CHANROBLES PUBLISHING COMPANY

SUPREME COURT
EN BANC

ASSOCIATED LABOR UNION, DEMOCRITO T. MENDOZA and CECILIO T. SENO,
***Petitioners*,**

-versus-

G.R. No. L-23537
March 31, 1965

THE HON. JUDGE MODESTO R. RAMOLETE of the Court of First Instance of Cebu, KATIPUNAN LUMBER CO., INC., and ROQUE ABELLAR,
***Respondents*.**
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D E C I S I O N

SEPARATE OPINIONS:

REYES, J., concurring:

PAREDES, *J.*:

Respondent Katipunan Lumber Co., Inc. (Katipunan for short), is engaged in the lumber business, and maintains a regular and permanent staff of office employees, drivers and laborers, who

perform the routinary phases of its operations, and who are affiliated with the Cebu Industrial Labor Organization, a duly accredited labor union. Regarding the other phases of its business, specially those which are occasional, it engages, as all other firms dealing in the same kind of business, independent labor contractors, the compensation of which was dependent upon the work done, so much per thousand board feet of lumber hauled, piled, transferred and/or classified. For the handling and hauling, loading and unloading of lumber cargoes from the pier to the lumberyard of Katipunan, Dionisio Antioquia was engaged; the City Trucking Service, Inc., took care of handling the hauling, loading and unloading of plywood cargoes from pier to bodega or from bodega to pier and other places; Luis Amores was in charge of the classification, piling and transfer of stocks from one place to another, inside the lumberyard and Cirilo Cabasa, other manual work, not included in the routinary exigencies of work within the lumberyard. Since the case at bar arose out of the contract of Cirilo Cabasa with Katipunan, We will refrain from discussing the participation of the other independent contractors.

Cirilo Cabasa had an existing contract with Katipunan to supply all the laborers occasionally needed by it on jobs not assigned to other independent contractors and not embraced in the regular routinary conduct of business. On August 18, 1964, Cabasa asked for the termination of his contract. Roque Abellar who also had similar contracts with other lumber companies in Cebu City, entered into a written contract with respondent Katipunan, to furnish all the labor needed by the latter, in connection with its business phases, performed before by Cabasa.

On September 3, 1964, Katipunan and Roque Abellar, filed with the CFI of Cebu, presided over by the Honorable Modesto Ramolete, a complaint for Injunction and Damages, with a Preliminary Injunction (Civil Case No. R-8564), against Democrito T. Mendoza, Cecilio T. Seno and the Associated Labor Union. In the complaint, besides stating the jurisdictional facts and the harassing and coercive tactics, threats, cajoleries and other overt acts which Katipunan claimed to be an illegal interference by the respondents therein, in the contractual obligations of Katipunan and Abellar, it was also alleged that there was absolutely no employer-employee relationship between the Katipunan and the laborers of the independent contractor Abellar,

the latter being strictly responsible in matters of control and supervision.

On September 8, 1964, respondent Judge Ramolete handed down an order, the pertinent portions of which recite:

"The allegations of facts of the plaintiffs and the further fact that the said plaintiffs will suffer great and irreparable damage unless the acts complained of by the defendants will be restrained by a writ of preliminary injunction. The Court believes that the writ may be issued upon the plaintiffs' filing a bond of P50,000.00 to guarantee the damages that may be suffered by the defendants in case the issuance of the writ is not justified under the authority of Section 3 of Rule 58 of the Rules of Court.

"WHEREFORE, considering the request for the issuance in the meantime of the writ of preliminary injunction justified and authorized under the provisions of the said Rules of Court, the Court hereby grants the request and let a writ of preliminary injunction be issued upon plaintiffs' filing of a bond of P50,000.00 to answer for any damage that may be caused on the defendants by the issuance of the writ, restraining the said defendants their agents, laborers, officials and representatives from (a) blocking and disturbing the passage of trucks used by co-plaintiff Roque Abellar in the course of the performance of the duties assumed by him under his contract with plaintiff Katipunan Lumber Co., Inc., especially in the entry and exit of the same to and from the premises of latter plaintiff's lumberyard; (b) disturbing and molesting the laborers of co-plaintiff Roque Abellar in the piers, wharf and other places of loading and unloading of the lumber, plywood and other construction materials, including the premises of plaintiff Katipunan Lumber Co., Inc; (c) persuading, cajoling and/or coercing shipping companies into refusing to accept the shipment of incoming and outgoing cargoes of plaintiff Katipunan Lumber Co., Inc.; and (d) persuading and/or threatening plaintiff Katipunan Lumber Co., Inc.'s customers and dealers into refusing to purchase or deal with."

Defendants, presented a "Motion for Reconsideration and for Lifting of the Writ of Preliminary Injunction," claiming that —

(1) the Court did not have jurisdiction to issue the restraining order in cases of the same nature as the one at bar;

(2) that peaceful picketing can not be lawfully enjoined by any court in this jurisdiction;

(3) that the requisites enumerated in Section 9(d) of Republic Act 875 should have been followed and not those provided in Section 3 Rule 58 of the Rules of Court in issuing the restraining order in cases of the same nature;

(4) that there is already pending an unfair labor practice case involving the labor dispute presented with the CIR, by the ALU against the Katipunan Lumber Co., Inc., where all the incidents relative to the parties should be ventilated.

Plaintiffs therein, now private-parties respondents, on September 12, 1964, opposed the motion for reconsideration, arguing that the Court had jurisdiction, for the allegations in the complaint is the basis in determining jurisdiction; that what respondent Court had enjoined was not a peaceful picketing, but interference in the performance of the contractual obligations of the plaintiffs; that Section 9 (d) of Republic Act 875 does not apply; and that there was no unfair labor practice case actually filed against Katipunan, although there was a charge, which had not yet been investigated by the CIR.

Without waiting for a resolution of their Motion for Reconsideration and to lift, petitioners came to this Court on a "Petition for Certiorari and Prohibition with Preliminary Injunction," raising the same issues alleged in their motion for reconsideration in the lower court. In effect, their petition centers on their assumption that the matter between the Katipunan Lumber and Abellar on one hand, and petitioners on the other, is a labor dispute of which the CFI can not validly take cognizance, and that in entertaining the same, and issuing the writ of "Preliminary Injunction," respondent Judge acted without or in excess of jurisdiction and/or with grave abuse of discretion and there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.

We gave Due Course to the petition and directed the issuance of a Writ of Preliminary Injunction as prayed for upon the posting of a P1,000.00 bond, and ordered respondents to Answer. Before the Writ could be issued, however, private-parties respondents presented a Manifestation, inviting the attention of this Court to the fact that the petition under consideration was filed prematurely, since there was, at the time, pending resolution by the respondent Court, the Motion for Reconsideration and Lifting of the Writ. This Court suspended the issuance of the Injunctive Writ, and ordered petitioners to answer the manifestation.

In a Very Urgent Reply to Respondents' Manifestation, petitioners alleged that since the case invokes a labor dispute, the respondent court cannot validly take cognizance thereof, and while they did not wait for the resolution of their motion for reconsideration, their case falls within the exception, for there existed special reasons for not exhausting all the remedies in the lower court, such as the enforcement of the ex-parte writ, which resulted in the paralyzation of their right to self-organization, to picket and to otherwise promote the collective welfare of petitioners and the members of the ALU. Thereafter, several incidents had taken place, which need not be considered, since they are not necessary in the determination of the issues presently involved.

Under date of September 25, 1964, private-parties respondents filed an Urgent Motion for Dismissal, claiming that the petition was manifestly premature, and that the determination of whether the lower court had jurisdiction over the case was dependent upon facts which must be shown before respondent Court. Attached to said urgent motion was the Order of the respondent Court, dated September 17, 1964, the pertinent portions of which read:

> "Under these circumstances based on the opposing mere allegations of the parties in which no evidence so far has been formally presented, the Court finds itself unable to determine whether the present case involves labor dispute or unfair labor practice, or it is merely a simple civil case involving the restraining of some unlawful and illegal acts committed and continued to be committed by the defendants.

"For these reasons the Court instead of resolving to lift or to maintain the writ already issued defers the resolution of the defendants' motion until evidence is presented by the parties to prove their respective allegations and contentions; and, in order to expedite matters, the hearing and reception of evidence of the parties on the main case shall be set by the Clerk of Court as soon as the issues are joined; and the defendants are required to Answer the complaint within the legal period counted from the time they are served copies of this order embodying in their answer all the grounds they alleged in their motion so that the issues may be put squarely before the Court for its decision.

"WHEREFORE, the consideration and resolution of the defendants' motion for reconsideration and lifting of the writ of preliminary injunction are hereby deferred until evidence is presented by the parties to establish their respective allegations and contentions and the defendants are required to answer within the reglementary period the plaintiffs' complaint; and, as soon as the issues are joined the Clerk of Court shall immediately calendar the hearing of the main case for the reception of the evidence of the parties with due notice to them." (Italics supplied.)

Both parties, in the interim, filed various pleadings. On October 26, 1964, respondents presented a Manifestation inviting the attention of this Court to the fact that aside from the petitioners filing their Answer to the Complaint, they have also availed and/or actually commenced to take advantage of the remedies available to them before the respondent Court. So much so, that on October 23, 1964, respondent Judge entered a Pre-Trial Order, which contained matters agreed upon to be proved by the parties and those which they did not dispute. On November 17, 1964, private-parties respondents, filed their Answer to the Petition for Certiorari and Prohibition, and invoked the following defenses, to wit:

1. The instant petition is premature;

2. Petitioners have speedy and adequate remedy before the lower court which they failed to exhaust before presenting the instant petition;

3. The instant proceedings have been rendered moot and academic, because petitioners have actually taken advantage of the remedies available to them in the court below;

4. That whether the case involves a labor dispute could only be determined after a hearing, which the respondent court has already ordered;

5. That the principal cause of action as alleged in the complaint is for the recovery of P50,000.00 as damages, a matter of which the respondent Court has jurisdiction, and all orders issued in connection therewith being within its power and authority;

6. That the nature of an action as appearing in the complaint, cannot be changed nor varied by the impleading by the defendants of defenses tending to change the cause of action;

7. The alleged failure of respondent judge to observe the procedural requirements of section 9(d) of Act 875, merely amounted to an error of judgment, not reviewable by certiorari;

8. That the acts enjoined by respondent judge are not the acts insulated from injunction under section 9(a) of Act 875;

9. That there is no pending Unfair Labor Practice Case against the Katipunan Lumber; and

10. That petitioners are amply protected of any damage that may be caused them with the P50,000.00 injunction bond posted by respondents.

A panoramic appraisal of the facts of the case, will show that the issue primarily involved is — whether the respondent Court had jurisdiction over the case, as the allegation of the complaint indicates, and/or there was grave abuse of discretion on the part of the

respondent Court in issuing the injunctive writ, so that certiorari or prohibition would lie.

No plausible argument could be offered to dispute the proposition that what confers jurisdiction are the allegations of the complaint. In the case at bar, the plaintiffs sought the amount of P50,000.00 by way of damages on overt acts, which they considered illegal, and which had caused them losses. They also asserted that there existed no employer-employee relationship whatsoever between them. Generally, therefore, upon such allegations, the CFI had jurisdiction over the case and it was authorized under the Rules of Court to issue an injunctive writ, even ex-parte upon a valid showing of the necessity thereof. It is true that petitioners herein, in their motion for reconsideration and to lift the writ of injunction they alleged that there is a labor dispute. This mere allegation did not serve to automatically deprive the Court of its jurisdiction duly conferred by the allegations of the complaint. In the wake of the assertions in the motion for reconsideration that there was, in the opinion of the petitioners, a labor dispute, the respondent Court was duty bound to find out if such a circumstance really existed. In order to intelligently form an opinion regarding the matter, respondent Court ordered the presentation of evidence by both parties. Unfortunately, however, petitioners, without awaiting for the resolution of the court a quo on their motion for reconsideration and to lift the injunction, they filed with this Court the instant petition. In the case of Villa-Rey Transit, vs. Hon. E. Bello, G.R. No. L-18957, April 23, 1963, We said:

> "True, that petitioner had filed a motion to lift order of default, and a motion for new trial and to set aside the default judgment, but before they could be resolved, petitioner had already brought the matter to this Court, on a petition for Certiorari and Injunction, without giving the respondent Court an opportunity to pass upon the said motions, which act renders the filing of the present petition premature."

Obviously, therefore, the petition at bar is premature.

There is manifestly, a need for evidence towards proving the allegations pertaining to petitioners' claim of a labor dispute. This act is properly within the power and prerogative of respondent Court.

Even petitioners are aware of this fact, for they have already presented their Answer to the complaint and have entered into a pretrial. When there are other remedies proper and adequate in the premises, certiorari or prohibition will not lie. Should the lower court ultimately hold that it has jurisdiction, appeal in due time would perhaps be the proper remedy.

Petitioners further ascribe excess of jurisdiction and/or grave abuse of discretion to respondent Court, because it issued the Writ of Preliminary Injunction ex-parte and in violation of the provisions of Act No. 875. The Rules properly gives the Court the authority to issue injunctive writs ex parte. Since the cause of action was for damages, arising from what plaintiffs, now respondents, pointed as interference in the performance of contractual obligations there was no occasion, at that time, for respondent Judge to consider the applicability of Act No. 875. It was only when the matter of an apparent labor dispute was injected by petitioners in their motion for reconsideration, that said act could be considered relevant. It was precisely the reason why respondent Judge wanted to hear evidence to assure himself whether there is or there is no labor dispute. This act, to Our mind, is not excess of jurisdiction and/or grave abuse of discretion. Predicated upon the allegations of the complaint, the respondent Judge thought it had jurisdiction, which conclusion, if erroneous, was merely a judicial error or a mistake of law. When the court has jurisdiction over the subject matter, the orders or decisions upon all questions pertaining to the cause are orders or decisions within its jurisdiction and, however, irregular or erroneous they may be, they cannot be corrected by certiorari (Gala vs. Cui and Rodriguez, 23 Phil., 522; Galang vs. Endencia, 73 Phil., 399; Villa-Rey Transit vs. Bello, G.R. No. L-21399, Jan. 31, 1964).

WHEREFORE, the petition for Certiorari and Prohibition with Writ of Preliminary Injunction, should be, as it is hereby dismissed. Costs against petitioners.

Bengzon, *C.J.*, Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Bengzon, and Zaldivar, *JJ.*, concur.

SEPARATE OPINIONS

REYES, J., concurring:

I concur in the result. I believe, however, that the attention of the lower court (and that of Judge of First Instance similarly situated) should be drawn to the necessity of immediately hearing and deciding issue as to whether a labor dispute is involved in a pending case where a preliminary injunction has been issued. The reason is not only because the matter involves the jurisdiction of the Court of First Instance, but primarily because Republic Act No. 875 (Industrial Peace Act), section 9 (d), ordains that, even if proper, a labor injunction, if issued ex parte, should be automatically vacated after five days. By deferring the hearing beyond the statutory five-day period, the Court of First Instance, in effect, maintains an injunction beyond the maximum period authorized by law even if the court had jurisdiction to issue it. Deferment of the resolution on the issue whether a labor dispute is involved thus result in nullifying a statutory provision expressly designed to protect labor.

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