

**SAMAHANG MANGGAGAWA NG LIBERTY COMMERCIAL CENTER
ORGANIZED LABOR ASSOCIATION IN LINE INDUSTRIES AND
AGRICULTURE (SMLCC-OLALIA) EDITHA BORROMEO, ET AL.,
PETITIONERS, VS. HON. JUD...**

G.R. No. 78621. December 02, 1987

Ponente: YAP, J.

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YAP, J.:

Petitioners seek to enjoin the Regional Trial Court, Fifth Judicial Region, Branch 17, Tabaco, Albay, from hearing Civil Case No. T-1287, entitled "Liberty Commercial Center, Inc. vs. Esperanza Bantigue, et al." and to set aside and annul its order dated May 27, 1987, denying defendants' (petitioners herein) Motion to Dismiss and issuing a writ of preliminary injunction ordering defendants to refrain from illegally picketing the plaintiff's establishment. On June 22, 1987, the Court issued a temporary restraining order enjoining respondents from implementing the order of May 27, 1987 and from further taking action or cognizance of Civil Case No. T-1287.

It is alleged that on April 2, 1987, petitioner labor-union filed with the Regional Office No. 5, Department of Labor and Employment, Legaspi City, a petition for direct certification among the regular rank and file employees of the Liberty Commercial Center, docketed as LRD No. 1205-41-87, and a notice of strike for union busting and other alleged labor practices, and staged a peaceful picket in front of the premises of private respondent's store at Legaspi City; that on the occasion of such picket, some members of the union, as well as some innocent bystanders, were arrested; that on May 8, 1987, private respondent filed with the respondent Regional Trial Court a complaint for damages, with preliminary mandatory injunction, docketed as Civil Case No. T-1287, against petitioner Editha Borrromeo, along with 84 persons, the main purpose of which was to disperse the picketing of the members of the petitioner union; that petitioners filed a motion to dismiss the complaint on the ground that the respondent court has no jurisdiction over labor disputes; and that respondent court, on May 27, 1987, issued an order denying the motion to dismiss and enjoining the picketing.

In its comment, respondent corporation maintains that as a fundamental principle, what determines jurisdiction is the allegations embodied in the complaint; that the complainant in this case alleged that defendants are complete strangers to the plaintiff, and were composed mostly of slum dwellers, urban poor and former resigned employees of plaintiff, including defendant Editha Borrromeo, who was a supervisor terminated by plaintiff on March 30, 1987; that the mere allegations of employer-employee relationship does not automatically deprive the court of its jurisdiction and that even the subsequent filing of charges of unfair labor practices, as an afterthought, does not deprive the regional trial court of its jurisdiction; that the notice of strike and petition for direct certification does not give rise to a labor dispute; and that no labor dispute exist in the case because the respondent corporation has existing collective bargaining agreements, valid until December 1989, with labor unions which did not file a notice of strike or charge unfair labor practices; that the petition for direct certification filed by petitioner with the Regional Office No. 5, Department of Labor and Employment, Legaspi City, was dismissed by the Labor Arbiter; and that the picketing and the notice of strike filed by petitioners were clearly illegal, for which reason injunction

would lie.

The respondent court, in its questioned order, sustained the position of the plaintiff (private respondent herein) and denied petitioners' motion to dismiss and issued a writ of preliminary injunction, on the theory that jurisdiction is determined by the allegations in the complaint; that the facts, as established by the evidence, showed that no employer-employee relationship existed between the plaintiff and the defendants who were either dismissed or resigned employees of the plaintiff; and that the petition for direct certification filed by petitioners was already dismissed by the Labor Arbiter. Said the respondent court:

"At this point in time, considering the admissions of the defendants that they are not connected with the plaintiff's establishments as employees, and that their allegations as to their having been terminated, resigned or abandoned their work constitute unfair labor practices, such allegations must be proven first before the proper forum, but the fact remains at this time that there exist no labor dispute between the parties and they are not employees anymore when they staged picketing at the plaintiff's establishment on May 3, 4, 24 and 25, 1987 up to the present.

A notice of strike does not necessarily mean that there is a labor dispute, for a notice of strike can be filed by any labor organization, or by anyone at all.

Even if there is a complaint for unfair labor practice filed by the defendants, or some of them, it does not prove a labor relationship. This was the gist in the decision of the Supreme Court in the case of TUPAS Local Chapter No. 1158 vs. Coscuella, Jr. L-71959, November 28, 1985 Vol. 140 SCRA.

It is worthwhile also to mention that the conclusions arrived at by this Court has been strengthened by the fact that when the defendants staged the picketing and other activities in the premises of the plaintiff's establishment, they have not filed yet any unfair labor practices before the proper forum, which is the Ministry of Labor, now Department of Labor or the National Labor Relations Commission.

Even granting for the sake of argument, that they did file later on, but that would be considered only as an afterthought of the defendants to cure the defects of their position, for if there is no such complaint now existing with the National Labor Relations Commission, then there is no labor dispute to speak of.

Another factor that helped this Court, is the fact that at the time the instant action was filed by the plaintiff there is no Collective Bargaining Agreement between the defendants and the plaintiff, and that it was only on April 2, 1987 that the defendants attempted to secure a certification for them, to be considered as a bargaining union or employees of the plaintiff, only to be dismissed.

In other words, the Court is really not only in serious doubts, but is of the considered belief that at the time the action complained of were committed by the defendants, there was no labor dispute yet between the defendants and the plaintiff.

It may be argued that the defendants have filed after the staging of the picket, unfair labor practices against the plaintiff, and therefore, this Court would then be without jurisdiction over the case. The Court has to disagree from this, for once jurisdiction has been vested at it, it remains on the Court where it is, until such time as the same is legally taken away from it."

We find the petition meritorious. The concerted action taken by petitioners in picketing the premises of the department store of private respondent, no matter how illegal, cannot be regarded as acts not arising from a labor dispute over which the Regional Trial Courts may exercise jurisdiction. The Labor Code (P.D. No. 442, as amended) confers original and exclusive jurisdiction on Labor Arbiters to hear and decide the following cases involving all workers, whether agricultural or nonagricultural:

"1. Unfair labor practice cases;

2. Those that workers may file involving wages, hours of work and other terms and conditions of employment;
3. All money claims of workers, including those based on nonpayment or underpayment of wages, overtime compensation, separation pay and other benefits provided by law or appropriate agreement, except claims for employees' compensation, social security, medicare and maternity benefits.
4. Cases involving household services; and
5. Cases arising from any violation of Article 265 of this Code, including questions involving the legality of strikes and lockouts."

We cannot agree with the view of respondent court that until allegations of unfair labor practice are proven before the proper forum, there exists no labor dispute to speak of and therefore the regular courts may assume jurisdiction over the case, and that once jurisdiction is assumed by the courts, they cannot be deprived of such jurisdiction. To sustain such a view will be to promote conflict of jurisdiction and would render meaningless the provision of the Labor Code conferring upon the administrative agency the "original and exclusive jurisdiction" to hear and decide labor cases.

In holding the respondent court to be without jurisdiction to hear the instant case (Civil Case No. T-1287) and to issue the writ of preliminary injunction, we do not thereby condone illegal strikes or illegal picketing by workers or picketing which seek to block free ingress or egress to and from business establishments. We have time and again condemned such practices, but we have done so in cases properly ventilated before the right forum.

Accordingly, the order of respondent court, dated May 27, 1987, is set aside and annulled, and the temporary restraining order issued on June 22, 1987 is hereby made permanent.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

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