SUPREME COURT
EN BANC

ELIZALDE ROPE FACTORY, INC.,
***Petitioner*,**

-versus-

G.R. No. L-16419
May 30, 1963

COURT OF INDUSTRIAL RELATIONS, GERSON KARASIG and ROPE WORKERS UNION (PAFLU),
***Respondents*.**
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D E C I S I O N

PADILLA, *J.*:

This is a Petition for Review under Rule 44 of the Rules of Court and Section 6 of Republic Act No. 875 of a judgment rendered by the Court of Industrial Relations, finding that the respondent Gerson Karasig was not separated from the service of the petitioner because of union activities and holding that the latter and its manager Jaime Arisaleta committed an unfair labor practice for refusing to bargain with the former's union; and for that reason the petitioner was ordered to reinstate the respondent Gerson Karasig to his former or equivalent position without back pay and "to deal always in good faith with the union in all matters legitimated by law and encouraged by good labor-management relationship."

The petitioner is a corporation duly registered under the laws of the Philippines and engaged in the production and sale of rope and like products.

The findings of the respondent court are:

On August 22, 1958, the operator of one of the spinning machines in the spinning department became sick and after securing permission, left the factory at about 9:00 a.m. On that same date the factory lacked personnel to operate the spinning machine that was left vacant, and management needed the continuity of production in the spinning department. While Gerson Karasig was working in the shearing machine, Eugenio Espejo, the foreman, stopped the former's machine and was told to go to the spinning department. The latter told the former three times to stop his machine and transfer to the spinning machine, but Karasig did not obey Espejo's instruction. When for the fourth time Espejo approached Karasig, the latter told the former that he would go home. The former did not know why the latter refused to transfer to the spinning machine. When Karasig told Espejo that he would go home, the former dressed up and went out of the factory. Then Karasig returned and wrote something on his time card. Pedro Cariño, the supervisor of the payrolls and time cards of the laborer; checked the time card of Karasig and found a note written in ink, "I stop at 9:10" (t.s.n. p. 13, 2-24-59). Then Karasig went to see the superintendent and requested the latter that if possible he should not be transferred from one machine to another; that instead of receiving a favorable answer the superintendent insulted him and told him to go back to college to learn how to obey the foreman (t.s.n. p. 18, 1-17-59); that he told the superintendent he would rather retire so the superintendent called his messenger to fetch some application blanks to be filled. The reason which Karasig wrote on the form for his retirement was the unfair labor practice and inhuman treatment of his foreman (t.s.n., p. 19, 1-17-59). The management decided to consider the note written in ink by Karasig in his card, "I stop at 9:10," and his leaving the factory without returning back anymore as a resignation. Said management turned down the application for retirement of Karasig for the reason that the applicant is not incapacitated to justify his retirement under the collective bargaining contract.

Thereupon, Karasig reported to his union president on the incident of 22 August 1958, and the latter sent letters to the management asking for adjustment of the grievance (Exhibits A, C and C-1). At little over a week later, counsel for the petitioner sent for the president of the union to inform him that in so far as the petitioner was concerned respondent Karasig had resigned and left his work without notifying the petitioner as required by law and that Karasig's application for retirement had been turned down.

The legal department of the PAFLU, to which the Elizalde Rope Workers Union was affiliated, sought to have Karasig's case considered as a grievance (Exhibit E), but the petitioner insisted that it was excluded from the collective bargaining contract and that, assuming it was a grievance, the union did not follow the procedure prescribed in the bargaining agreement (Exhibits F and F-1).

In view of the petitioner's refusal to confer on the matter, in the Court of Industrial Relations the Elizalde Rope Workers' Union, the PAFLU and Gerson Karasig charged the petitioner with the commission of an unfair labor practice for dismissing Gerson Karasig from its service because of his union activities and for refusing to bargain (case No. 1850-ULP).

After hearing, on 22 September 1959 the respondent court rendered judgment as stated at the outset of this opinion. On 29 October 1959 a motion for reconsideration was denied by the court en banc.

In its brief, the petitioner concedes that "even after the signing of the collective contract, the collective bargaining process continues in the form of grievance handling and grievance procedure." Nevertheless, it contends (1) that to compel the petitioner to retain or continue with the services of the complaining laborer is illegal, because after his disagreement with his immediate superiors, Karasig on his own desire and volition did not report for work; (2) that the abandonment by respondent Karasig of his work does not call for an interpretation of the terms, conditions and actual benefits embodied in the collective bargaining contract, for Section 21 thereof provides that —

> A grievance is defined as any disagreement between the Union and the Company, as to the application and interpretation of actual benefits in and the provisions of this contract. Other matters subject of collective bargaining or regulated by existing labor laws shall not be considered as a grievance.

and does not fall under the provisions of Section 13, Republic Act No. 875; (3) that, granting it was a grievance, the union did not follow the grievance procedure agreed upon in the collective bargaining agreement, to wit:

> (1) The complainant worker shall discuss and settle the dispute with his foreman with or without the authorized union representative being present, as the worker may elect. A grievance which is not settled within two (2) days as a result of the discussion must be appealed within three (3) days in writing and signed by the worker concerned. A grievance not appealed as above shall be considered withdrawn or decided to the satisfaction of the complainant.
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> (2) The written appeal shall be filed with the Assistant Superintendent. The latter shall discuss the grievance with the worker and the union shop steward. Decision must be rendered not later than three (3) days after the last discussion.
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> (3) In case appeal from the Decision in (2) is desired, the grievance shall be taken up with the superintendent and/or manager by the Union Grievance Board. The duration of this step shall be one (1) week.

And that for those reasons the respondent court erred in concluding that the failure of the petitioner to reply to the union's letters (Exhibit E) in behalf of Karasig was tantamount to refusal to bargain.

On the other hand, the respondents claim that as there was refusal to bargain on the part of the petitioner, as found by the respondent court, it follows that the petitioner is guilty of unfair labor practice

under Section 4 (a), paragraph 6, of Republic Act No. 875 which justifies the reinstatement of the complaining laborer.

Section 4 of Republic Act No. 875 enumerates the acts that constitute unfair labor practices. Paragraph 6, Subsection (a) of the Section provides:

> To refuse to bargain collectively with the representatives of his employees subject to the provisions of Sections thirteen and fourteen.

The provisions of Section 14, Republic Act No. 875, have no application to the instant case, because they refer to the procedure of negotiating an agreement by collective bargaining where there had not been any. Those of Section 13 of the same Act impose "the duty of an employer and the representative of his employees to bargain collectively in accordance with the provisions of this Act. Such duty to bargain collectively means the performance of the mutual obligation to meet and confer promptly and expeditiously and in good faith, for the purpose of negotiating an agreement with respect to wages, hours, and/or terms and conditions of employment, and of executing a written contract incorporating such agreement if requested by either party, or for the purpose of adjusting any grievances or question arising under such agreement, but such duty does not compel any party to agree to a proposal or to make concession." The last clause of the above-quoted provisions cannot be invoked by the complaining laborer represented by the union, because the very terms of the collective bargaining agreement quoted above entered into by and between the petitioner and the respondent union preclude its availability. The grievance handling and grievance procedure stipulated and provided for in the collective bargaining agreement which is binding upon both the contracting parties not having been availed of or resorted to, the collective bargaining "for the purpose of adjusting any grievances or question arising under such agreement," is unavailable.

The judgment under review is set aside and the charge of unfair labor practice preferred against the petitioner is dismissed, without pronouncement as to costs.

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