged a strike which subsequently was filed before, and decided by the Court of Industrial Relations on November 16, 1972, in Case No. 5195-ULP, copy of which decision is made as integral part hereof as Annex “A” the judgment became final and executory.

‘4. To defeat the law, the judgment, supra, and the herein complainants, Inland Industries Inc., was concocted and subsequently registered as a corporate entity by Lazaro Arriola, Bienvenido Katalbas, Aurora Jereza, Goshi de Yulo and Paz Yulo, alter egos and conduits of Atlantic Container, to engage, as it indeed engaged in the identical business as Atlantic Container absorbing, as it did all the assets including but not limited to the facilities and machineries of the latter. (vide: Sec. 2(c), RA 875)

‘The judgment in Case No. 5195 became inutile, because Atlantic Container supposedly ceased operations to effect the lock-out- of the complainants accomplished by setting the respondent Inland Industries, Inc., which thereafter continued to do the business of Atlantic Container.’ (Petition, ANNEX “C”, pp. 3-4)

“Named respondents in the above case were Atlantic, Roberto Jacinto, Inland Industries, Inc., Lazaro Arriola, Bienvenido Katalbas, Aurora Jereza, Goshi de Yulo, and Paz Yulo, as incorporators thereof, were impleaded on the claim that they were the alter ego of Atlantic, Inland Industries having allegedly been organized “x x x to engage, as it indeed engaged in the identical business as Atlantic Container, absorbing, as it did, all the assets including but not limited to the facilities and machineries of the latter.” (Petition, p. 6; ANNEX “C”)

“When the CIR was abolished, Charge No. 5701-ULP was transferred to the NLRC where the case was docketed as Case No. LR-4320 (Petition, p. 6; ANNEXES “D” AND “D-1”). On December 29, 1975, NLRC Arbiter Jose T. Collado rendered a Decision (Petition, ANNEX “E”) the dispositive portion of which is:

‘IN VIEW OF ALL THE FOREGOING CONSIDERATIONS, respondents Roberto Jacinto, Atlantic Container Corporation, Inland Industries, Inc., Lazaro Arriola, Bienvenido Katalbas, Paz Yulo, Goshi de Yulo and Aurora Jereza are hereby ordered, in their joint and several capacities, to reinstate complainants to their former positions without loss of seniority and other personnel privileges and to pay back wages of three (3) years without any deduction from earnings elsewhere.

‘Considering, however, that not all complainants evinced their desire to prosecute the case, the award is extended

only to those who testified and/or presented their respective manifestation of prosecuting their causes of action x x x.'

"Only 86 out of the 136 Petitioners in Case No. LR-4320 (Charge No. 5701-ULP) were ordered so reinstated.

"Respondents in Case No. LR-4320 (Charge No. 5701-ULP) appealed to the NLRC (Petition, p. 7). On September 15, 1976, the NLRC, acting through public respondents Commissioners Diego P. Atienza, Geronimo Q. Quadra and Cleto Villatuva, set aside the Decision of Arbiter Collado and dismissed petitioners' complaint for unfair labor practice (Petition, ANNEX "F"). The dismissal was based on three (3) grounds, viz: (a) *res judicata*, in that Case No. LR-4320 (Charge No. 5701-ULP) was barred by the prior judgment in Case No. 5195; (b) that petitioners' cause of action had prescribed; and (c) that Atlantic and Inland Industries, Inc., were distinct and separate entities.

"Petitioners appealed to the Secretary (now Minister) of Labor who on December 28, 1978, through respondent Deputy Minister Inciong, rendered a Decision affirming the Decision of the NLRC (Petition, ANNEX "H"). Petitioners moved to reconsider the Decision dated December 29, 1978, but their motion was denied by respondent Deputy Minister in an Order dated May 11, 1979 (Petition, ANNEX "I" AND "J"). (pp. 148-153, Rollo)

On July 3, 1989, petitioners filed the instant petition charging public respondents NLRC and Deputy Minister Amado Inciong with grave abuse of discretion in annulling the decision of the Labor Arbiter and ordering the dismissal of the complaint for unfair labor practice in Case No. LR-4320 (originally Charge No. 5701 before the CIR was abolished and hereinafter referred to as the second case). On July 9, 1979, We required the respondents to file their comments to the petition. (p. 101, Rollo).

Respondents, Inland Industries, Inc., Lazaro Arriola, Buenvenido Katalbas, Aurora Jereza, Goshi de Yulo and Paz Yu filed their Comment on August 30, 1979 (p. 120-131, Rollo) raising the same arguments raised before the Labor Arbiter, to wit: 1) that the charge subject of the petition is barred by *res judicata*; 2) that petitioners' cause of action had prescribed and that the same is now barred by laches; and 3) that the corporate and distinct personality of respondent Inland was not successfully pierced.

Respondents Atlantic Container Corporation and Roberto Jacinto filed their Comments (pp. 136-141, Rollo) on September 10, 1979 raising the same arguments as respondents Inland, et al.

The Solicitor General, on the other hand, filed his Comment (pp. 148-161, Rollo) dated October 10, 1979. His stand was different from that taken by public respondents NLRC and Deputy Minister Inciong, and he joined the petitioners in their arguments.

Petitioners argue that public respondents NLRC and then Deputy Minister of Labor Amado Inciong committed grave abuse of discretion when it ordered the dismissal of their complaint on the following grounds: a) their cause of action is barred by the principle of *res judicata*; b) their cause of action is barred by prescription; and c) private respondents Atlantic Container Corporation and Inland Industries, Inc. were separate and distinct entities.

According to the petitioners, Case No. 5195 (hereinafter referred to as the first case), brought before the Court of Industrial Relations was singularly initiated and prosecuted by FEDLU, the labor union. It did not enumerate any one of the 136 strikers who were the complainants in the second case, subject of this petition. Petitioners further contend that the respondents in the first case were Atlantic, Roberto Jacinto and Hedy F. Jacinto while in the second case, the respondents were Atlantic, Roberto Jacinto, Inland Industries, Inc., Lazaro Arriola, Bienvenido Katalbas, Paz Yulo, Goshi de Yulo and Aurora Jereza. Moreover, the petitioners, adopting the view of the Solicitor General in his Comment, contend that the second case is based on two causes of action namely, (1) one predicated on fraud x x x, and (2) the other based on private respondent's violation of the CBA which culminated

in a strike. In the first case, however, the cause of action is violation of the CBA only. Hence, the second case is not barred by the prior judgment in the first complaint.

The resolution of this petition rests primarily on the issue of whether or not the second case (Case No. LR-4320) is barred by the prior judgment in the first case (Case No. 5195) and if not, whether or not petitioners' cause of action had prescribed.

For a prior judgment to constitute a bar to a subsequent case, the following requisites must concur: a) it must be a final judgment or order; (b) the court rendering the same must have jurisdiction over the subject matter and over the parties; (c) it must be a judgment or order on the merits, and (d) there must be between the two cases identity of parties, subject matter and cause of action (*Ibabao v. IAC*, No. 74848, May 20, 1987, 150 SCRA 76).

There is no question that the first three (3) requisites are present in this case. First, the decision in the first complaint had already become final and executory. The motion for reconsideration filed by the union in that case was denied by the CIR and no petition questioning the denial was brought to this court. The fact of its finality was admitted by the petitioners in their second complaint [Par. 3, Charge (Complaint), ULP-5701, pp. 42-46, Rollo]. Second, the Court of Industrial Relations (CIR) which rendered the decision had jurisdiction over the subject matter and over the parties. Third, the judgment rendered therein was a judgment on the merits of the case after the parties presented their evidence, oral and documentary.

Going now to the fourth requisite, private respondents NLRC and then Deputy Minister Inciong did not commit any grave abuse of discretion amounting to lack of jurisdiction when they ruled that there is, between the first and the second complaints, identity of causes of action, subject matter and parties.

The Solicitor General, contends that there are two (2) causes of action in the charge subject of this petition, namely: (1) the unfair labor practices committed by Atlantic; and 2) the alleged fraudulent closure of Atlantic and the birth of inland which were actually one and the same corporation, with the purpose of avading its obligations to Atlantic's employees. We do not agree. There is an identity of cause of action in the two cases, that is, the unfair labor practices committed by Atlantic against its employees during its existence. The obligations of Atlantic arising from the acts of unfair labor practices committed against its employees during the former's existence were already settled in the first case. It is clear that whatever cause of action individual petitioners had against Atlantic for violations of the CBA constituting an unfair labor practice act had already been heard in the first case. The union presented its evidence, oral and documentary although only those who testified were ordered reinstated. The allegation regarding the fraudulent closure of Atlantic and the establishment of Inland for the purpose of evading its obligations to the former's employees for unfair labor practice comes to play only in the execution or enforcement of the final and executory decision in the first case. It cannot, when joined with the unfair labor charges already settled in the first case, make out a different cause of action.

While it is true that the complainants in the first charge was the union, in reality it had no material interest in the outcome of the case. The real party who stands to be benefited or defeated by a case brought in the name of the union are the union members themselves. Since the judgment therein had become final and executory, the subsequent filing of another ULP charge against Atlantic for the same violations committed during its existence, is barred by *res judicata*. The bringing of the same action in the name of the individual members of the union will not take out the case from the ambit of the principle of *res judicata*. Neither will the bringing in of new respondents in the name of the new corporation Inland, its incorporators and private respondent Roberto Jacinto, who is also its General Manager, help petitioners' cause.

It should be noted that in the decision of the first complaint, only seven (7) of the members of the union were ordered reinstated "inasmuch as complainants and/or their witnesses failed to present any evidence, oral or

documentary, as to who were those other union members who joined the strike.” In the second complaint, Labor Arbiter Jose T. Collado ordered the reinstatement of only eight-six (86) of the 136 petitioners-members of the union “considering, x x x, that not all complainants evinced their desire to prosecute the case, and “the award (was) extended only to those who testified and/or presented their respective manifestation of prosecuting their causes of action x x x.” If We were to allow the second complaint to prosper for the eighty-six (86) (out of 136) petitioners-members union after only seven (7) were ordered reinstated in the first complaints, nothing would deter the other members of the union who were not yet ordered to be reinstated from bringing a third complaint and there would be no end to the litigation until all of the members of the union are ordered reinstated.

We have already held that when a labor union accuses an employer of acts of unfair labor practice allegedly committed during a given period of time, the charges should include all acts of unfair labor practice committed against any and all members of the union during that period. The union should not, upon dismissal of the charges first preferred, be allowed to split its cause of action and harass the employer with subsequent charges based upon acts committed during the same period of time (*Dionela, et al. v. CIR*, No. L-19334, August 31, 1963, 8 SCRA 832 at 837). The underlying philosophy of the doctrine of *res judicata* is that parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such a trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate, (*Marabao v. Mendoza*, 119 SCRA 97 *Sy Cao v. CA*, 132 SCRA 302). It is to the interest of the public that there should be an end to litigation by the same parties and their privies over a subject once fully and fairly adjudicated. *Interest republicae ut sit finis litium*. (*Valera v. Banez*, *supra*; *Masagana Telemart, Inc. v. CA*, 135 SCRA 694, cited in *Ibabao v. IAC*, No. 74848, May 20, 1987, 150 SCRA 76).

The issue of whether or not the second ULP charge had prescribed need not be resolved by Us in view of Our finding that *res judicata* had set in.

We agree however, with the Labor Arbiter’s finding that the closure of Atlantic and the establishment of Inland for the purpose of avoiding any obligation which may be adjudged against the former in favor of its employees was substantially proven. As observed by Labor Arbiter Jose T. Collado:

“On the connection of Inland Industries, Inc. to Atlantic Container Corporation, neither respondents presented evidence to negate complainants’ exhibits. Inland merely submitted a supposed mortgage executed by Roberto A. Jacinto and his wife of Atlantic’s machineries/assets to the Development Bank of the Philippines and its incorporation papers. Conversely, it should be noted that the respondents did not question the validity of Atlantic Container Corporation and Roberto A. Jacinto’s culpability for unfair labor practices having adopted as evidence, as heretofore stated, the CIR judgment.

“Also, un rebutted are the documental proofs that Lazaro Arriola and Bienvenido Katalbas were co-employees of the complainants (reflected in the SSS records); Roberto A. Jacinto, Atlantic Container Corporation’s General manager, who wrote the SSS on August 9, 1967 informing it of Atlantic’s closure ‘as of May, 1966’ due to labor strike since February, 1966.” (Exh. “D”), reappeared later as Inland’s General Manager in his letter to the SSS (Exh. “F”), and Inland’s official birth on July 29, 1966 immediately after Roberto A. Jacinto declared Atlantic as non-existent.

“On the basis of the foregoing, it can be safely concluded that Inland Industries, was conceived with the specific end of rendering moot and academic any relief emanating, from Atlantic Container Corporation’s unfair labor practices. This is very apparent from the records of this case as a whole.

“Under the circumstances, piercing the corporate veil is permissible, especially so when a second entity is born and generated to subvert the law and the purpose of its creation and Inland Industries, Inc. was precisely

registered by Roberto A. Jacinto to defeat the legitimate claims and aspirations of the herein complainants. In that act, Roberto A. Jacinto, clearly the owner of Atlantic Container Corporation and Inland Industries, Inc., resorted to the corporate of Inland's distinctness of personality to defeat public convenience, justify wrongdoing, protect fraud and perpetrate deception, and primordial of them all, to escape liability for his unfair labor practice acts." (pp. 52-53, Rollo)

This is a sufficient reason, for the purpose of enforcing the judgment in the first case, for applying the rule that when a second entity is born or generated to subvert the law, resort to corporate fiction of distinctness of personality is prevented.

ACCORDINGLY, judgment is hereby rendered: a) AFFIRMING the dismissal of the complaint in NLRC Case No. LR-4320; and b) REVERSING the findings of public respondents with regard to distinctness of personality of Atlantic and Inland for purposes of compliance with their obligations to the former's employees as adjudged in Case No. 5195-ULP.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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