SUPREME COURT
SECOND DIVISION

ALLIED FREE WORKERS' UNION, ET AL.,
***Petitioners*,**

-versus-

G.R. No. L-8876
October 31, 1957

HONORABLE JUDGE SEGUNDO APOSTOL, ET AL.,
***Respondents*.**
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D E C I S I O N

BAUTISTA ANGELO, *J.*:

On August 11, 1952, the Compañia Maritima, Iligan Branch, hereinafter referred to as the company, entered into an "arrastre and stevedoring contract" with the Allied Free Workers' Union, hereinafter referred to as the union, whereby the services of the union to "do and perform all the work of stevedoring and arrastre services of all its vessels or boats in Iligan City", were engaged. The term of the contract was for a period of one month from August 12, 1952, which may be renewed by agreement of the parties, at the same time giving the company the right to revoke the contract "if and when the Allied Free Workers' Union fails to render good service."

Upon the expiration of the term on September 12, 1952, the contract was not renewed by formal agreement, but the union and its members continued to perform the services agreed upon until August 24, 1954 when the company served a notice in writing upon the union terminating the contract from August 31, 1954. On the same date, the company entered into a similar contract with the Iligan Stevedoring Association giving to the latter the arrastre and stevedoring service.

Meanwhile, on July 23, 1954, the union sent a letter to the company requesting that it be recognized as the exclusive bargaining unit to load and unload all the cargo of its vessels calling at the port of Iligan City as it had exclusively performed for the last two years (Annex A), and when said demand was not attended to within the reglementary 10-day period, the union filed on August 6, 1954 with the Court of Industrial Relations a petition praying for the certification of the union as the sole and exclusive collective bargaining unit of the company at Iligan City in connection with the stevedoring and arrastre work of all the cargo of the vessels belonging to said company (CIR Case No. 175—MC).

Instead of answering the demand of the union, the company gave notice to it terminating the arrastre and stevedoring contract they had previously executed effective August 31, 1954, which met a vigorous protest on the part of the union, and on August 26, 1954, the union filed charges of unfair labor practice against the company with the Court of Industrial Relations praying that the same be investigated and, if proven, the company be criminally dealt with in accordance with law. And feeling aggrieved and discriminated against because of the unjust lockout slapped upon the union by the company, the members of the union, together with other employees who were sympathetic with their cause, engaged in picketing the street and wharf where the vessels of the company used to dock at the port of Iligan City thereby preventing the loading and unloading of the cargo carried on board said vessels to the prejudice of the company, the shippers and consignees of the cargo.

On September 8, 1954, the company commenced the present case in the Court of First Instance of Lanao (Civil Case No. 5377) seeking to enjoin the union and its members from interfering with the loading

and unloading of the cargo on board the vessels of said company that are docked or may dock at the port of Iligan City and to recover the damages the company may have suffered incident thereto aggregating the total amount of P120,000. The company also prayed for the rescission of the arrastre and stevedoring contract entered into between the parties on August 11, 1952. As an incident of the action, the company also asked that a writ of preliminary injunction be issued pending the termination of the case. On September 9, 1954, the court, without any previous hearing, granted ex parte the petition for the issuance of a preliminary writ of injunction upon the filing of a bond by the company in the amount of P20,000.

Having been served with a copy of this order on the same date, September 9, 1954, the union immediately filed an urgent motion to dissolve the injunction basing its plea on the fact that, there being already a labor dispute pending between the parties before the Court of Industrial Relations, the trial court had no jurisdiction to act on the case and much less an issue the writ of preliminary injunction, the same coming under the exclusive jurisdiction of the industrial court under Republic Act No. 875. But the court, instead of dissolving the injunction, merely allowed the union to file a counterbond in the amount of P40,000 if and when it desires to lift the injunction. On September 10, 1954, the company in turn moved to allow the original writ to stand unless the union put up a counterbond in the amount of P100,000 considering the amount of damages asked for in the complaint. And on September 13, 1954, the union filed a formal motion to dismiss reiterating the same ground it had advanced in its former motion that the trial court has no jurisdiction to act on the case. On December 15, 1954, the court issued an order denying the motion to dismiss but maintaining its ruling that the union may put up a counterbond of P40,000 if it so desires. In due time, the union filed the present petition for prohibition seeking to set aside the last order above adverted to and prohibiting respondent judge from proceeding with Civil Case No. 577 on the ground of lack of jurisdiction.

The main issue raised by the union is whether the trial court has jurisdiction to take cognizance of Civil Case No. 577 and, incidentally, to issue the preliminary injunction in question.

The question of whether or not a court of first instance can take cognizance of a case which involves a labor dispute or can issue a writ of injunction as an incident thereto has been recently decided by this Court in the Case of Philippine Association of Free Labor Unions (PAFLU), et al. vs. Hon. Bienvenido Tan, et al., 99 Phil., 854, 52 Off. Gaz., No. 13, 5836, wherein, speaking of the jurisdiction of the industrial court after the passage of Republic Act No. 875, this Court said:

> "But this broad jurisdiction was somewhat curtailed upon the approval of Republic Act 875, the purpose being to limit it to certain specific cases, leaving the rest to the regular courts. Thus, as the law now stands, that power is confined to the following cases. (1) when the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the industrial court (Section 10, Republic Act 875); (2) when the controversy refers to minimum wage under the Minimum Wage Law (Republic Act 602); (3) when it involves hours of employment under the Eight-Hour Labor Law (Commonwealth Act 444); and (4) when it involves an unfair labor practice [Section 5,(a), Republic Act 875]. In all other cases, even if they grow out of a labor dispute, the Court of Industrial Relations does not have jurisdiction, the intendment of the law being "to prevent undue restriction of free enterprise for capital and labor and to encourage the truly democratic method of regulating the relations between the employer and employee by means of an agreement freely entered into in collective bargaining' (Section 7, Republic 875). In other words, the policy of the law is to advance the settlement of disputes between the employers and the employees through collective bargaining, recognizing 'that real industrial peace cannot be achieved by compulsion of law' [See Section 1(c), in relation to Section 20, Idem.]."

It therefore appears that with the exception of the four cases above specified, the Court of Industrial Relations has no jurisdiction even if the case involves a labor dispute. And as the issue in the instant case does not fall under, nor refer to, any of the specified cases, it follows that the lower court has jurisdiction to entertain the same even if there is actually a case pending between the same parties in the

industrial court involving a request by the union to be recognized as the sole collective bargaining unit of the company with regard to its stevedoring and arrastre services, for the instant case merely refers to the recovery of damages occasioned by the picketing undertaken by the members of the union and the rescission of the arrastre and stevedoring contract previously entered into between the parties.

The next issue that arises is: Can the lower court grant injunction in connection with the picketing of the premises of respondent company by the members of the petitioning union? In the affirmative, is the injunction issued by it in accordance with law?

The first question should be answered in the affirmative, considering our finding that the trial court has jurisdiction to take cognizance of the case, but we hold nevertheless that the injunction issued by it is void because the procedure laid down by Section 9 (d) of Republic Act 875 was not followed in its issuance. The instant case, being an outgrowth of a labor dispute arising from the picketing of the premises of respondent company by the members of petitioning union, the trial court cannot grant the injunction merely ex parte under Section 6, Rule 60 of the Rules of Court, but must follow what is provided for in Republic Act No. 875. Thus, in the same case of Philippine Association of Free Labor Unions (PAFLU), et al. vs. Hon. Bienvenido Tan, et al., supra, we said:

> "We believe however that in order that an injunction may be properly issued the procedure laid down in Section 9 (d) of Republic Act 875 should be followed and cannot be granted ex parte as allowed by Rule 60, Section 6, of the Rules of Court. The reason is that the case, involving as it does a labor dispute, comes under said Section 9 (d) of the law. That procedure requires that there should be a hearing at which the parties should be given an opportunity to present witnesses in support of the complaint and of the opposition, if any, with opportunity for cross examination, and that the other conditions required by said Section as prerequisites for the granting of relief must be established and stated in the order of the court. Unless this procedure is followed, the proceedings would be invalid and of no effect. The court would then be acting in excess of its jurisdiction. (Lauf vs. E. G. Shinner Co., Inc., supra)."

Moreover, under Section 9 (d) of Republic Act No. 875, an injunction ex parte can be issued only "upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon hearing after notice." In other words, even if the court can grant an injunction ex parte, there is still need of a hearing wherein the sworn testimony of the applicant should be received, although the writ "shall be effective for no longer than five days and shall be void at the expiration of said five days." The injunction in question, having been issued ex parte, without notice and without hearing, the same is void and without effect (Apolonia Reyes, et al. vs. Hon. Bienvenido Tan, et al., 99 Phil., 880; 52 Off. Gaz., [14] 6187).

WHEREFORE, petition is **DENIED**, but the writ of injunction issued by the court is hereby set aside.

The preliminary injunction issued by this Court is also set aside. No costs.

Padilla, Montemayor, Reyes, A., Labrador, Endencia and Felix, *JJ*., concur.
Bengzon, *J*., concurs in the result.

SEPARATE OPINIONS

REYES, J., concurring and dissenting:

I agree that the injunction issued by the court below was improper and should be revoked. In fact, under the Industrial Peace Act, such ex parte injunctions automatically lapse after five days (Republic Act 875, Section 9 [d]). As to the jurisdictional question, I still believe that the law did not intend to confer upon the Courts of First Instance jurisdiction in labor matters (as stated in my dissent to Philippine Association of Free Labor Unions vs. Tan, 50 Off. Gaz., 5836) if only because from and after the establishment of the Court of Industrial Relations in 1936, the regular courts have not intervened in labor

cases, and are therefore ill-prepared to apply labor laws and policies. And the frequency with which this Court has had to upset their labor injunctions attest to the fact.

CONCEPCION. J.: concurring and dissenting:

I am fully in agreement with the views expressed in the concurring and dissenting opinion of Mr. Justice Reyes (J. B. L.).
Apart from the reasons therein given, in support of the proposition that the Court of First Instance had no jurisdiction to issue the writ of preliminary injunction complained of, the following circumstances are, to my mind, worthy of notice:

The majority opinion finds, correctly, that the instant case is "an outgrowth of a labor dispute" between the parties and that the propriety and legality of the writ of injunction issued by respondent Judge are governed by Section 9 of Republic Act No. 875. The first paragraph thereof reads:

> "(a) no Court, Commission or Board of the Philippines shall have jurisdiction except as provided in Section ten of this Act to issue any restraining order, temporary or permanent injunction in any case involving or growing out of labor dispute to prohibit any person or persons participating or interested in such dispute from being, whether singly or in concert, any of the following acts:" (Italics ours.)
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> As stated in this paragraph, the only exception to the prohibition therein contained is found in Section 10 of said Act, pursuant to which the Court of Industrial Relations may issue a restraining order, under the conditions stated in the same Section. Hence either said Section 9 is applicable to this case or not. If it is, then the only court that could legally issue a writ of injunction under said Section 9 is that mentioned in said Section 10, namely, the Court of Industrial Relations. Indeed, the majority opinion specifically applies Section 9 (d) of Republic Act No. 875, the first paragraph of which reads:

> "No court of the Philippines shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as herein defined except after hearing the testimony of witnesses in open court (with opportunity for cross- examination) in support of the allegations of a complaint made under oath, and in opposition thereto, if offered, and except after finding of fact by the court, to the effect:" (Italics ours.)
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> The phrase "the Court", in the last part of the foregoing sentence, clearly refers to the Court of Industrial Relations, not only because of the determinate article "the" used therein and the capitalization of the word "Court", but, also, because pursuant to Section 2 (a) of said Act, as used therein:
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> "'Court' means the Court of Industrial Relations established by Commonwealth Act Number One hundred and three, as amended, unless another Court shall be specified." (Italics ours.)

and no other court is "specified" in the portion of the sentence alluded to. Yet, said court of Industrial Relations is precisely the one held, in the majority opinion, to be devoid of jurisdiction to issue the writ.

Said opinion quotes from the decision in Philippine Association of Free Labor Unions (PAFLU) vs. Tan (52 Off. Gaz., 5836):

> "But this broad jurisdiction was somewhat curtailed upon the approval of Republic Act 876, the purpose being to limit it to certain specific cases, leaving the rest to the regular courts. Thus, as the law now stands, that power is confined to the following cases: (1) when the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the industrial court (Section 10, Republic Act 875); (2) when the controversy refers to minimum wage under the Minimum Wage Law (Republic Act 602); (3) when it involves hours of employment under the Eight-Hour Labor Law (Commonwealth Act 444); and (4) when it involves an unfair labor practice [Section 5 (a), Republic Act 875]. In all other cases, even if they grow out of a labor dispute, the Court of

> Industrial Relations does not have jurisdiction, the intendment of the law being 'to prevent undue restriction of free enterprises for capital and labor and to encourage the truly democratic method of regulating the relations between the employer and employee by means of an agreement freely entered into in collective bargaining' (Section 7, Republic Act 875). In other words, the policy of the law is to advance the settlement of disputes between the employers and the employees through collective bargaining, recognizing 'that real industrial peace cannot be achieved by compulsion of law' [See Section 1 (c),in relation to Section 20, Idem.]."

Then, it says that, since the issue in the present case does not fall under any of the four (4) classes specified in the foregoing paragraph, it follows that the lower court had jurisdiction over said issue.

To begin with, the last two (2) sentences in the paragraph quoted above are to the effect that, outside of said four (4) kinds of cases which are within the jurisdiction of the Court of Industrial Relations, the issues between capital and labor shall be settled "by means of an agreement freely entered into", not by "compulsion of law." Yet, the majority would sanction the resort to such "compulsion," through a writ of injunction issued by the Court of First Instance, provided only that certain specified facts are established after due hearing.

Again, it appears that the acts enjoined by respondent Judge were an incident of the friction resulting from a demand made by the union, on July 23, 1954, for recognition as the exclusive bargaining unit to load and unload the cargo in respondent's vessel, and of the petition filed by said union, on August 6, 1954, with the Court of Industrial Relations, for certification election. Instead of answering said demand, respondent company countered with a notice terminating the contract between the parties. Thus, the union felt constrained to file, with the Court of Industrial Relations, on August 26, 1954 — or twelve (12) days prior to the institution of the action in the Court of First Instance — a charge of unfair labor practice against said company. And - in the language of the majority opinion — "feeling aggrieved and discriminated against because of the unjust lockout slapped upon the union by the company, the members of the union, together with other employees who were sympathetic with their

cause, engaged in picketing the street and wharf where the vessels of the company used to dock at the port of Iligan City ***." In other words, said picketing was merely an incident of the labor dispute that allegedly prompted the decision of the respondent company, upon which the charge of unfair labor practice was based.

Pursuant to Section 5 (a) of Republic Act No. 875, the Court of Industrial Relations shall have jurisdiction over the prevention of unfair labor practices and "this power shall be exclusive and shall not be affected by any other means or prevention that has been or may be established of an agreement, code, law or otherwise." This jurisdiction is acknowledge in said case of the Philippine Association of Free Labor Union, cited in the majority opinion. Being incidental to the issue provoked by the action of respondent company, which led to the charges of unfair labor practice preferred against the same, the question whether the union should be restrained from performing the acts enjoined by respondent Judge is determinable only by the Court of Industrial Relations, which has exclusive jurisdiction over the principal issue.