

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**CALTEX REFINERY EMPLOYEES  
ASSOCIATION-PAFLU,**  
*Petitioner,*

*-versus-*

**G.R. No. L-15338  
April 28, 1962**

**THE HON. JUDGE ANTONIO LUCERO,  
ET AL.,**  
*Respondents.*

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**DECISION**

**BAUTISTA ANGELO, J.:**

On March 25, 1959, at 8:30 p.m., the Caltex Refinery Employees Association-PAFLU delivered a strike notice to the security guard of the Conciliation Service of the Bureau of Labor Relations. Because the intervening days were holidays (it being a holy week), the receiving clerk did not make the corresponding entry of the notice on his official record until the following workday, or on March 30, 1959.

On the days following the entry of the notice, conciliation conferences were held at the Conciliation Service of the Department of Labor attended by the representatives of the union and the Caltex (Philippines), Inc. during which the union claimed that its strike

notice would expire 30 days from March 25, 1959, and that the employees were free to and would strike anytime after April 23, 1959. This threat was confirmed by the union in a letter dated April 13, 1959. The company, on the other hand, contended that the 30-day period should commence to run only on March 30, 1959, which was upheld as the correct view by the Undersecretary of Labor in a letter dated April 15, 1959. In view of the union's threat to strike within the 30-day cooling off period, which was alleged to be in violation of Section 14 of Republic Act 875, the company filed a petition for injunction with the Court of First Instance of Manila, which was docketed as Civil Case No. 39957. In said petition, the company requested that an ex parte restraining order be issued because, unless that order is issued, substantial and irreparable injury would be caused to the property of the company.

On April 23, 1959, the court, after taking the testimony of some witnesses of petitioner, issued the writ prayed for, restraining the union, or its members, from declaring a strike before April 30, 1959, upon filing by petitioner of a bond in the amount of P5,000.00. Its motion for reconsideration having been denied, the union came to this Court on a petition for certiorari with preliminary injunction. In due time, this Court issued the writ prayed for.

Petitioner contends that the restraining order issued by respondent court is improper and unlawful (a) because under Section 9 (a) of Republic Act 875 no court can issue any restraining order, whether temporary or permanent, against any plan to strike on the part of the members of a union; and (b) even if the court may issue such restraining order to prevent a potential unlawful strike, it can only issue such order after complying with the procedural requirements laid down in Section 9 (d) of the same Act. Respondent, on the other hand, contends that the court is authorized to issue a restraining order when the projected strike is unlawful and if carried out would result in irreparable and substantial injury to the property of the employer.

Under Section 9 (a) of Republic Act 875, no court shall have jurisdiction to issue any restraining order, temporary or permanent, in any case growing out of a labor dispute, to prohibit any person participating or interested in such dispute from doing, whether singly

or in concert, among other acts, the following: “ceasing or refusing to perform any work or to remain in any relation of employment.” The only exception that the law makes is when in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and such dispute is certified by the President to the Court of Industrial Relations (Section 10, Republic Act 875). In such case, the court may issue a restraining order forbidding the employees to strike pending an investigation by the court of the labor dispute as thus certified by the President. From the above, it is clear that, with the exception of the case aforesaid, no court can issue a restraining order against the members of a union who plan to hold a strike even if the same may appear to be illegal for such is a weapon that the law grants to them to protect and advance their interest.

Even if it may be held that a restraining order may be issued when the strike is contrary to law, or if carried out it may cause substantial and irreparable injury to the property of the employer, such restraining order can only be issued upon compliance with the procedural requirements laid down in Section 9 (d) of Republic Act 875. In this particular instance, these requirements are: (1) there must be a hearing, of which due notice should be given to both parties, where the testimony of witnesses is taken in support of the petition or opposition, with opportunity of cross-examination; and (2) there must be a showing that the public officers charged with the duty to protect petitioner’s property are unable or unwilling to furnish adequate protection. In other words, there cannot be any ex parte grant of a restraining order in a case involving a labor dispute.

Indeed, this is what we held in a recent case: “We believe, 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.”<sup>[1]</sup>

It appearing that this procedure was not followed by respondent court, the restraining order it issued is illegal and cannot be sustained.

**WHEREFORE**, petition is **GRANTED**. The order of respondent court issued on April 23, 1959 is **SET ASIDE**. Costs against respondent Caltex (Philippines), Inc.

**Bengzon, C.J., Padilla, Concepcion, Reyes, Barrera, Paredes and Dizon, JJ., concur.**

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[1] PAFLU vs. Tan, L-9115, August 31, 1956; National Garments & Textiles Workers’ Union vs. Caluag, L-9104, September 10, 1956; Allied Free Workers’ Union vs. Apostol, L-8876, October 31, 1957; SMB Box Factory Workers’ Union-PAFLU vs. Victoriano, L-12820, December 20, 1956; Lakas ng Pagkakaisa Sa Peter Paul vs. Victoriano, L-9290, January 14, 1958.