SUPREME COURT
SECOND DIVISION

P. A. ALMIRA, P. M. AMURAO, J. R. ANGELES, R. N. BADIOLA, LILIA R. BAUTISTA, G. B. LAIZ, N. A. CANLAS, C. S. DE CASTRO, C. V. CELIS, JR., A. M. DIONISIO, V. S. ESPIRITU, E. S. GUERRERO, J. R. GUTIERREZ, E. HERMIDA, M. O. LORENZO, R. S. MARQUEZ, C. G. PAISO, C. DELA PAZ, O. RABULAN, A. C. SALCEDO, C. P. SAN JUAN, D. T. SULIT, I. F. UY, FELIX BAYANI LOPEZ, GERRY DOMINGO, Z. DACLISON, A. PANGINDIAN, T. F. PESTANO, P. FULGAR, BEATRIZ M. LACSON, EROL A. SUGUITAN, ROSALIE O. ROMERO, AMADOR S JALOSJOS, R. G. ARTEFICIO, M. R. BARTOLOME, MANUEL BASILIA, SYLVIA CAGUIOA, REBECCA DELA CRUZ, ROGELIO I. CRUZ, LIGAYA A. DURAN, ENRIQUE GALIERO, ANNA T. GAMBOA, FELIPE LLAVORE, ARSENIO A. MENDOZA, JUSTO MUEDEN, STALINITA QUIJANO, PATRICIA RODRIGUEZ, ALLINAS P. ALBINDA, RUBEN A. ANTONIO, HERMINIA CANDO, NICOLAS CRUZ, TEREZA A. CRUZ, ANGELES Q. DELA CRUZ, DANIEL F. DAGUIO, MARCIAL DE LA LUPO, C. DE CASTRO, AMELIA R. CEDRO ISLA, ANDRES LACSAMANA, JOSE S. SIENA, ROLANDO S. JOSE, GERFE P. LOHO, BERNARDO

MARTINEZ, GONZALO MORALES, DIONISIO T. ONG, AUGUSTO SANCHEZ, MANUEL V. TIBAY, MANUEL ALMENDRALA, E. V. FRANCIA, CARMELO CAPARROS, ROQUE DUMAGUING, F. P. ESPIRITU, G. I. MANANSALA, CARLOS SANTOS, FELITO E. CABANGON, ANGEL TICSAY, ROBERTO FORMELOZA, ROMEO GONZALES, and FLORENCIO MARQUEZ,

***Petitioners*,**

-versus-

G.R. No. L-34974
July 25, 1974

B. F. GOODRICH PHILIPPINES, INC. COURT OF INDUSTRIAL RELATIONS and HONORABLE JOAQUIN SALVADOR,

***Respondents*.**

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D E C I S I O N

FERNANDO, *J.*:

What is readily apparent in this appeal from a decision of respondent Court of Industrial Relations, declaring a strike illegal because of the means employed, and dismissing petitioners, was the high pitch of bitterness that marked the relationship between labor and management in the establishment of private respondent, B. F. Goodrich Philippines, Inc. Even a cursory reading of the records will make evident that on both sides, there was the feeling that the other party was guilty of conduct the most reprehensible resulting in the

flagrant disregard of its rights. With such a background, there was a greater need for objectivity in the application of the authoritative legal norms to the facts as found. It cannot be said that respondent Court, more precisely respondent Joaquin Salvador, then the Judge whose order is now on appeal, was fully cognizant that such should be the case.[1] It is hard not to lend credence to the contention of petitioners that there was undue receptivity to the claim of private respondent, no doubt induced by the skill, competence, and resourcefulness of its counsel, Atty. Manuel Chan. It was unfortunate that in some of the crucial stages of the controversy, petitioners did not have the same advantage.[2] Nonetheless, as will be shown, the strike could have been viewed with a little less disapproval and even if declared illegal, need not have been attended with such a drastic consequence as termination of employment relationship. This last point is even more compelling considering the security of tenure which is one of the notable features in the present Constitution.[3]

The facts according to the appealed order follow: "As to the conduct of the strike and the picketing, this Court's Order of July 1, 1971 has fully described the same. In the course of the mass picketing, illegal and unlawful acts were committed by the respondents such as physically blocking and preventing the entry of complainant's customers, supplies and other employees who were not on strike, both in complainant's premises in Makati and Marikina, Rizal. Injuries likewise were inflicted on certain employees of complainant. Such acts of violence and intimidation appear to be of such a widespread nature so as to create an impression that there is a common pattern of action set into motion by the respondents. The actuations of respondents are likewise illegal. In the premises of complainant at Makati, Rizal, the respondents who picketed the same on April 20, 1971 were identified. Similarly, some of the respondents who picketed the Marikina premises of complainants were identified.[4] Further: 'The complainant caused the publication of notices in both the Manila Times and Daily Mirror, newspapers of general and wide circulation for all employees not participating in the illegal strike to report for work on or before April 23, 1971, otherwise such failure will be considered as participation therein. Such notices were accompanied by instructions to personnel at all levels on how reporting for work will be accomplished, considering the precarious situation in relation to the safety of employees brought about by the

strike of respondents. With respect to this particular aspect, certain of the respondents who were not seen in the picket line on or before April 23, 1971 were identified as having failed to report for work. It would appear, however, that these listed respondents who failed to report for work likewise were seen picketing the premises of complainant after April 26, 1971."[5] Then came this portion: "It would seem that the picketing by respondents has continued up [to] the present, under the same pattern of coercive activities narrated in our Order Of July 1, 1971. Physical injuries were inflicted on complainant's personnel manager. Mass picketing with the employment of intimidatory statements have again started on January 3, 1972. The roof of the complainant's Makati Recap Plant was set on fire on January 13, 1972."[6]

Based on the above facts, it was held in the appealed order of Judge Salvador: "On the basis, therefore, of the motivation as well as the conduct of the strike, the respondents are declared to have committed an illegal strike, which is likewise an unfair labor practice."[7] As a consequence, in the dispositive portion, petitioners were "declared to have lost their status of employees of the complainant corporation as of April 19, 1971,"[8] The appealed order was handed down on February 4, 1972. Had a greater awareness been displayed to the approach followed by this Court in a 1968 decision, Cebu Portland Cement Co. vs. Cement Workers Union,[9] as well as to Shell Oil Workers' Union vs. Shell Co. of the Philippines, Ltd.,[10] there would have been less certitude displayed in the opinion of Judge Salvador as to the correctness of its decision. Moreover, as stated at the outset, if there be deference to what of late has been so evident, even on the assumption of the illegality of the strike, there need not be the automatic termination of the employment relationship, especially so in view of the command of the present Constitution as to the security of tenure.

1. It is understandable why respondent Judge Salvador was unsympathetic to a strike in which petitioners participated, considering the pendency of a certification election, just because management would not consider their union as the exclusive collective bargaining representative. At the very least, it was premature. Nonetheless, there was this commendable admission in the appealed order of Judge Salvador: "Lest we be

misconstrued, the illegality of a strike for recognition as a general proposition is not absolute. We declare such strike illegal on the basis of the attendant circumstances in this case."[11] It mentioned the attendant circumstances, but as was apparent in an earlier portion of such order, what respondent Judge apparently could not resist was the compelling force of what by now should be an outmoded view of a strike being "by its very nature coercive."[12] To display such a predisposition is to ignore the leading case of Cebu Portland Cement Co. vs. Cement Workers Union.[13] For, as was therein pointed out, the ruling in National Labor Union, Inc. vs. Philippine Match Factory[14] to the effect that a strike "is an economic weapon at war with the policy of the Constitution and the law," resort to which "is not, in plain terms, outlawed,"[15] although certainly discouraged, is obsolete, for as was so clearly pointed out by Justice J. B. L. Reyes in Cebu Portland Cement Co. vs. Cement Workers Union:[16] "For a time, decisions on the issue under consideration were characterized by strict adherence to the ruling in the Philippine Match Factory Case."[17] Further, it was stated by him: "The actual break-away from the doctrine laid down in the Philippine Match Factory case came in Dinglasan vs. National Labor Union, when the discretionary power of the Court of Industrial Relations to grant affirmative relief was recognized. Thereafter, the doctrine enunciated in Interwood Employees Association, that good faith of the strikers in the staging of the strike is immaterial in the determination of the legality or illegality of the strike, was abandoned. In the case of Ferrer vs. CIR, et al. the belief of the strikers that the management was committing unfair labor practice was properly considered in declaring an otherwise premature strike, not unlawful, and in affirming the order of the Labor Court for the reinstatement without back wages of said employees."[18] This 1968 decision of this Court, if present in the consciousness of respondent Judge Salvador, certainly could have caused, at the very least, a hesitancy on his part to declare the strike illegal. This is not to deny that the labor union ought not to have declared a strike under such circumstances, but at least, while premature, it could have been plausibly viewed as inspired by good faith, although perhaps not guided by sound legal advice.

2. What was set forth in the facts as found by respondent Judge Salvador would indicate that it was during the picketing, certainly

not peaceful, that the imputed acts of violence did occur. It cannot be ignored, however, that there were injuries on both sides because management did not, understandably, play a passive role confronted as it was with the unruly disruptive tactics of labor. This is not, by any means, to condone activities of such character, irrespective of the parties responsible. It is merely to explain what cannot be justified. Nonetheless, did the acts in question call for an automatic finding of illegality? Again, the order issued on February 4, 1972 appeared to be oblivious of a 1971 decision of this Court, Shell Oil Workers' Union vs. Shell Company of the Philippines, Ltd.[19] There it was clearly held: "A strike otherwise valid, if violent in character, may be placed beyond the pale. Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed."[20] It must be pointed out likewise that the facts as there found would seem to indicate a greater degree of violence. Thus: "Respondent Court must have been unduly impressed by the evidence submitted by the Shell Company to the effect that the strike was marred by acts of force, intimidation and violence on the evening of June 14 and twice in the mornings of June 15 and 16, 1967 in Manila. Attention was likewise called to the fact that even on the following day, with police officials stationed at the strike-bound area, molotov bombs did explode and the streets were obstructed with wooden planks containing protruding nails. Moreover, in the branches of the Shell Company in Iloilo City as well as in Bacolod, on dates unspecified, physical injuries appeared to have been inflicted on management personnel. Respondent Court in the appealed decision did penalize with loss of employment the ten individuals responsible for such acts. Nor is it to be lost sight of that before the certification on June 27, 1967, one month had elapsed during which the Union was on strike. Except on those few days specified then, the Shell Company could not allege that the strike was conducted in a manner other than peaceful. Under the

circumstances, it would be going too far to consider that it thereby became illegal."[21] Then, mention was made of a decision "in Insular Life Assurance Co., Ltd. Employees' Association vs. Insular Life Assurance Co., Ltd. [where] there is the recognition by this Court, speaking through Justice Castro, of picketing as such being `inherently explosive.' It is thus clear that not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment by the guilty party."[22]

There was in that case a concurring opinion by Justice Barredo which elicited the approval of the present Chief Justice. Thus: "All these, however, do not mean, on the other hand, that petitioner's strike should necessarily be held to be illegal. It is always a wholesome attitude in cases of this nature to give but secondary importance to strict technicalities, whether of substantive or remedial law, and to constantly bear in mind the human values involved which are beyond pecuniary estimation."[23]

It would seem, therefore, to reiterate a point, that on the date of the appealed order of February 4, 1972, a less condemnatory attitude to the appearance of violence as such was part of the law of the land. It is to be admitted that this is one of those close cases. What is merely emphasized is that the imputation of illegality on the ground of the means employed is not automatically called for.

3. This is not to say that the appealed order is totally bereft of support in law. It is merely to point out that the facts as found did not point automatically and unerringly to so severe a result, namely the dismissal of petitioners. From a perspective more attuned to the trend indicated in current decisions of this Court, the three cited cases being representative, the conclusion reached could have been cast in a different mold. In labor law, as in constitutional law, it is no doubt true that the issues submitted, in the language of Justice Malcolm, may be "determined by the court's approach to them."[24] It is submitted that the direction indicated in the express language of both the 1935 and the present Constitution, is that which leads to protection to labor.[25]

   As previously noted, both petitioners and private respondent were guilty of practices far from peaceful in character. The original

blame must of course be assumed by petitioners, for they ought to have known that the picketing that comes within the protection of the free speech guarantee is one that is peaceful. It involves people marching to and fro with placards to acquaint the public with the facts of a labor dispute. So it has been ruled from Mortera vs. Court of Industrial Relations,[26] a 1947 decision, to Chan Bros., Inc. vs. Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas,[27] decided in January of this year. When they obstructed entrance into the premises of private respondent, they ought to have known that they were inviting reprisal. It has been observed of course that in labor controversies the unstructured incoherencies of vehement protest for grievances, sincerely even if erroneously felt, may easily flare up into rowdy conduct. So it did come about. The appealed order took note of the resulting melee. From the standpoint of settling a dispute, it would not suffice just to visit recriminations on either or both parties. The more crucial question is what to do next.

We start with the circumstances that ought to be considered. To repeat, the breach of the peace, though started by petitioners, was not solely their responsibility as it turned out. For criminal charge, and countercharges were filed by one group against the other. The reply brief of private respondent, submitted on March 8, 1973, included a memorandum from a certain Attorney Rolando A. Velasco, speaking of the status of the criminal cases filed by the group of petitioners against management men,[28] and of thirteen criminal cases as well as complaints against at least thirty individuals identified with private respondent.[29] In some of them the complainants did not press charges, and the cases were dismissed. With the submission of such data, its objection to the admission of information similar in character as to the status of the criminal cases against petitioners loses weight. What is more, it does not appear as of this date as to who of the petitioners were found guilty of what was referred to it in the Shell opinion as committing serious acts of violence. As a matter of fact, the appealed order merely referred to the instances of picketing conducted illegally without specifically pin-pointing the culprits to whom such kind of conduct could be ascribed. It would seem therefore, that the wholesale dismissal of petitioners is far from warranted. It is to be admitted though that on a showing of having

engaged in non-peaceful activities of a serious character, the right to readmission is defeated.

This conclusion is further fortified by the stress on the security of tenure that is a notable feature of the present Constitution. As pointed out in a decision rendered only last month, Philippine Airlines, Inc. vs. Philippine Air Lines Employees Association:[30] "The futility of this appeal becomes even more apparent considering the express provision in the Constitution already noted, requiring the State to assure workers 'security of tenure.' It was not that specific in the 1935 Charter. The mandate was limited to the State affording 'protection to labor, especially to working women and minors. That is to conform to the ideal of the New Society, the establishment of which was to felicitously referred to by the First Lady as the Compassionate Society."[31] To the possible objection that in this Philippine Air Lines case, there was an order of reinstatement, it suffices by way of an answer that while the facts could be distinguished, the basic principle in accordance with a constitutional mandate, in the language of Justice Cardozo, speaks with "a reverberating clang that drowns all weaker sounds."

It would imply at the very least that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there he acceptance of the view that under all the circumstances of this case, petitioners should not be deprived of their means of livelihood. Nor is this to condone what had been done by them. For all this while, since private respondent considered them separated from the service, they had not been paid. From the strictly juridical standpoint, it cannot he too strongly stressed, to follow Davis in his masterly work, Discretionary Justice,[32] that where a decision may be made to rest an informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight. Finally, labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*.

4. This is all that needs to be said except to remind petitioners that the basic doctrine underlying the provisions of the Constitution so solicitous of labor as well as the applicable statutory norms is that both the working force and management are necessary components of the economy. The rights of labor have been expanded. Concern is evident for its welfare. The advantages thus conferred, however, call for attendant responsibilities. The ways of the law are not to be ignored. Those who seek comfort from the shelter that it affords should be the last to engage in activities which negate the very concept of a legal order as antithetical to force and coercion. What is equally important is that in the steps to be taken by it in the pursuit of what it believes to be its rights, the advice of those conversant with the requirements of legal norms should be sought and should not be ignored. It is even more important that reason and not violence should be its milieu.

WHEREFORE, the appealed order of February 4, 1972 as affirmed in a resolution of March 14, 1972 is reversed and set aside. Petitioners against whom no criminal charges filed in relation to their acts referred to in this decision are still pending are ordered reinstated to their employment, with the right to backpay corresponding to eighteen (18) months, at the respective rates of compensation they were being paid on February 4, 1972, without any deduction corresponding to any possible income earned elsewhere since their dismissal to the present. Those petitioners against whom criminal complaints have been filed shall be reinstated, with the right to backpay as herein indicated, only upon the final dismissal of said cases or their acquittal therein. Respondent Court is hereby ordered to implement this decision as expeditiously as possible. No costs.

Zaldivar, Barredo, Antonio, Fernandez and Aquino, *JJ.*, concur.

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[1] The Order of Judge Salvador was thereafter affirmed in a resolution by the then Presiding Judge Arsenio I. Martinez and Associate Judge Amando C. Bugayong who only concurred in the result. The two Associate Judges, Ansberto P. Paredes and Alberto S. Veloso, took no part.

[2] With the appearance of their new counsel, however, Atty. Domingo E. de Lara, there has been decided improvement in the advocacy of their cause.
[3] Article II, Section 9 of the Constitution reads: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."
[4] Order of Respondent Judge, Annex C to Petition, 16-17.
[5] Ibid, 17.
[6] Ibid, 17-18.
[7] Ibid, 18.
[8] Ibid.
[9] L-25032, October 14, 1968, 25 SCRA 504.
[10] L-28607, May 31, 1971, 39 SCRA 276.
[11] Order of Respondent Judge, Annex C to Petition, 16.
[12] Ibid, 14.
[13] 25 SCRA 504.
[14] 70 Phil. 300 (1940).
[15] Ibid, 303.
[16] 25 SCRA 504.
[17] Ibid, 514.
[18] Ibid, 514-515. Dinglasan is reported in 106 Phil. 671 (1959) and Ferrer, L-24267, May 31, 1966 in 17 SCRA 352. Interwood Employees Association is found in 99 Phil. 82 (1956).
[19] 39 SCRA 276.
[20] Ibid, 292.
[21] Ibid, 292-293.
[22] Ibid, 293-294.
[23] Ibid, 299.
[24] Manila Trading and Supply Co. vs. Reyes, 62 Phil. 461, 471 (1935).
[25] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration." In the 1935 Constitution, the same provision is found in Article XIV, Section 6 thus: "The State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between land-owner and tenant, and between labor and capital in industry and in agriculture. The State may provide for compulsory arbitration."
[26] 79 Phil. 345.
[27] L-34761, January 17, 1974, 55 SCRA 99.
[28] Reply Brief of Respondent, 76-82.

[29] Ibid.
[30] L-24626. June 28, 1974.
[31] Ibid.
[32] Cf. Davis, Discretionary Justice (1969).