

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**CINEMA, STAGE & RADIO
ENTERTAINMENT FREE WORKERS
(FFW), MARIANO DE CASTRO, BRUNO
AZORES AND RUFINA FERNANDEZ,
*Petitioners,***

-versus-

**G.R. No. L-19879
December 17, 1966**

**COURT OF INDUSTRIAL RELATIONS,
ANGEL GARCHITORENA AND LUIS
GARCHITORENA,
*Respondents.***

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DECISION

BARRERA, J.:

This is a Petition to Review on *Certiorari* the Decision of respondent Court of Industrial Relations dated March 12, 1962, as well as its Resolution En Banc of April 10, 1962, in CIR Case No. 697-ULP.

On June 28, 1955, Acting CIR Prosecutor Adriano filed with respondent Court (on behalf of petitioners Cinema Stage & Radio Entertainment Free Workers (FFW), Marciano de Castro, Bruno Azores, and Rufina Fernandez) a complaint for unfair labor practice

(under Sec. 4[a], pars. 1, 2, and 4, Rep. Act No. 675) against respondents Angel and Luis Garchitorea alleging, inter alia, that respondents, by their agents or representatives, engaged in unfair labor practice by interfering with, restraining, or coercing their employees in the exercise of their rights under Section 3, Republic Act No. 875, by requiring as a condition of employment that a person shall not join a labor organization or shall withdraw from one to which he belongs and by discriminating, as to hire or tenure of employment, to encourage or discourage membership therefrom; that shortly after arrival from Spain of respondent Angel Garchitorea, he was informed that petitioner Union had been organized; that he (Angel) then inquired who organized the union and was informed that it was petitioners Castro, Azores, and Fernandez; that on November 16, 1954, respondents Angel and Luis Garchitorea called a meeting of all employees and, in said meeting, petitioners were asked why they organized the Union; that upon hearing petitioners' explanation, he (Angel) became angry and scolded them, speaking ill of unionism and the bad consequences it will cause to union members; that on July 20, 1954, one Benito Capulong told petitioner Fernandez that she had submitted a wrong report the previous night and she (Fernandez) was directed to go to Carlos Garchitorea for a talk; that when petitioner Fernandez met Capulong at around 5 P.M. of the same day, he (Capulong) told her that nothing was wrong with her report, but he only wanted petitioners, to dissolve their union and, instead, organize a management-dominated union for a consideration; that when petitioners refused the offer, respondents dismissed them on November 21, 1954; that after petitioners' dismissal, they repeatedly demanded reinstatement, but respondents refused to do so. The petition prayed that judgment be rendered ordering respondents or their agents and representatives to cease and desist from unfair labor practice acts and to restore petitioners to their former positions, with back wages from the time of their dismissal to reinstatement.

Against this petition, respondents (on June 30, 1955) filed a motion to dismiss, which was duly opposed by petitioners on July 7 and 15, 1955. On February 13, 1956, respondent Court issued a resolution deferring action on said motion until after hearing of the case on the merits.

On May 28, 1956, respondents filed their answer to said complaint, alleging as special defenses that petitioners were managers of respondents' theaters (Metro, Mercury, and Dapitan) and, therefore supervisory employees of respondents, and that petitioners' dismissal was for just causes. Respondents prayed for the dismissal of the complaint.

On March 12, 1962, respondent Court (through Judge Arsenio Martinez) rendered a decision (adopting the CIR Examiner's report) exonerating respondents from the unfair labor practice charge, having found that petitioners' dismissal by respondents was for just causes. Respondents were, however, directed to pay to petitioners their separation pay.

Petitioners filed a motion for reconsideration of said decision, but it was denied by respondent Court, in its resolution en banc of April 10, 1962.^[1] Hence, this petition for review.

Petitioners in this instance claim that respondent Court "gravely abused" its discretion and "committed serious errors of law" when it made erroneous conclusions of law from the facts of the case. Specifically, it is urged that the real reason for petitioners' dismissal on November 21, 1954 was their organization of the union, Cinema, Stage & Radio Entertainment Free Workers.

The claim is untenable. The records show that petitioners' dismissal by respondents, was for just cause, namely, habitual drunkenness (on the part of petitioner Marciano de Castro), giving free admissions, negligence, and inefficiency (on the part of petitioner Bruno Azores), and dishonesty, giving free admissions, and gossiping on duty (on the part of petitioner Rufina Fernandez), and not due to union activities (See pages 5-9, Decision dated March 12, 1962, Annex "C" of Petition). We are bound by these findings of fact.

Petitioners, however, insist that respondent Court failed to consider the following facts, tending to show that their dismissal was due to union activities (1) their unwarranted transfer to theaters other than those they were assigned to, after they organized the union in June, 1954; (2) their scolding by respondent Angel Garchitorea for their union activities; (3) their simultaneous dismissal on November 21,

1954, despite the fact that the causes of their dismissal were different; (4) they were not held responsible or reprimanded by respondents when said causes of dismissal occurred; and (5) they were offered one-month separation pay, despite the fact that their dismissal was for just cause.

As to No. (1), respondents' evidence show that said transfer of petitioners to other theaters were routine in nature and part of respondents' policy "to avoid connivance among the employees". In fact, petitioner Azores admitted that the reason for the transfer of his co-petitioner De Castro to another theater was that he was "under observation", pursuant to an understanding with respondents. As to petitioner Azores, he cannot attribute his transfer to union activities, because he admitted that he joined the union in July, 1954, whereas he was transferred to another theater in May, 1954, or 2 months before he allegedly joined the union.

In respect of No. (2), it is not true that respondent Angel Garchitorena scolded petitioners for their union activities. Notice the following testimony of respondent Luis Garchitorena:

"Q. Do you remember calling a meeting of your employees on November 16, 1954?"

"A. Meetings are called to improve the relation between management and employees. On the occasion, a meeting was called for the purpose of greeting my old man who has just arrived from Spain. My old man had gone on a surveying trip abroad and, naturally, he wanted to hear any new development that happened while he was away. It was during this meeting precisely that Mr. Florentino Aguilar stood up and told my father what he thought of the union being organized by Messrs. Bruno Azores and Marciano de Castro and Miss Rufina Fernandez, to which my old man answered. — 'I have nothing against the union. A union can be compared to a concrete wall if the purpose of the members and its organizers is to improve the welfare of its constituents. But if the purpose of its organizers is to hide their faults and dishonesty behind the cloak of unionism, then the union turns to be weak 'sawali' wall. And he also

added that depending upon the purpose and intention of the organization, the union could live through the golden bridge, but if the purpose was to hide behind a union all faults and dishonesty, it would turn out to be a rickety bamboo bridge.’

“Q. Miss Dolores Azores also testified that in that meeting of November 16, 1954, your father, Don Angel Garchitorea, was angry at the union members — meaning the members of the complainant union, is that true or not?

“A. That is not true, he was not angry at them.”

The above testimony of respondent Luis Garchitorea was confirmed and corroborated by witnesses Benito Capulong and Florentino Aguilar.

With regard to No. (3), it is noted that while the aforementioned causes of dismissal were taking place, respondent Angel Garchitorea, father of respondent Luis Garchitorea, was in Spain to attend to his sick wife, and he (Luis) had specific instructions not to make any dismissal until his (Angel’s) arrival. In fact, petitioners were dismissed by respondent Angel Garchitorea himself on his arrival from Spain. There is evidence to show that petitioners were under observation and investigation for various anomalies they have committed since the beginning and middle of the year 1953; that respondents’ intention to dismiss petitioners was contemplated way back in 1954; and that the reason why petitioners’ dismissal was effected only in November, 1954 was that respondent Angel Garchitorea was then in Spain and respondent Luis Garchitorea was instructed not to dismiss petitioners until his (Angel’s) arrival from Spain.

As to No. (4), there is nothing on record to indicate that petitioners were not held responsible or reprimanded by respondents for their bad actuations. As a matter of fact, they were dismissed because of such actuations.

Lastly, as to No. (5), suffice it to state that respondent Court did find that the money received by petitioners were not separation pay, but Christmas bonus.

Petitioners' citation of *Rothenberg on Labor Relations* (pp. 415- 116), is based on the presumption that the dismissal of an employee was motivated by 2 causes, one being a just cause, and the other being the anti-union cause. This situation is inapplicable to the instant case, since it has been found by respondent Court that herein petitioners were dismissed not for an anti-union cause, but for just causes — causes which no employer would ever retain an employee.

WHEREFORE, finding no error in the Decision and Resolution appealed from, the same are hereby affirmed, with costs against the petitioners. So ordered.

Concepcion, C.J., Reyes, Regala, Bengzon, Zaldivar and Sanchez, JJ., concur.

Dizon, Makalintal and Castro, JJ., took no part.

[1] Judges Villanueva and Tabigne concurred with ponente Judge Martinez. Judge Bugayong wrote a separate concurring and dissenting opinion. Judge Bautista dissented.