

STEEL CORPORATION OF THE PHILIPPINES, Petitioner, vs. SCP EMPLOYEES UNION-NATIONAL FEDERATION OF LABOR UNIONS, Respondent.

G.R. Nos. 169829-30. April 16, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court. The petition is seeking to set aside the Decision[1] rendered by the Court of Appeals (CA) dated February 28, 2005 in the consolidated cases CA-G.R. SP Nos. 79446 and 82314, wherein the CA denied the petition in CA-G.R. SP No. 79446 while partially granting the petition in CA-G.R. SP No. 82314, as well as the Resolution[2] dated September 22, 2005 denying petitioner's motion for reconsideration.

The antecedents are as follows:

Petitioner Steel Corporation of the Philippines (SCP) is engaged in manufacturing construction materials, supplying approximately 50% of the domestic needs for roofing materials.[3] On August 17, 1998, SCP-Federated Union of the Energy Leaders - General and Allied Services (FUEL-GAS) filed a petition for Certification Election in its bid to represent the rank-and-file employees of the petitioner.[4] Respondent SCP Employees Union (SCPEU) - National Federation of Labor Unions (NAFLU) intervened, seeking to participate and be voted for in such election[5] but the same was denied for having been filed out of time.[6]

On September 14, 1998, a consent election was conducted, with "FUEL-GAS" and "NO UNION" as choices. Said election was however declared a failure because less than a majority of the rank-and-file employees cast their votes. FUEL-GAS filed an Election Protest claiming that the certification election was characterized by and replete with irregularities.[7] On September 21, 1998, NAFLU, the mother federation of respondent, filed a petition for Certification Election for and on behalf of its affiliate, seeking to represent the rank-and-file employees of petitioner.[8] The Med-Arbiter denied the election protest of FUEL-GAS and granted the petition for certification election filed by NAFLU and further ordered the conduct of the election with "NAFLU" and "NO UNION" as choices. Both petitioner and FUEL-GAS appealed to the Secretary of Labor, which appeals were later consolidated.[9]

On August 27, 1999, the Department of Labor and Employment (DOLE) Undersecretary rendered a consolidated decision ordering the conduct of a certification election with "FUEL-GAS," respondent and "NO UNION" as choices.[10] Subsequent motions for reconsideration were denied on October 18, 1999.[11] Unsatisfied, petitioner and FUEL-GAS appealed to the CA by way of certiorari.[12]

On April 14, 2000, the certification election, as ordered by the Med-Arbiter, proceeded. FUEL-GAS participated without prejudice to the decision of the CA in its pending petition. In said election, respondent emerged as winner; hence, the second election protest filed by FUEL-GAS.[13]

On July 12, 2000, the CA, in CA-G.R. SP No. 55721, rendered a Decision[14] which annulled and set aside the August 27, 1999 decision and October 18, 1999 resolution of the Undersecretary. The CA further directed the holding of a certification election with "FUEL-GAS" and "NO UNION" as choices, to the exclusion of respondent.[15]

On July 31, 2000, the Med-Arbiter dismissed FUEL-GAS' election protest but deferred the request of respondent to be declared winner in the certification election until final resolution of the pending petitions with the CA.[16] Not satisfied with the deferment of their certification as winner, respondent appealed to the Labor Secretary.[17] It further filed a Manifestation before the CA pointing out that in the April 14, 2000 certification election, it emerged as winner, and thus, the election should be considered as an intervening event sufficient to bar another certification election.[18] The CA, however, dismissed said manifestation on December 28, 2000.[19]

Meanwhile, on October 16, 2000, the Undersecretary rendered a Decision[20] certifying respondent as the exclusive bargaining agent of petitioner's employees. Petitioner and FUEL-GAS timely filed motions for reconsideration of the aforesaid decision.[21]

As a consequence of its certification as the exclusive bargaining agent, respondent sent to petitioner CBA proposals. Petitioner, however, held in abeyance any action on the proposals in view of its pending motion for reconsideration.[22]

Finding no justification in petitioner's refusal to bargain with it, respondent filed a Notice of Strike with the National Conciliation and Mediation Board (NCMB) on December 11, 2000. The union raised the issue of unfair labor practice (ULP) allegedly committed by petitioner for the latter's refusal to bargain with it.[23]

On January 19, 2001, FUEL-GAS moved for the conduct of a certification election pursuant to the CA decision.[24] On February 27, 2001, the Undersecretary affirmed its October 16, 2000 decision.[25]

On March 16, 2001, the labor dispute was certified to the National Labor Relations Commission (NLRC) for compulsory arbitration, which case was docketed as Cert. Case No. 000200-01.[26] Again, on April 2, 2001, another Notice of Strike[27] was filed by respondent for non-recognition as a certified union; refusal to bargain; discrimination against union officers and members; harassment and intimidation; and illegal dismissal, which was later consolidated with the certified case.

On December 13, 2001, acting on the January 19, 2001 petition for certification election, the Med-Arbiter recommended the holding of another certification election but with respondent and FUEL-GAS as contenders.[28] The decision was appealed to the Labor Secretary. The Labor Secretary in turn dismissed the motion to conduct certification election in a Resolution dated October 17, 2002.[29]

Meanwhile, in Cert. Case No. 000200-01, the NLRC issued a Resolution dated April 17, 2002, declaring petitioner as having no obligation to recognize respondent as the certified bargaining agent; dismissing the charge of unfair labor practice; declaring as illegal the strike held by the union; and declaring the loss of employment of the officers of the union.[30] Petitioner filed a Motion for Partial Reconsideration[31] of the resolution praying that additional employees be dismissed. For its part, respondent also filed a Motion for Reconsideration.[32]

On May 20, 2002, respondent filed another Notice of Strike alleging as grounds, petitioner's refusal to bargain and union busting.[33] The notice was later dismissed and respondent was enjoined from holding a strike.[34]

On January 7, 2003, respondent filed another Notice of Strike on the grounds of refusal to bargain and union busting.[35] Respondent thereafter went on strike on February 4, 2003. On February 7, 2003, the Labor Secretary certified the dispute to the NLRC and directed the employees to return to work.[36] The second certified case was

docketed as NLRC NCR CC No. 00253-03. On September 8, 2003, the NLRC rendered a Decision[37] ordering petitioner to bargain collectively with respondent as the duly certified bargaining agent. In addition, it ordered the reinstatement of the employees who were dismissed in connection with the February 4, 2003 strike, without loss of seniority rights and diminution of salary.[38] Petitioner filed a motion for reconsideration but it was denied in the Resolution[39] dated January 26, 2004. The decision and resolution became the subject of a petition before the CA in CA-G.R. SP No. 82314.

Meantime, in the first certified case, Cert. Case No. 000200-01, the NLRC, in a Decision[40] dated February 12, 2003 opted to resolve the parties' respective motions for reconsideration collectively. In said decision, the NLRC modified its earlier resolution by ordering the reinstatement of the union officers whom it previously ordered terminated, which in effect denied petitioner's motion for partial reconsideration.[41] Petitioner filed a motion for reconsideration but it was denied in a Resolution dated June 30, 2003.[42] These decision and resolution became the subject of a petition before the CA in CA-G.R. SP No. 79446.

The petitions before the CA were later consolidated. In CA-G.R. SP No. 79446, herein petitioner argued that:

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION IN ORDERING THE REINSTATEMENT OF THE OFFICERS OF PRIVATE RESPONDENT UNION DESPITE ITS CONCLUSION THAT [PRIVATE] RESPONDENT HAD CONDUCTED AN ILLEGAL STRIKE.[43]

In the other case, CA-G.R. SP No. 82314, petitioner herein argued that:

I

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION IN DIRECTING PETITIONER TO RECOGNIZE PRIVATE RESPONDENT UNION DESPITE THE DECISION OF THIS COURT DIRECTING THE HOLDING OF ANOTHER CERTIFICATION ELECTION.

II

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT REVERSED ITS OWN DECISION IN THE SAME CASE WHICH HAS BECOME FINAL AND EXECUTORY.

III

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION WHEN IT CONCLUDED THAT THE STRIKE CONDUCTED BY SCPEU-NAFLU IS NOT ILLEGAL.

IV

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION IN ORDERING THE REINSTATEMENT OF THE EMPLOYEES WHO DEFIED THE RETURN TO WORK ORDER OF THE SECRETARY OF LABOR.[44]

On February 28, 2005, the CA rendered a Decision[45] denying the petition in CA-G.R. SP No. 79446 while partially granting the petition in CA-G.R. SP No. 82314. The decretal portion of which stated:

WHEREFORE, premises considered, the Petition in CA-G.R. SP No. 79446 is DENIED while the Petition in CA-G.R. SP No. 82314 is PARTIALLY GRANTED, decreeing herein contending parties to comply with the directives of this Tribunal in CA-G.R. SP No. 55721.

SO ORDERED.

In denying the petition in CA-G.R. SP No. 79446, the CA found no cogent reason to reverse the assailed decision of the NLRC in Cert. Case No. 000200-01. The CA concluded that petitioner's claims are based on pure allegations and not supported by any substantial evidence.[46]

In partially granting the petition in CA-G.R. SP No. 82314, the CA reasoned that by virtue of its decision in CA-G.R. SP No. 55721 dated July 12, 2000, the second certification election was, in effect, nullified and set aside. It is to be noted that FUEL-GAS participated in the second election without prejudice to the petition it filed in court. The CA added that since it did not recognize the second certification election held on April 14, 2000, wherein NAFLU was voted as the duly-elected bargaining agent of petitioner's rank-and-file employees, clearly it has no basis for its claim and it has no right to demand that petitioner collectively bargain with it.[47]

Petitioner filed a Motion for Reconsideration[48] which was denied in the Resolution[49] dated September 22, 2005.

Hence, this petition raising the following issues:

I

[WHETHER OR NOT] THE COURT OF APPEALS HAS DEPARTED FROM THE LAW AND ESTABLISHED JURISPRUDENCE WHEN IT AFFIRMED THE REINSTATEMENT OF OFFICERS WHO PARTICIPATED IN AN ILLEGAL STRIKE.

II

[WHETHER OR NOT] THE COURT OF APPEALS SERIOUSLY ERRED WHEN IT FAILED TO DECLARE AS ILLEGAL THE STRIKE HELD BY THE UNION ON FEBRUARY 4, 2003.

III

[WHETHER OR NOT] THE COURT OF APPEALS SERIOUSLY ERRED WHEN IT FAILED TO INVALIDATE THE ORDER OF THE NATIONAL LABOR RELATIONS COMMISSION DIRECTING THE REINSTATEMENT OF THE STRIKERS WHO DEFIED THE RETURN-TO-WORK ORDER OF THE LABOR SECRETARY.

IV

[WHETHER OR NOT] THE COURT OF APPEALS COMMITTED A SERIOUS ERROR WHEN IT RULED THAT THE NLRC HAS RECONSIDERED ITS CONCLUSION ON THE ILLEGALITY OF THE MARCH 2001 STRIKE.

V

[WHETHER OR NOT] THE COURT OF APPEALS COMMITTED A SERIOUS ERROR WHEN IT CONCLUDED THAT THE NATIONAL LABOR RELATIONS COMMISSION MAY RECONSIDER IN THE SECOND CERTIFIED CASE ITS DECISION ON THE FIRST CERTIFIED CASE WHICH HAS BECOME FINAL AND EXECUTORY.[50]

Petitioner contends that the February 2003 strike held by respondent is illegal. To buttress its claim, petitioner argues that respondent has no right to demand that it bargain with the latter. Its refusal to recognize respondent as the bargaining representative of its employees is based on the directive of the CA in CA-G.R. SP No. 55721 to conduct another certification election. Petitioner maintains that respondent never denied that its purpose for holding the strike was to force it to recognize the latter over the other union. Since the strike is a

union-recognition-strike, it is illegal.[51]

Petitioner further argues that the strike was manifestly illegal for it was in gross violation of the Labor Code, particularly Art. 264,[52] which expressly prohibits the declaration of a strike over an issue that is pending arbitration between the parties.[53] Since the labor dispute in the first certified case, Cert. Case No. 000200-01, was still pending compulsory arbitration at the time of the strike on February 4, 2003, and since the said strike was based substantially on the same grounds, i.e., the alleged refusal by petitioner to recognize the union, the strike is illegal by express provision of the law.

Moreover, petitioner adds that the issue of illegality of the February 2003 strike was already resolved by the NLRC in Cert. Case No. 000200-01 involving a strike in March 2001 over the same labor dispute, namely, the alleged refusal of petitioner to recognize respondent. As such, the NLRC's decision in Cert. Case No. 000200-01 constitutes res judicata in the second certified case, NLRC NCR CC No. 00253-03.[54]

Petitioner also contends that the union officers who participated in the illegal strike are all deemed to have lost their employment. Unlike ordinary members of the union, whose dismissal requires that the employer prove that they committed illegal acts, mere participation of the union officers in an illegal strike warrants their termination from employment. Consequently, since the strike was illegal, it follows that the termination from employment of the union officers was warranted.[55]

Petitioner maintains that it was erroneous on the part of the CA not to have reversed the NLRC decision[56] ordering the reinstatement of the employees which were dismissed in connection with the February 4, 2003 strike. It argues that since the termination of the employees was due to their refusal to comply with the return-to-work order issued by the Labor Secretary, not to their alleged participation in an illegal strike, the CA erred in affirming the decision.[57]

Finally, petitioner avers that the CA also committed serious errors on procedural issues when it concluded that the NLRC may reconsider in Cert. Case No. 000200-01 its decision in NLRC NCR CC No. 00253-03.[58]

The petition is meritorious.

Whether or not respondent is the recognized collective bargaining agent had been finally resolved in the negative. Consequently, as correctly concluded by the CA, it could not compel petitioner to bargain with it. Thus, the only issues left for determination are: the validity of the strike participated in by the officers of the respondent union; and the validity of their termination from employment by reason of such participation.

The strike is a legitimate weapon in the human struggle for a decent existence. It is considered as the most effective weapon in protecting the rights of the employees to improve the terms and conditions of their employment. But to be valid, a strike must be pursued within legal bounds. The right to strike as a means for the attainment of social justice is never meant to oppress or destroy the employer. The law provides limits for its exercise.[59]

In the instant case, the strike undertaken by the officers of respondent union is patently illegal for the following reasons: (1) it is a union-recognition-strike which is not sanctioned by labor laws; (2) it was undertaken after the dispute had been certified for compulsory arbitration; and (3) it was in violation of the Secretary's return-to-work order.

Respondent's notices of strike were founded on petitioner's continued refusal to bargain with it. It thus staged the strike to compel petitioner to recognize it as the collective bargaining agent, making it a union-recognition-strike. As its legal designation implies, this kind of strike is calculated to compel the employer to recognize one's union

and not other contending groups, as the employees' bargaining representative to work out a collective bargaining agreement despite the striking union's doubtful majority status to merit voluntary recognition and lack of formal certification as the exclusive representative in the bargaining unit.[60]

The certification election that was conducted where respondent emerged as winner, not having been recognized as valid, it has no authority to represent the rank and file employees of petitioner. Thus, it could not ask petitioner to bargain with it. As the issue of its identity had been the subject of a separate case which had been settled by the court with finality,[61] petitioner cannot, therefore, be faulted in refusing to bargain. Neither could this Court sustain respondent's imputation of unfair labor practice and union busting against petitioner. With more reason, this Court cannot sustain the validity of the strike staged on such basis.

Even if this Court were to uphold the validity of respondent's purpose or objective in staging a strike, still, the strike would be declared illegal for having been conducted in utter defiance of the Secretary's return-to-work order and after the dispute had been certified for compulsory arbitration. Although ostensibly there were several notices of strike successively filed by respondent, these notices were founded on substantially the same grounds - petitioner's continued refusal to recognize it as the collective bargaining representative.

Article 263(g) of the Labor Code provides:

When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure the compliance with this provision as well as with such orders as he may issue to enforce the same. x x x.[62]

The powers granted to the Secretary under Article 263(g) of the Labor Code have been characterized as an exercise of the police power of the State, aimed at promoting the public good. When the Secretary exercises these powers, he is granted "great breadth of discretion" to find a solution to a labor dispute. The most obvious of these powers is the automatic enjoining of an impending strike or lockout or its lifting if one has already taken place.[63]

The moment the Secretary of Labor assumes jurisdiction over a labor dispute in an industry indispensable to national interest, such assumption shall have the effect of automatically enjoining the intended or impending strike. It was not even necessary for the Secretary of Labor to issue another order directing a return to work. The mere issuance of an assumption order by the Secretary of Labor automatically carries with it a return-to-work order, even if the directive to return to work is not expressly stated in the assumption order.[64]

A return-to-work order imposes a duty that must be discharged more than it confers a right that may be waived. While the workers may choose not to obey, they do so at the risk of severing their relationship with their employer.[65]

Says the Labor Code:

Art. 264. Prohibited activities. -

x x x

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Secretary or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Returning to work in this situation is not a matter of option or voluntariness but of obligation. The worker must return to his job together with his co-workers so that the operations of the company can be resumed and it can continue serving the public and promoting its interest. This extraordinary authority given to the Secretary of Labor is aimed at arriving at a peaceful and speedy solution to labor disputes, without jeopardizing national interests. Regardless of their motives, or the validity of their claims, the striking workers must cease and/or desist from any and all acts that undermine or tend to undermine this authority of the Secretary of Labor, once an assumption and/or certification order is issued. They cannot, for instance, ignore return-to-work orders, citing unfair labor practices on the part of the company, to justify their action.[66]

Respondent, in the instant case, after the assumption of jurisdiction and certification of the dispute to the NLRC for compulsory arbitration, filed notices of strike and staged the strike obviously contrary to the provisions of labor laws. Worse, it filed not one but several notices of strike which resulted in two certified cases which were earlier consolidated. These disputes could have been averted had respondent respected the CA's decision. That way, the collective bargaining agent would have been determined and petitioner could have been compelled to bargain. Respondent, through its officers, instead opted to use the weapon of strike to force petitioner to recognize it as the bargaining agent. The strike, having been staged after the dispute had been certified for arbitration and contrary to the return-to-work order, became a prohibited activity, and was thus illegal.

Strikes exert disquieting effects not only on the relationship between labor and management, but also on the general peace and progress of society, not to mention the economic well-being of the State. It is a weapon that can either breathe life to or destroy the union and members in their struggle with management for a more equitable due of their labors. Hence, the decision to wield the weapon of strike must therefore rest on a rational basis, free from emotionalism, unswayed by the tempers and tantrums of a few, and firmly focused on the legitimate interest of the union which should not however be antithetical to the public welfare. In every strike staged by a union, the general peace and progress of society and public welfare are involved.[67]

Having settled that the subject strike was illegal, this Court shall now determine the proper penalty to be imposed on the union officers who knowingly participated in the strike.

Article 264 of the Labor Code further provides:

Art. 264. Prohibited activities.-- x x x

Any workers whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full back wages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, that mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike. x x x.

It bears stressing that the law makes a distinction between union members and union officers. A worker merely participating in an illegal strike may not be terminated from employment. It is only when he commits illegal acts during a strike that he may be declared to have lost employment status. For knowingly participating in an illegal strike or participating in the commission of illegal acts during a strike, the law provides that a union officer may be terminated from employment. The law grants the employer the option of declaring a union officer who participated in an illegal strike as having lost his employment. It possesses the right and prerogative to terminate

the union officers from service.[68] Otherwise, the workers will simply refuse to return to their work and cause a standstill in the company operations while retaining the positions they refuse to discharge and preventing management from filling up their positions.[69]

WHEREFORE, the petition is partly GRANTED. The decision of the Court of Appeals dated February 28, 2005 in the consolidated cases CA-G.R. SP Nos. 79446 and 82314 and its Resolution dated September 22, 2005 are MODIFIED in that the strike in question is found ILLEGAL and the order to reinstate the union officers who participated in the illegal strike is REVERSED and SET ASIDE.

No costs.

SO ORDERED.

Puno, C.J. (Chairperson), Corona, and Leonardo-de Castro, JJ., concur.
Carpio, J., on leave.

[1] Penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Lucas P. Bersamin and Celia C. Librea-Leagogo, rollo, pp. 52-70.

[2] Id. at 72.

[3] Id. at 54.

[4] Id. at 100.

[5] Id. at 100-101.

[6] Id. at 55.

[7] Id. at 76-81.

[8] Id. at 82-83.

[9] Id. at 84-99.

[10] Id. at 100-104.

[11] Id. at 118-120.

[12] Id. at 121-132; 133-143.

[13] Id. at 144-145.

[14] Id. at 146-153.

[15] WHEREFORE, the instant petition is hereby GRANTED. Accordingly, the decision dated August 27, 1999 and the resolution dated October 10, 1999, both of the respondent DOLE Undersecretary are hereby NULLIFIED and SET ASIDE. Conformably herewith, the Department of Labor and Employment or its appropriate bureau or office shall conduct a certification election with Steel Corporation of the Philippines Workers' Union FUEL-GAS and No Union as choices, subject to such rules and regulations prescribed under the Labor Code and/or its Implementing Rules and Regulations.

SO ORDERED.

- [16] Rollo, pp. 154-157.
- [17] Id. at 56.
- [18] Id. at 167-170.
- [19] Id. at 197.
- [20] Id. at 172-175.
- [21] Id. at 176-187.
- [22] Id. at 57.
- [23] Id. at 190.
- [24] Id. at 198-199.
- [25] Id. at 200-203.
- [26] Id. at 224-225.
- [27] Id. at 226.
- [28] Id. at 244-246.
- [29] Id. at 290-291.
- [30] CA rollo, CA-G.R. SP No. 79446, pp. 55-70.
- [31] Rollo, pp. 253-265.
- [32] Id. at 266-274.
- [33] Id. at 275.
- [34] Id. at 283-285.
- [35] Id. at 292-293.
- [36] CA rollo, CA-G.R. SP No. 82314, pp. 19-20.
- [37] Id. at 49-61.
- [38] Id. at 59-60.
- [39] Id. at 47-48.
- [40] CA rollo, CA-G.R. SP No. 79446, pp. 35-52.
- [41] Id. at 51.
- [42] Id. at 53-54.
- [43] Id. at 55.
- [44] CA rollo, CA-G.R. SP No. 82314, pp. 21-22.
- [45] Rollo, pp. 52-70.

[46] Id. at 65-68.

[47] Id. at 68-70.

[48] CA rollo, CA-G.R. SP No. 79446, pp. 355-380.

[49] Rollo, p. 72.

[50] Id. at 15-16.

[51] Id. at 17-18.

[52] ART. 264. PROHIBITED ACTIVITIES. -- (a) x x x.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

[53] Rollo, pp. 18-24.

[54] Id. at 24.

[55] Id. at 16-18.

[56] CA rollo, CA-G.R. SP No. 82314, pp. 49-61.

[57] Rollo, pp. 26-30.

[58] Id. at 31-32.

[59] Association of Independent Unions in the Philippines (AIUP), et al. v. NLRC, 354 Phil. 697, 707.

[60] Id. at 706.

[61] In CA-G.R. SP No. 55721.

[62] Emphasis supplied.

[63] Philcom Employees Union v. Philippine Global Communications and Philcom Corporation, G.R. No. 144315, July 17, 2006, 495 SCRA 214, 232.

[64] Telefunken Semiconductors Employees Union v. Court of Appeals, 401 Phil. 776, 794.

[65] Supra note 63 at 243.

[66] Manila Hotel Employees Association v. Manila Hotel Corporation, G.R. No. 154591, March 5, 2007, 517 SCRA 349, 363.

[67] Santa Rosa Coca-Cola Plant Employees Union v. Coca-Cola Bottlers Phils., Inc., G.R. Nos. 164302-03, January 24, 2007, 512 SCRA 437, 455; Grand Boulevard Hotel v. GLOWHRAIN, 454 Phil. 463, 491; Lapanday Workers Union v. National Labor Relations Commission, G.R. Nos. 95494-97, September 7, 1995, 248 SCRA 95, 104-105.

[68] Santa Rosa Coca-Cola Plant Employees Union v. Coca-Cola Bottlers Phils., Inc. supra at 458-459; See also: Stamford Marketing Corp. v. Julian, G.R. No. 145496, February 24, 2004, 423 SCRA 633, 649.

[69] Supra note 63 at 243.

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