

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**BATAAN SHIPYARD and  
ENGINEERING CO., INC.,**  
*Petitioner,*

*-versus-*

**G.R. No. 78604  
May 9, 1988**

**NATIONAL LABOR RELATIONS  
COMMISSION, HON. FRANCISCO  
JOSE, JR., HON. VLADIMIR P. L.  
SAMPANG, JOSE G. CRUZ and  
NATIONAL FEDERATION OF LABOR  
UNIONS,**  
*Respondents.*

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**DECISION**

**GANCAYCO, J.:**

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court. It seeks to set aside a Resolution of the National Labor Relations Commission.

The record of the case discloses that the herein petitioner Bataan Shipyard & Engineering Co., Inc. (BASECO) is a corporate entity duly organized under the laws of the Philippines. Its principal office is in

Port Area, Manila. On the other hand, the herein private respondent National Federation of Labor Unions (NAFLU) is a labor organization registered with the Department of Labor and Employment. The Company has around a thousand employees in its payroll and more than a hundred of them belong to the said labor organization.

Sometime before 1984, the Company filed with the herein respondent National Labor Relations Commission an application for the retrenchment of 285 of its employees on the ground that the firm had been incurring heavy losses since the end of 1979. The case was docketed as NLRC Case No. RABIII-2-536-82. In the meantime, some employees who had been on sick leave earlier were considered retrenched. All of those so retrenched happen to be officers and members of the NAFLU.

As expected, the NAFLU submitted an opposition to the said application in representation of the affected employees. Those employees retrenched earlier joined the case as individual complainants. The parties submitted their respective position papers and memoranda.

In a Decision dated January 30, 1984, the Executive Labor Arbiter of the respondent Commission declared the retrenchment undertaken by the Company legal and valid. As a consequence thereof, the firm was ordered to pay the separation benefits of the retrenched employees. The Executive Labor Arbiter also observed that the Company had discriminated against the members of the NAFLU in the selection of the employees to be retrenched. Thus, the firm was found guilty of unfair labor practice and was ordered to pay each of the individual complainants six months backwages as a penalty therefor.<sup>[1]</sup>

The Company appealed the case to the corresponding division of the respondent Commission and challenged the legality of the ruling of the Executive Labor Arbiter to the effect that it had discriminated in the retrenchment arrangements it had undertaken. The Company likewise questioned the legality of the award for backwages.

In its Resolution promulgated on December 27, 1985, the Third Division of the respondent Commission affirmed the Decision of the

Executive Labor Arbiter.<sup>[2]</sup> The Commission pointed out that the Company had failed to satisfactorily explain why all of the employees it had retrenched were officers and members of the NAFLU. The Commission went on to say that the management was in a position to know who of the employees on leave were affiliated with the said labor organizations. This view prompted the Commission to conclude that the NAFLU officers and members so retrenched were being discriminated against by reason of their affiliation in the labor organization.

On June 10, 1987, the Company elevated the case to this Court by way of the instant Petition for *Certiorari*<sup>[3]</sup> and sought the annulment or modification of the Resolution of the respondent Commission as well as the Decision of the Executive Labor Arbiter insofar as the ruling on unfair labor practice and backwages is concerned. The Company maintains that the respondent Commission committed a grave abuse of discretion, amounting to loss of jurisdiction, in finding the firm guilty of having committed an act of unfair labor practice when all the while the retrenchment it had sought was held to be legal and valid. The thrust of the Petition is that the Company cannot be considered guilty of committing an act of unfair labor practice in effecting a valid retrenchment.

The Office of the Solicitor General, representing the respondent Commission, submitted a Comment on the Petition on September 9, 1987.<sup>[4]</sup> The Solicitor General points out that while the retrenchment undertaken by the Company is legal, the prerogative to do so should not be confused with the manner in which the prerogative is exercised and that such exercise must be made without abuse of discretion because employment — the livelihood of the working class — is at stake. The Solicitor General adds that inasmuch as the Company was found guilty of discriminatory acts in the selection of employees to be retrenched, it cannot escape liability by simply claiming that the retrenchment is legal and that to do so would encourage discriminatory dismissals in other business enterprises.<sup>[5]</sup>

In support of the argument that the findings of fact made by the respondent Commission is supported by substantial evidence, the Solicitor General had this to say —

“The ‘substantial evidence’ test was more than adequately met by private respondents because the evidence is clear that membership or non-membership in the NAFLU was the determining factor in the selection of the employees to be retrenched.

“The record of this case is bereft of any guideline employed by petitioner in determining who were to be laid off, such as the following: (1) ability to perform the work; (2) physical fitness; (3) old age (4) disablement; (5) security in work; and (6) financial hardship of certain workers. These factors should at least be decided by a committee. In the absence of any guideline in the implementation of the retrenchment and the clear evidence that only NAFLU members were retrenched, it is quite evident that there was unfair labor practice committed by petitioner in the implementation of a valid and legal retrenchment.”<sup>[6]</sup>

On account of these reasons, the Solicitor General sought the dismissal of the instant Petition for lack of merit.

In due time, the case was deemed submitted for decision.

After a careful examination of the entire record of the case, We find the instant Petition devoid of merit.

It is not disputed that the retrenchment undertaken by the Company is valid. However, the manner in which this prerogative is exercised should not be tainted with abuse of discretion. Labor is a person’s means of livelihood. He cannot be deprived of his labor or work without due process of law.<sup>[7]</sup> Retrenchment strikes at the very heart of one’s employment. While the right of an employer to dismiss an employee is conceded in a valid retrenchment, the right differs from and should not be confused with the manner in which such right is exercised. It should not be oppressive and abusive since it affects one’s person and property.<sup>[8]</sup> Due process of law demands nothing less.

Under the circumstances obtaining in this case, We are inclined to believe that the Company had indeed been discriminatory in selecting

the employees who were to be retrenched. All of the retrenched employees are officers and members of the NAFLU. The record of the case is bereft of any satisfactory explanation from the Company regarding this situation. As such, the action taken by the firm becomes highly suspect. It leads Us to conclude that the firm had been discriminating against membership in the NAFLU, an act which amounts to interference in the employees' exercise of their right of self-organization. Under Article 249 of the Labor Code of the Philippines, such interference is considered an act of unfair labor practice on the part of the Company, to wit —

“ART. 249. Unfair labor practices of employers. — It shall be unlawful for an employer to commit any of the following unfair labor practices:

“(a) To interfere with, restrain or coerce employees in the exercise of their right to self-organization.

X X X

The respondent Commission and the Executive Labor Arbiter took these considerations into account in resolving the dispute. This being so, it cannot be said that the respondent Commission committed a grave abuse of discretion, amounting to loss of jurisdiction, in finding BASECO guilty of having committed an act of unfair labor practice despite the valid retrenchment. Accordingly, the writ of *certiorari* prayed for by the petitioner cannot issue.

**WHEREFORE**, in view of the foregoing, the instant Petition for *Certiorari* is hereby **DISMISSED** for lack of merit. The restraining order of June 22, 1987 is hereby dissolved. We make no pronouncement as to costs.

**SO ORDERED.**

**Narvasa, Cruz and Griño-Aquino, JJ., concur.**

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[1] Pages 16 to 21, Rollo.

[2] Pages 12 to 15, Rollo.

- [3] Pages 2 to 11, Rollo.  
[4] Pages 73 to 79, Rollo.  
[5] Pages 4 and 5, Comment; pages 76 and 77, Rollo.  
[6] Pages 6 and 7, Comment; pages 78 and 79, Rollo.  
[7] Phil. Movie Pictures Workers' Association vs. Premiere Productions, Inc., 92 Phil. 843 (1953).  
[8] De Leon vs. National Labor Relations Commission, 100 SCRA 691 (1980).

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