

JACKBILT INDUSTRIES, INC., PETITIONER, VS. JACKBILT EMPLOYEES WORKERS UNION-NAFLU-KMU, RESPONDENT.

G.R. Nos. 171618-19. March 13, 2009

Ponente: CORONA, J.

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CORONA, J.:

This petition for review on certiorari[1] seeks to reverse and set aside the July 13, 2005 decision[2] and February 9, 2006 resolution[3] of the Court of Appeals in CA-G.R. SP No. 65208 and CA-G.R. SP No. 65425.

Due to the adverse effects of the Asian economic crisis on the construction industry beginning 1997, petitioner Jackbilt Industries, Inc. decided to temporarily stop its business of producing concrete hollow blocks, compelling most of its employees to go on leave for six months. [4]

Respondent Jackbilt Employees Workers Union-NAFLU-KMU immediately protested the temporary shutdown. Because its collective bargaining agreement with petitioner was expiring during the period of the shutdown, respondent claimed that petitioner halted production to avoid its duty to bargain collectively. The shutdown was allegedly motivated by anti-union sentiments.

Accordingly, on March 9, 1998, respondent went on strike. Its officers and members picketed petitioner's main gates and deliberately prevented persons and vehicles from going into and out of the compound.

On March 19, 1998, petitioner filed a petition for injunction[5] with a prayer for the issuance of a temporary restraining order (TRO) in the National Labor Relations Commission (NLRC). It sought to enjoin respondent from obstructing free entry to and exit from its production facility.[6]

On April 14, 1998, the NLRC issued a TRO directing the respondents to refrain from preventing access to petitioner's property.

The reports of both the implementing officer and the investigating labor arbiter revealed, however, that respondent union violated the April 14, 1998 order. Union members, on various occasions, stopped and inspected private vehicles entering and exiting petitioner's production facility. Thus, in a decision dated July 17, 1998, the NLRC ordered the issuance of a writ of preliminary injunction.[7]

Meanwhile, petitioner sent individual memoranda to the officers and members of respondent who participated in the strike[8] ordering them to explain why they should not be dismissed for committing illegal acts in the course of a strike.[9] However, respondent repeatedly ignored petitioner's memoranda despite the extensions granted.[10] Thus, on May 30, 1998, petitioner dismissed the concerned officers and members and barred them from entering its premises effective June 1, 1998.

Aggrieved, respondent filed complaints for illegal lockout, runaway shop and damages,[11] unfair labor practice, illegal dismissal and attorney's fees,[12] and refusal to bargain[13] on behalf of its officers and members against petitioner and its corporate officers. It argued that there was no basis for the temporary partial shutdown as it was

undertaken by petitioner to avoid its duty to bargain collectively.

Petitioner, on the other hand, asserted that because respondent conducted a strike without observing the procedural requirements provided in Article 263 of the Labor Code,[14] the March 9, 1998 strike was illegal. Furthermore, in view of the July 17, 1998 decision of the NLRC (which found that respondent obstructed the free ingress to and egress from petitioner's premises), petitioner validly dismissed respondent's officers and employees for committing illegal acts in the course of a strike.

In a decision dated October 15, 1999, [15] the labor arbiter dismissed the complaints for illegal lockout and unfair labor practice for lack of merit. However, because petitioner did not file a petition to declare the strike illegal[16] before terminating respondent's officers and employees, it was found guilty of illegal dismissal. The dispositive portion of the decision read:

WHEREFORE, judgment is hereby rendered finding [petitioner and its corporate officers] liable for the illegal dismissal of the 61 union officer and members of [respondent] and concomitantly, [petitioner and its corporate officers] are hereby jointly and severally ordered to pay [respondents' officers and members] limited backwages from June 1, 1998 to October 4, 1998.

[Petitioner and its corporate officers] are further ordered to pay [respondents' officers and members] separation pay based on ½ salary for every year of credited service, a fraction of at least 6 months to be considered as one whole year in lieu of reinstatement.

The complaint for unfair labor practice, moral and exemplary damages and runaway shop are hereby disallowed for lack of merit.

SO ORDERED.

On December 28, 2000, the NLRC, on appeal, modified the decision of the labor arbiter. It held that only petitioner should be liable for monetary awards granted to respondent's officers and members.[17]

Both petitioner and respondent moved for reconsideration but they were denied for lack of merit.[18]

Aggrieved, petitioner assailed the December 28, 2000 decision of the NLRC via a petition for certiorari[19] in the CA. It asserted that the NLRC committed grave abuse of discretion in disregarding its July 17, 1998 decision[20] wherein respondent's officers and employees were found to have committed illegal acts in the course of the March 9, 1998 strike. In view thereof and pursuant to Article 264(a)(3) of the Labor Code,[21] petitioner validly terminated respondent's officers and employees.

The CA dismissed the petition but modified the December 28, 2000 decision of the NLRC.[22] Because most of affected employees were union members, the CA held that the temporary shutdown was moved by anti-union sentiments. Petitioner was therefore guilty of unfair labor practice and, consequently, was ordered to pay respondent's officers and employees backwages from March 9, 1998 (instead of June 1, 1998) to October 4, 1998 and separation pay of one month salary for every year of credited service.

Petitioner moved for reconsideration but it was denied.[23] Thus, this recourse.

The primordial issue in this petition is whether or not the filing of a petition with the labor arbiter to declare a strike illegal is a condition sine qua non for the valid termination of employees who commit an illegal act in the course of such strike.

Petitioner asserts that the filing of a petition to declare the strike illegal was unnecessary since the NLRC, in its July 17, 1998 decision, had already found that respondent committed illegal acts in the course of the strike.

We grant the petition.

The principle of conclusiveness of judgment, embodied in Section 47(c), Rule 39 of the Rules of Court,[24] holds that the parties to a case are bound by the findings in a previous judgment with respect to matters actually raised and adjudged therein.[25]

Article 264(e) of the Labor Code prohibits any person engaged in picketing from obstructing the free ingress to and egress from the employer's premises. Since respondent was found in the July 17, 1998 decision of the NLRC to have prevented the free entry into and exit of vehicles from petitioner's compound, respondent's officers and employees clearly committed illegal acts in the course of the March 9, 1998 strike.

The use of unlawful means in the course of a strike renders such strike illegal.[26] Therefore, pursuant to the principle of conclusiveness of judgment, the March 9, 1998 strike was ipso facto illegal. The filing of a petition to declare the strike illegal was thus unnecessary.

Consequently, we uphold the legality of the dismissal of respondent's officers and employees. Article 264 of the Labor Code[27] further provides that an employer may terminate employees found to have committed illegal acts in the course of a strike.[28] Petitioner clearly had the legal right to terminate respondent's officers and employees.[29]

WHEREFORE, the petition is hereby granted. The July 13, 2005 decision and February 9, 2006 resolution of the Court of Appeals in CA-G.R. SP No. 65208 and CA-G.R. SP No. 65425 are hereby REVERSED and SET ASIDE.

The December 28, 2000 and March 6, 2001 resolutions of the National Labor Relations Commission in NLRC-CA No. 022614-2000 are MODIFIED insofar as they affirmed the October 15, 1999 decision of the labor arbiter in NLRC-NCR-Case No. 00-06-05017-98 finding petitioner Jackbilt Industries, Inc. guilty of illegal dismissal for terminating respondent's officers and employees. New judgment is hereby entered DISMISSING NLRC-NCR-Case No. 00-06-05017-98 for lack of merit.

SO ORDERED.

Ynares-Santiago, Carpio, Leonardo-De Castro, and Brion, JJ., concur.

[*] Per Special Order No. 584 dated March 3, 2009.

[**] Per Special Order No. 583 dated March 3, 2009.

[***] Per Special Order No. 570 dated February 12, 2009.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Vicente Q. Roxas (dismissed from service) and concurred in by Associate Justices Portia Aliño-Hormachuelos and Juan Q. Enriquez, Jr. of the Seventh Division of the Court of Appeals. Rollo, pp. 56-63.

[3] Id., pp. 70-71.

[4] Inter-office memorandum of petitioner's administrative officer-in-charge Albert L. Bantug. Annex "C," id., pp. 72-73.

[5] Docketed as NLRC NCR IC No. 000793-98.

[6] See Labor Code, Art. 264(e). The article provides:

Article 264. Prohibited activities. -- x x x x x x x x

(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. (emphasis supplied)

[7] Penned by Commissioner Angelita A. Gacutan and concurred in by Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay of the Second Division of the NLRC. Rollo, pp. 123-130.

[8] Daniel M. Abara, Enrique G. Abrenica, Demetrio C. Anglo, Crizaldo P. Aragones, Romeo M. Badion, Olimpio C. Bandi, Jr., Virgilio R. Benavidez, Romeo E. Bersabe, Guilberto C. Biscocho, Ruben P. Borreta, Maximo C. Cabusay, Giogenes D. Catubay, Domingo C. Cardiente, Enrico C. Comedia, Crispin B. Cruz, Jimmy L. Dacara, Sergio M. Datuin, Cordencio B. Del Pilar, Elizalde O. de los Santos, Eusebio G. Dimapilis, Nemesio E. Elampario, Armando P. Espinoza, Nelson E. Esteve, Romeo G. Fabro, Mariano P. Forten, Rodolfo A. Galanto, Samson A. Gatarin, Arnold P. Genil, Espiridion E. Gines, Rodolfo E. Gines, Daniel L. Goday, Geoffrey M. Gratela, Juanito N. Lauresta, Cezar S. Lintag, Danilo D. Liso-an, Nilo M. Macahia, Carlito C. Marinas, Alberto A. Marquez, Avelino S. Mendoza, Benjamin M. Mercado, Celso T. Mercado, Angelito B. Neroza, Artemio Z. Olegario, Edgar R. Panis, Dario L. Perdigon, Roberto L. Piodina, Manuel C. Plaquia, Claro P. Queron, Birnie C. Ramirez, Ariel J. Regala, Dolphy C. Registrado, Loreto M. Revil, Ruben C. Sanchez, Sergio S. Soriano, Geronimo T. Tacdoro, Felipe E. Vallente, Marlon N. Velarde, Jhun C. Yadao, and Abraham M. Yumul.

[9] Memorandum dated April 28, 1998. Annex "F," id., p. 157. Petitioner's memorandum stated stated:

Based on records, you have been identified as one of those who actively participated and joined the concerted action at [petitioner's] main gate, starting March 9, 1998, to wit:

- effectively prevent[ed] free egress and ingress to the company's premises;
- prevented the delivery of company products to the customers;
- coerced employees from not reporting for working;
- threatened employees reporting for work;
- damage[ed] the image and goodwill of the company by preventing customers from transacting business with the company [and]
- other acts inimical to the interest of the company.

All the foregoing acts constitute violation of the provisions of the Labor Code of the Philippines, specifically Article 282(a) thereof....

[10] Petitioner sent its memorandum to respondent again on April 18, 1998 and May 18, 1998.

[11] Docketed as NLRC Case No. 00-05-04446-98.

[12] Docketed as NLRC Case No. 00-06-05017-98.

[13] Docketed as NLRC Case No. 00-08-06766-98.

[14] Article 263. Strikes, picketing and lockouts. x x x x x x x x

(c)

In cases of bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the employer may file a notice of lockout with the Department at least thirty (30) days before the intended date thereof. In cases of unfair labor practice, the period of notice shall be fifteen (15) days and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be filed by any legitimate labor organization in behalf of its members. However, in case of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute union busting where the existence of the union is threatened, the 15-day cooling-off period shall not apply and the union may take action immediately.

(d)

The notice must be in accordance with such implementing rules and regulations as the Secretary of Labor and Employment may promulgate.

(e)

During the cooling-off period, it shall be the duty of the Department to exert all efforts at mediation and conciliation to effect a voluntary settlement. Should the dispute remain unsettled until the lapse of the requisite number of days from the mandatory filing of the notice, the labor union may strike or the employer may declare a lockout.

(f)

A decision to declare a strike must be approved by a majority of the total union membership in the bargaining unit concerned, obtained by secret ballot in meetings or referenda called for that purpose. A decision to declare a lockout must be approved by majority of the board of directors of the corporation or association or of the partners in a partnership, obtained by secret ballot in a meeting called for that purpose. The decision shall be valid for the duration of the dispute based on substantially the same grounds considered when the strike or lockout vote was taken. The Department may, at its own initiative or upon the request of any affected party, supervise the conduct of the secret balloting. In every case, the union or the employer shall furnish the Department the results of the voting at least seven days before the intended strike or lockout, subject to the cooling-off period herein provided.

x x x x x x x x

See also Department Order No. 40-03, s. 2003, Rule XII, *Pilipino Telephone Corporation v. Pilipino Telephone Employees Association*, G.R. Nos. 160058 and 160059, 22 June 2007, 525 SCRA 361, 373 and *Santa Rosa Coca Cola Plant Employees Union v. Coca Cola Bottles Phils., Inc.*, G.R. No. 164302-03, 24 January 2007, 512 SCRA 437.

[15] Penned by labor arbiter Pablo C. Espiritu, Jr. Rollo, pp. 169-187.

[16] Article 217(e) of the Labor Code gives the original and exclusive jurisdiction to declare a strike (or a lockout) illegal to the labor arbiter.

[17] Resolution penned by Commissioner Victoriano R. Calaycay and concurred in by Presiding Commissioner Raul T. Aquino and concurred in by Commissioner Angelita A. Gacutan. Dated December 28, 2000. Rollo, pp. 213-226.

[18] Resolution dated March 26, 2001. Id., p. 237.

[19] Under Rule 65 of the Rules of Court.

[20] Docketed as CA-G.R. SP Nos. 65208 and 65425.

[21] Article 264. Prohibited activities. -- (a) x x x x x x x x

Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full backwages. 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 right: 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. (emphasis supplied)

x x x x x x x x

[22] Supra note 2.

[23] Supra note 3.

[24] RULES OF COURT, Rule 39, Section 47(c) provides:

Section 47. Effect of judgment or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x x x x x x

(c)

In any other litigation between the same parties or their successors-in-interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

[25] Philippine Commercial International Bank v. Alejandro, G.R. No. 175587, 21 September 2007, 533 SCRA 738, 747.

[26] Chuayuco Steel Manufacturing Corporation v. Buklod ng Manggagawa sa Chuayuco Steel Manufacturing Corporation, G.R. No. 167347, 31 January 2007, 513 SCRA 621, 632. (citations omitted)

[27] Supra note 20.

[28] G & S Transport Corporation v. Infante, G.R. No. 160303, 13 September 2007, 533 SCRA 288, 300.

[29] See Pilipino Telephone Corporation v. Pilipino Telephone Corporation Employees Association, supra note 13. According to this case, because Article 264 of the Labor Code uses "may," the employer has the option to terminate a union officer who participated in an illegal strike. This construction should likewise be applied to union members who committed illegal acts during a strike.

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