

NAGKAHIUSANG MANGGAGAWA SA CUISON HOTEL-NATIONAL FEDERATION OF LABOR (NMCH-NFL), PETITIONER, VS. THE HONORABLE LABOR ARBITER JOSE O. LIBRON AND CUISON HOTEL CORPORATION, RESPOND...

G.R. No. 64336. August 31, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The principal basis of this certiorari proceeding filed on June 25, 1983 arose from a clarificatory order of respondent labor arbiter in response to a motion of private respondent "seeking to be informed as to the full meaning and legal consequences resulting from the declaration of a strike as illegal such as what is embodied"[1] in his decision dated June 10, 1983. Its dispositive portion reads: "[Wherefore, premises considered], the strike staged on April 15, 1983 should be, as it is hereby, declared illegal, and, therefore, the respondent union and its members are permanently enjoined from staging such illegal strike; ordering and declaring, pursuant to Article 265, par. (a) of the Labor Code, as amended, all the union officers led by Carlito Eleazar, Marciano Macaraya and Cesar Yap to have lost their employment status for participating in an illegal strike and committing unlawful acts during the strike; and ordering the respondent union to pay the petitioner the amount of Pesos Three Hundred Thirty Nine Thousand (P339,000.00), representing losses in income suffered during the illegal strike in the concept of actual damage." [2] The clarificatory order continues: "The consequences resulting from the declaration of a strike as illegal, which is final and immediately executory, carries with it sanctions on the immediate incidents thereto such as picketing, obstruction of ingress and egress, the banners and streamers being hung in the premises and makeshifts built within the immediate vicinity of the establishment struck. Once the strikers are permanently enjoined from staging the illegal strike, the picketing staged should also be simultaneously lifted, the obstruction of ingress and egress removed and the makeshifts taken out. In other words, the injunction of the illegal strike and the incidents thereto is self-executing and it behooves upon the party concerned to seek, if necessary, the assistance of the law enforcers to enforce the same." [3] Its last paragraph reads: "The other matters in the aforementioned dispositive portion of our decision, that of termination of the employment status of union officers and the award of damages, are also final and executory, unless appealed to the Commission within the reglamentary period." [4] Hence this petition.

Three days later, on June 28, 1983, this Court issued a resolution of the following tenor: "The Court, after considering the pleadings filed and deliberating on the issues raised in this petition for certiorari with prayer for a temporary restrain-ing order filed on June 25, 1983, Resolved to require the respondents to file an [Answer], not a motion to dismiss, within ten (10) days from notice. The Court further Resolved to [Issue] a [Temporary Restraining Order], enjoining respondent Labor Arbiter or any person or persons acting for and in his behalf from proceeding with the execution and/or enforcement of his questioned decision dated June 13, 1983 as well as his orders dated June 15 and 17, 1983 in Case No. NLRC 1121-LR-XI-83, effective immediately and until further orders from this court." [5]

The above restraining order had to be issued because as contended in the petition, the order of the labor arbiter certainly cannot be declared final and executory upon the mere issuance thereof. That is manifestly in contravention of the law. Article 223 of the Labor Code is quite explicit on the matter, a period of 10 days being granted either or both to the parties involved from receipt of any order to appeal to the National Labor Relations Commission.[6]

Moreover, the wholesale condemnation of peace-ful picketing is likewise clearly bereft of support in law. As pointed out in a very recent decision decided this year, *Phil. Assn. of Free Labor Unions (PAFLU) v. CFI of Rizal*:[7] "It need not be stressed that peaceful picketing is embraced in freedom of expression. As emphatically declared in *Philippine Commercial & Industrial Bank v. Philnabank Employees' Association*: 'From the time of *Mortera v. Court of Industrial Relations*, a 1947 decision this Court has been committed to the view that peaceful picketing is part of the freedom of speech guarantee of the Constitution.' Reference was made in such opinion to *Associated Labor Union v. Gomez*. In that case, the Court characterized the orders complained of as being 'fatally defective, suffering as it did from the infirmity that peaceful picketing was enjoined.' It is in that sense that Presidential Decree No. 849 was a step in the right direction for the status of picketing was again accorded due recognition." [8]

In the answer, reference was made to the alleged commission of acts of violence against non-striking employees and even against the eighty-year old "sickly and paralytic President" [9] of respondent. It is to be understood, of course, that the peaceful picketing authorized cannot certainly countenance acts of illegality. The interim *Batasang Pambansa* has spoken on the subject thus: e) 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." [10]

At any rate, the case needs no further discussion as on August 1-7, 1983, the following manifestation and motion to dismiss was filed by petitioner through counsel: "1. The labor dispute between the parties which resulted in the present case has been settled on August 15, 1983, and the workers are back to their work. 2. In view thereof, the above-entitled case has become moot and academic." [11]

WHEREFORE, the case is dismissed for being moot and academic.

Teehankee, Makasiar, Aquino, Concepcion, Jr., Melencio-Herrera, Plana, Escolin, Vasquez, Relova, and Gutierrez, Jr., JJ., concur.

Guerrero, J., no part.

Abad Santos, J., on official leave.

De Castro, J., on sick leave.

[1] Clarificatory Order, Annex C to Petition, 1.

[2] Decision, Annex A to Petition, 12.

[3] Clarificatory Order, Annex C to Petition, 1-2.

[4] *Ibid*, 2.

[5] Resolution of this Court dated June 28, 1983.

[6] Article 223, insofar as pertinent, reads as follows: "Art. 223. Appeal. – Decisions, awards, or orders of the Labor Arbiters or compulsory arbitrators are final and executory unless appealed to the Commission by any or both of the parties within ten (10) days from receipt of such awards, orders, or decisions. Such appeal may be

entertained only on any of the following grounds: (a) If there is a prima facie evidence of abuse of discretion on the part of the Labor Arbiter or compulsory arbitrator; (b) If the decision, order, or award was secured through fraud or coercion, including graft and corruption; (c) If made purely on questions of law; and (d) If serious errors in the findings of facts are raised which would cause grave or irreparable damage or injury to the appellant."

[7] L-49580, January 17, 1983, 120 SCRA 1.

[8] Ibid, 5-6.

[9] Answer, 3.

[10] Batas Pambansa Blg. 227, Section 6 (1982).

[11] Manifestation and Motion to Dismiss, 1.

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