SUPREME COURT
EN BANC

ASSOCIATED LABOR UNION,
***Petitioner*,**

-versus-

G.R. No. L-26461
November 27, 1968

JUDGE JOSE C. BORROMEO, and ANTONIO LUA doing business under the name CEBU HOME & INDUSTRIAL SUPPLY,
***Respondents*.**
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D E C I S I O N

CONCEPCION, *C.J.*:

Original action for Certiorari and Prohibition, with preliminary injunction, to annul writs of preliminary injunction issued in Case No. R-9414 of the Court of First Instance of Cebu, entitled "Cebu Home and Industrial Supply and Antonio Lua vs. Associated Labor Union," and to restrain the Honorable Jose C. Borromeo, as Judge of that Court, from hearing said case.

Petitioner herein, Associated Labor Union — hereinafter referred to as ALU — is a duly registered labor organization. Among the members thereof are employees of Superior Gas and Equipment Company of Cebu, Inc. — hereinafter referred to as SUGECO — a

domestic corporation with offices at Juan Luna Street, Cebu City, and a factory plant in Basak, Mandaue, province of Cebu. On January 1, 1965, ALU and SUGECO entered into a collective bargaining contract, effective up to January 1, 1966. Negotiations for the renewal of the contract between ALU and SUGECO were begun prior to the date last mentioned. While said negotiations were going on, late in February, 1966, twelve (12) SUGECO employees resigned from ALU. Thereupon, the negotiations stopped. On March 1, 1966, ALU wrote SUGECO requesting that the twelve (12) resigned employees be not allowed to report for work unless they produced a clearance from ALU;[1] but this request was immediately rejected by SUGECO, upon the ground that it would cause irreparable injury, that the bargaining contract had lapsed already, and that SUGECO could no longer demand said clearance from its employees. SUGECO intimated, however, that, should the twelve (12) men rejoin ALU, negotiations "for the renewal of the collective bargaining contract" could be resumed.

On the same date, ALU wrote SUGECO charging that the latter was bargaining in bad faith and that its supervisors had campaigned for the resignation of ALU members, as well as serving notice that, unless these unfair labor practice acts were stopped immediately and a collective bargaining contract between SUGECO and ALU forthwith entered into, the latter would declare a strike and establish the corresponding picket lines "in any place where your business may be found." Counsel for SUGECO replied to the ALU, on March 3, 1966, stating that, with the resignation of the aforementioned ALU members, ALU no longer represented the majority of the SUGECO employees for purposes of negotiation and recognition.

On March 4, 1966, ALU struck and picketed the SUGECO plant in Mandaue. The next day, March 5, SUGECO commenced Civil Case No. R-9221 of the Court of First Instance of Cebu, against ALU, to restrain the same from picketing said plant and the SUGECO offices at Cebu City and elsewhere in the Philippines. Forthwith, the Honorable Amador E. Gomez, as Judge of the Court of First Instance of Cebu, Branch II, caused to be issued, ex-parte, the writ of preliminary injunction prayed for by SUGECO.

On the same date,[2] ALU preferred, in the Court of Industrial Relations — hereinafter referred to as CIR — unfair labor practice charges against SUGECO, its general manager, Concepcion Y. Lua — hereinafter referred to as Mrs. Lua — and its two (2) supervisors, alleging, inter alia, that these respondents had coerced and exerted pressure upon the aforementioned ALU members to resign, as they did resign from ALU, and that their resignations were seized upon by SUGECO to refuse further negotiations with ALU. On April 29, 1966, an acting prosecutor of the CIR filed therein against SUGECO the corresponding complaint for unfair labor practice.[3]

Meanwhile, ALU had moved for a reconsideration of the order of Judge Gomez, dated March 5, 1966, sanctioning the issuance of the writ of preliminary injunction against ALU. This motion was later denied by Judge Jose C. Borromeo, who presided Branch IV of the Court of First Instance of Cebu.[4] Hence, on May 9, 1966, ALU instituted Case No. L- 25999 of the Supreme Court, for certiorari and prohibition, with preliminary injunction, against Judges Gomez and Borromeo and the SUGECO, and prayed therein that the CFI of Cebu be declared without jurisdiction over the subject-matter of said Case No. R-9221; that the writ of preliminary injunction therein issued be annulled; that Judges Gomez and Borromeo be directed to dismiss said case; and that, meanwhile, they be ordered to desist from further proceedings in said case, and from enforcing the writ aforementioned. On May 16, 1966, we issued the writ of preliminary injunction sought by ALU in L-25999. Subsequently, or on February 9, 1967, we rendered judgment therein in favor of ALU, annulling the writ of preliminary injunction issued in said Case No. R-9221, on March 5, 1966, directing respondent Judges to dismiss the same, and declaring permanent the writ of preliminary injunction issued by us on May 16, 1966.

Soon after the issuance of the latter writ, ALU resumed the picketing of the SUGECO plant in Mandaue. Moreover, it began to picket the house of Mrs. Lua, SUGECO's general manager, and her husband Antonio Lua — hereinafter referred to as Mrs. Lua — at Abellana Street, Cebu City, and the store of the Cebu Home and Industrial Supply — hereinafter referred to as Cebu Home — at Gonzalez Street, Cebu City. The Cebu Home, which belongs to and is managed by Mr. Lua, deals in general merchandise, among which are oxygen,

acetylene and cooking gas produced by SUGECO. On June 21, 1966, Cebu Home and Mr. Lua — hereinafter referred to as respondents — filed a complaint, docketed as Civil Case No. 9414 of the CFI of Cebu, against ALU, to restrain the latter from picketing the store and residence aforementioned and to recover damages. Thereupon, Judge Borromeo issued an order requiring the ALU to show cause why the writ sought should not be issued. In a memorandum filed on June 25, 1966 and a motion to dismiss dated June 29, 1966, the ALU assailed the Court's jurisdiction to hear the case upon the ground that it had grown out of a labor dispute. This, notwithstanding, on June 30, 1966, Judge Borromeo issued an order the dispositive part of which reads:

> "WHEREFORE, upon filing of a bond by the petitioners[5] in the amount of P3,000.00 to answer for damages which the respondent[6] may be entitled, let a writ of preliminary injunction be issued, restraining the respondent, its officers, employees, agents or persons acting in its behalf:
>
> > "1) From picketing the office of the Cebu Home and Industrial Supply in Gonzales Street, Cebu City and the residence of the petitioner Antonio Lua in Abellana Street, Cebu City;
> >
> > "2) From preventing the employees of the petitioners from entering inside or going out the office of the Cebu Home and Industrial Supply and the residence of the petitioner Antonio Lua;
> >
> > "3) From stopping the car, truck or other vehicles entering or going out the office of Cebu Home and Industrial Supply and the residence of Antonio Lua;
> >
> > "4) From preventing the sale and distribution by the petitioners of its merchandise in connection with its business; and
> >
> > "5) From performing acts which cause disturbance of the tranquility and privacy of the petitioner and his family."

On July 4, 1966, respondents herein moved to amend the foregoing order so as to broaden its scope. Upon the other hand, on July 6, 1966, ALU sought a reconsideration of said order and the lifting of the writ of preliminary injunction issued on June 30, 1966. Acting upon a motion to amend of respondents herein, Judge Borromeo issued, on July 22, 1966, another order, from which we quote:

> "Considering the evidence presented and the facts stated in the previous order of the Court, it is believed that the petition is justified and that the acts complained of, if not restrained, will render the writ of preliminary injunction ineffective.
>
> "WHEREFORE, in connection with the writ of preliminary injunction which was previously issued, the respondent union, its members, agents or persons acting in its behalf are hereby restrained:
>
> > "a) From preventing the petitioners, their employees or representatives from unloading their merchandise and other supplies coming from Manila or other places and from hauling them from the waterfront for the purpose of delivering them to the place of the petitioners;
> >
> > "b) From preventing the petitioners or their representatives from delivering and loading their empty tanks and other supplies to the boat or other means of transportation for Manila or other places; and
> >
> > "c) From preventing, obstructing or molesting the petitioners, their employees or representatives from performing acts in connection with their business."

On July 25, 1966, Judge Borromeo denied ALU's motion to dismiss Case No. R-9414 and to reconsider his order and dissolve the writ of preliminary injunction of June 30, 1966. Thereupon, or on August 26, 1966, ALU commenced the present action for certiorari and prohibition with preliminary injunction, to annul the writs of preliminary injunction issued, on June 30 and July 22, 1966, in Case No. R-9414 and to restrain the lower court from hearing the same.

ALU maintains that the lower Court has no jurisdiction over Case No. R-9414 because it had grown out of a labor dispute, is intimately connected with an unfair labor practice case pending before the CIR and involves a strike the injunction against which had already been lifted by the Supreme Court in G.R. No. L-25999.[7] Moreover, ALU claims that even if the lower court had jurisdiction over Case No. R-9414, the writs of preliminary injunction issued therein are null and void, not only because of said lack of jurisdiction, but, also, because it failed to observe the requirements of Sec. 9(f) of Republic Act No. 875, as well as the provisions of Sec. 9(d) (5) of the same Act, requiring findings of facts on matters enumerated therein.

Upon the other hand, respondents argue that the issue in the lower court does not fall within the jurisdiction of the CIR, there being no employer-employee relationship and "no labor dispute" between the ALU members and Cebu Home; and that, at any rate, the SUGECO products distributed and sold by Cebu Home came, not from the SUGECO plant in Mandaue, but from other parts of the Philippines. Respondents further deny that the residence of Mr. Lua was being used as a place to store and refill SUGECO gas for resale.

Respondents' pretense is untenable. To begin with, Section 5(a) of Republic Act No. 875[8] vests in the Court of Industrial Relations exclusive jurisdiction over the prevention of any unfair labor practice. Moreover, for an issue "concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment" to partake of the nature of a "labor dispute", it is not necessary that "the disputants stand in the proximate relation of employer and employee."[9]

Then, again, in order to apply the provisions of Sec. 9 of Republic Act No. 875, governing the conditions under which "any restraining order" or "temporary or permanent injunction" may issue in any "case involving or growing out of a labor dispute," it is not indispensable that the persons involved in the case be "employees of the same employer," although this is the usual case. Sec. 9,[10] likewise, governs cases involving persons: 1) "who are engaged in the same industry, trade, craft, or occupation"; or 2) "who . have direct or

indirect interests therein;" or 3) "who are members of the same or an affiliated organization of employers or employees"; or 4) "when the case involves any conflicting or competing interests in a `labor dispute' (as hereinbefore defined) or `persons participating or interested' therein (as hereinafter defined)." Furthermore, "a person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it" and "he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employees or employers engaged in such industry, trade, craft, or occupation."[11]

Now, then, there is no dispute regarding the existence of a labor dispute between the ALU and SUGECO-Cebu; that SUGECO's general manager, Mrs. Lua, is the wife of the owner and manager of Cebu Home, Antonio Lua; and that Cebu Home is engaged in the marketing of SUGECO products. It is, likewise, clear that as managing member of the conjugal partnership between him and his wife, Mr. Lua has an interest in the management by Mrs. Lua of the business of SUGECO and in the success or failure of her controversy with the ALU, considering that the result thereof may affect the condition of said conjugal partnership. Similarly, as a distributor of SUGECO products, the Cebu Home has, at least, an indirect interest in the labor dispute between SUGECO and the ALU and in Case No. R-9221. In other words, respondents herein have an indirect interest in said labor dispute, for which reason, we find that Section 9 of Republic Act No. 875 squarely applies to Case No. R-9414.

Thus, in Goldfinger vs. Feintuch[12] it was held:

> "Within the limits of peaceful picketing, however, picketing may be carried on not only against the manufacturer but against a non- union product sold by one in unity of interest with the manufacturer who is in the same business for profit. Where a manufacturer pays less than union wages, both it and the retailers who sell its products are in a position to undersell competitors who pay the higher scale, and this may result in unfair reduction of the wages of union members. Concededly the defendant union would be entitled to picket peacefully the

> plant of the manufacturer. Where the manufacturer disposes of the product through retailers in unity of interest with it,[13] unless the union may follow the product to the place where it is sold and peacefully ask the public to refrain from purchasing it, the union would be deprived of a fair and proper means of bringing its plea to the attend of the public."

Besides, the ALU introduced evidence to the effect that the SUGECO products had been brought to Cebu Home and were being distributed in the latter, as a means to circumvent, defeat or minimize the adverse effects of the picketing conducted in the SUGECO plant and offices in Mandaue and Cebu City respectively by ALU. It is true that respondents averred that said products were purchased by Cebu Home before the strike was declared against SUGECO and that some of said products were obtained from SUGECO in other parts of the country; but, even if true, these circumstances did not place the picketing of the Cebu Home beyond the pale of the aforesaid Section 9 of Republic Act No. 875 because, as distributor of SUGECO products, Cebu Home was engaged in the same trade as SUGECO. Neither does the claim that some SUGECO products marketed by Cebu Home had come, not from the Mandaue plant, but from other parts of the Philippines, detract from the applicability of said provisions, considering that ALU had struck against SUGECO and had announced, as early as March 1, 1966 — or three (3) days before it struck — its intent to picket "any place where your business may be found" and that SUGECO in Cebu is a sister company of SUGECO elsewhere in the Philippines.

For, a similar reason, in American Brake Shoe Co. vs. District Lodge 9 of International Association of Machinists,[14] the Supreme Court of Pennsylvania ruled:

> "Where corporate employer had separate plants in Missouri and Pennsylvania, and labor dispute existed at Missouri plant, but not at the Pennsylvania plant, peaceful picketing at Pennsylvania plant by members of union representing employees at Missouri plant was not an unfair labor practice as defined by Labor Management Relations Act."[15]

In the language of the American Jurisprudence:[16]

> "It seems now generally agreed that a state cannot either by its common law or by statute prohibit the peaceful picketing of a place of business solely on the ground that the picketing is carried on by persons not employed therein. The United States Supreme Court has held that the constitutional guaranty of free speech is infringed by the judicial policy of a state to forbid peaceful picketing on the ground that it is being conducted by strangers to the employer affected, that is, by persons not in the relation of employer and employee with him. Rules limiting picketing to the occasion of a labor dispute are not offended by the act of a union having a grievance against a manufacturer in picketing a retail establishment in which its products are sold when there is a unity of interest between the manufacturer and the retailer; this is true even when the shopkeeper is the sole person required to run his business. And the right of employees on strike at one plant of an employer to picket another plant of the same employer has been upheld even though some of the employees of the picketed plant as a result refused to work despite a no-strike agreement. Also, a union may picket a retail store selling goods made a non-union factory between which and the union there is an industrial dispute, provided there is a unity of interest between the retailer and the manufacturer."[17]

Apart from the foregoing, it will be recalled that, prior to the expiration of the collective bargaining contract between ALU and SUGECO, on January 1, 1966, negotiations had started for the renewal of said contract; that during said negotiations, late in February 1966, twelve (12) SUGECO employees resigned from ALU, owing — according to charges preferred by ALU and confirmed by a complaint filed by a CIR prosecutor — to unfair labor practices allegedly committed by SUGECO and its supervisors who, it was also claimed, had induced and coerced said employees to quit the ALU, which they did; that, thereupon, SUGECO stopped negotiating with ALU alleging that, with the resignation of said twelve (12) members, ALU no longer represented a majority of the SUGECO employees; that on March 4, 1966, ALU declared a strike and picketed the SUGECO plant in Mandaue; that the next day, SUGECO filed Case No. R-9221 of the CFI of Cebu, which forthwith issued a writ of preliminary injunction restraining ALU from picketing, not only the

plant, but, also, the SUGECO offices elsewhere in the Philippines; that said injunction was dissolved by the Supreme Court on May 16, 1966;[18] and that the premises of respondents herein were not picketed until after our injunction was enforced, subsequently to May 16, 1966.

This factual background reveals that, from sometime before January 1, 1966 — when negotiations for the renewal of the collective bargaining agreement between SUGECO and ALU were begun — to sometime after May 16, 1966,[19] or, at least, from late in February 1966 — when the aforementioned unfair labor practices were allegedly committed by SUGECO — to sometime before June 21, 1966,[20] there was ample opportunity to store SUGECO products in respondents' premises. There was, therefore, reasonable ground for the ALU to believe or suspect that SUCECO was using said premises to circumvent and blunt the ALU strike and picketing in the SUGECO plant in Mandaue or to defeat or offset the adverse effects of both.

Respondent Judge seemed to be of the opinion that, for the subject-matter of Case No. 9414 to be within the exclusive jurisdiction of the CIR, it was necessary to establish, as a fact, the truth of ALU's contention that respondents' premises were being used as an outlet for SUGECO products.

Such view suffers from a basic flaw. It overlooks the fact that the jurisdiction of a court or quasi-judicial or administrative organ is determined by the issues raised by the parties, not by their success or failure in proving the allegations in their respective pleadings.[21] Said view would require the reception of proof, as a condition precedent to the assumption of jurisdiction, when precisely jurisdiction must exist before evidence can be taken, since the authority to receive it is in itself an exercise of jurisdiction. Moreover, it fails to consider that, to affect the jurisdiction of said court, or organ, the main requirement is that the issue raised be a genuine one. In other words, the question posed must be one that is material to the right of action or which could affect the result of the dispute or controversy.[22] Such is, manifestly, the nature of ALU's contention in the lower court, which should have, accordingly, granted the motion to dismiss and lifted the writs of preliminary injunction complained of.

Finally, respondents herein have not alleged, let alone proved, that the conditions enumerated in Section 9 (d) of Republic Act No. 875,[23] as a prerequisite to an injunction in labor disputes, have been complied with. Such failure is, as has been repeatedly held,[24] fatal to the validity of said injunction.

WHEREFORE, the orders of respondent Judge dated June 30, and July 22, 1966 and the writs of preliminary injunction issued in accordance therewith are hereby declared null and void ab initio, with costs against respondents herein, the Cebu Home and Industrial Supply and Antonio Lua.

IT IS SO ORDERED.

Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando and Capistrano, *JJ.*, concur.

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[1] Said clearance was, presumably, required by the collective bargaining contract.
[2] March 5, 1966.
[3] Case No. 400 UCP-Cebu. "The Associated Labor Union, complainant vs. Superior Gas & Equipment Co. of Cebu, Inc., respondent."
[4] Seemingly, as vacation Judge thereof.
[5] Respondents herein.
[6] ALU.
[7] In its "Memorandum for the Respondent" (Annex "H"-Petition) dated June 24, 1966, ALU claimed that "the present action may just be a means of avoiding said Supreme Court injunction and may even be contemptuous."
[8] "Sec. 5 (a) The Court shall have jurisdiction over the prevention of unfair labor practices and is empowered to prevent any person from engaging in any unfair labor practice. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise."
[9] Pursuant to Sec 2(j) R.A. No. 875: PAFLU vs. Tan, 99 Phil. 854; Associated Watchmen Security Union (PTWO) et al. vs. U.S. Lines et al., 101 Phil. 896.
[10] Par. (f) Sec. 9, R.A. 875.
[11] Par. (f) sub-pars. (1) and (2), Sec. 9, R.A. 875.
[12] 11 N.E. 2d 910, 913.
[13] Italics supplied.
[14] 94 A. 2d 884.
[15] Italics supplied.
[16] 31 Am. Jur. 752.

[17] Italics supplied.
[18] This injunction became permanent with the rendition of the decision of the Supreme Court in L-25999 on February 9, 1967.
[19] When the injunction of the Supreme Court was enforced.
[20] The transcript cited in the Petition for Certiorari (par. 5) stated that "two weeks before, the ALU picketed his office at F. Gonzales Street, Cebu City; that three days before, they picketed his house and put up placards in front of his door and examined his car in going in and out and there were many people watching (t.s.n. Vizcayno, June 23, 1966, pp. 25-26)." This places the date of the picketing of Cebu Home somewhere on June 9, 1966 and that of the residence of the Luas on June 19 or 20, 1966.
[21] E.J. Neil Co. vs. Cubacub, L-20842, June 23, 1965; Campos Rueda Corporation vs. Bautista, L-18453, September 29, 1962.
[22] Campos Rueda Corporation vs. Bautista, L-18453, September 29, 1962.
[23] "(d) 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 testimony in opposition thereto, if offered, and except after finding of fact by the Court, to the effect:
    (1) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act expecting against the person or persons, association or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof;
    (2) That substantial and irreparable injury to complainant's property will follow;
    (3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;
    (4) That complainant has no adequate remedy at law; and
    (5) That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection."
[24] Seno vs. Mendoza, L-20565, November 29, 1967; PAFLU vs. Barot, 99 Phil. 1008; Allied Free Workers Union vs. Apostol 102 Phil. 292.