SUPREME COURT
EN BANC

ITOGON-SUYOC MINES, INC.,
***Petitioner*,**

-versus-

G.R. No. L-24189
August 30, 1968

SAÑGILO-ITOGON WORKERS' UNION in behalf of BARTOLOME MAYO, BERNARDO AQUINO, ET AL.,
***Respondents*.**
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D E C I S I O N

SANCHEZ, *J.*:

Petitioner's appeal seeks reversal of the judgment of the Court of Industrial Relations (CIR) directing reinstatement of the fifteen individual respondents "to their former positions or substantially equivalent employment in the company, with full back wages from the time of their dismissal to their actual reinstatement, without loss of seniority and other privileges."

The controversy arose because prior to May 28, 1958, Itogon-Suyoc Mines, Inc., through its general superintendent Claude Fertig, had been dismissing from its employ members of respondent Sañgilo-Itogon Workers' Union (Sañgilo, for short). Fifty-four members of

Sañgilo were already fired when Department of Labor conciliators conferred with petitioner's representative to explore the possibility of their reinstatement. Petitioner refused reinstatement, alleged that dismissal of the 54 was for cause.

On May 28, 1958, sensing that its members were being eased out of employment one by one, Sañgilo called a strike, accompanied by picketing carried out at or near petitioner's mine premises in Itogon. Work was paralyzed. On the fourth or fifth day of the strike, company policemen drove the strikers out of petitioner's premises. The strike lasted until about June 2, 1958.

On that day, June 2, 1958, petitioner filed an injunction suit against some strikers in the Court of First Instance of Baguio (Civil Case No. 774). Nothing clear appears of record as to the present status of this suit.

On the same day, too, petitioner's officials conferred with the officers of the other labor union in the company, the Itogon Labor Union. They hammered out an agreement whereby all strikers were given fifteen (15) days from said date to return to work. Thru a public address system, strikers were then urged to go back to their jobs. Notices addressed to the strikers which read — "All of you are required to report immediately to your respective work otherwise you will be considered AWOL [absent without leave] and will be dropped from the rolls"[1] were posted on the Itogon Labor Union bulletin board, the Itogon store, and at 1300 checkpoint — the main entrance to the company's mining premises. These notices did not contain the fifteen (15) days' grace period aforesaid.

On November 18, 1958, a CIR prosecutor in behalf of Sañgilo charged petitioner and Claude Fertig, its general superintendent, with unfair labor practice for the dismissal of two company employees A. Manaois and Jose Baldo on June 9, 1957 and March 5, 1958, respectively, allegedly because of their affiliation with Sañgilo and for having testified against petitioner in Certification Case No. 3-MC-Pang.[2] The complaint prayed for reinstatement and back wages. Petitioner asserted just cause in defense.

On October 5, 1960, CIR adjudged that the dismissal of A. Manaois was just and legal, but that petitioner was guilty of unfair labor practice in dismissing Jose Baldo. CIR thus ordered Baldo's reinstatement with back wages. The CIR judgment for Jose Baldo was elevated by petitioner to this Court.[3] On December 24, 1964, we affirmed.

Meanwhile, on March 8, 1961, CIR's prosecutor — on Sañgilo's charge filed with CIR on July 12, 1960 — lodged an unfair labor practice complaint against herein petitioner, its general superintendent Claude Fertig, and the Itogon Labor Union.[4] Averment was there made of the arbitrary dismissal of 107 of Sañgilo's members because of membership and/or affiliation with said union and for having testified or about to testify in Certification Case No. 3-MC- Pang.; that Sañgilo's president, Bartolome Mayo, was dismissed also because of his refusal to dissolve the union; and that said company and its general superintendent Claude Fertig "had given aid and support to. Itogon Labor Union, another labor organization" existing in said company "by allowing the officers and members thereof, to hold meetings inside the mine premises and the theater building owned" by the company and also allowing them to use the company's light facilities — privileges which were denied Sañgilo. The prayer was for judgment declaring respondents therein guilty of unfair labor practice; enjoining them from further committing unfair labor practice acts; ordering the dissolution of Itogon Labor Union, "it being a company-dominated union"; and directing reinstatement of the dismissed 107 employees mentioned in the complaint, with full back wages from the time of dismissal up to actual reinstatement.

The mining company and Claude Fertig in their answer aver that the May 27, 1958 strike was illegal; that thereafter "many of respondent company's workers left for their respective home towns, abandoning their jobs, and never reported for work until the present; that some of the persons listed in the complaint are still working; and some of them left respondent company's employ even earlier than May 27, 1958 voluntarily or were discharged for cause." The company's principal defense is that the action for reinstatement with back wages is barred by laches.

Itogon Labor Union's defense is that the concessions it enjoyed were in pursuance of a collective bargaining contract between said union and the company.

Of the 107 dismissed employees, 10 manifested in writing that they had never been members of Sañgilo, were actually working with the company and not interested at all in the prosecution of the suit.[5] One of the named dismissed employees, Graciano Mejia, died on October 26, 1957.[6] Of the remaining individual complainants, only 15 appeared and testified in court. They were amongst the strikers.

Came the CIR decision of May 20,1964. Associate Judge Jose S. Bautista there observed that "the picketing was conducted peacefully, as the strikers did not commit acts of violence or cause injuries to persons or damage to property" and that "the union members staged the strike for the reason that their fellow members were being eased out of employment little by little by respondent company."

On the charge that the Itogon Labor Union was company-dominated, CIR declared that "the privilege of respondent union in holding meetings inside the company's mine premises and theater building, and in using the company's light facilities, is one of the concessions obtained by said union in accordance with the collective bargaining agreement entered into by the respondent company and the Itogon Labor Union."

CIR's judgment thus directed "respondent Itogon-Suyoc Mines, Inc. to reinstate (1) Bartolome Mayo, (2) Bernardo Aquino, (3) Florentino Ceralde, (4) Marcelo Datuin, (5) Antonio Deogracias, (6) Domingo Deray, (7) Pedro Espiritu, (8) Mariano Idos, (9) Antonio Laop, (10) Gregorio Laureta, (11) Chayon Pogay, (12) Roman Quinto, (13) Jose Santos, (14) Simplicio Tambaoan, and (15) Tomas Valerio, to their former positions or substantially equivalent employment in the company, with full backwages from the time of their dismissal to their actual reinstatement, without loss of seniority and other privileges. The complaint with respect to the remaining members of complainant Sañgilo-Itogon Workers' Union and with respect to the company-domination charge against respondent Itogon Labor Union is hereby DISMISSED."

Its motion to reconsider having been denied by CIR en banc, petitioner appealed to this Court.

1. Petitioner's brief[7] challenges Sañgilo's capacity to sue. Sañgilo, so petitioner says, ceased to be a legitimate labor union on March 31, 1960 when the Department of Labor cancelled the former's registration permit for failure to comply with statutory requirements. Contrariwise, Sañgilo avers that at the time the complaint below was filed it was a legitimate labor organization, and continues to be so.

Judicial inquiry was made by CIR on this issue. A subpoena duces tecum was issued to the registrar of labor organizations of the Department of Labor requiring him or his duly authorized representative "[t]o bring with [him] the following: (1) the list of membership of the Sañgilo-Itogon Workers' Union; (2) the revocation, if any, of the registration permit of the Sañgilo-Itogon Workers' Union dated March 22, 1960; and (3) the cancellation proceedings of the Sañgilo-Itogon Workers' Union which took place sometime in 1960."[8]

Atty. Narciso Fabella, the duly authorized representative, answered the subpoena. With the record of the cancellation proceedings of Sañgilo with him, he testified before the CIR hearing officer that on March 31, 1960, Sañgilo's registration permit [No. 2141-IP issued on May 21, 1957] was cancelled by the Department of Labor under Cancellation Proceedings 1722;[9] that his office then received a motion for reconsideration of said cancellation; that on April 27, 1960, an order was issued advising Sañgilo to comply with the requirement it failed to satisfy and which was the cause of the cancellation of Sañgilo's permit; that on March 9, 1962, Sañgilo filed a manifestation and motion to lift resolution with the request that it be given fifteen days within which to present evidence of compliance; that on March 23, 1962, an order was issued directing the union to submit, within fifteen days from notice, a copy of its financial report for the period from May 12, 1957 to May 11, 1958, sworn to by its treasurer, Ernesto Aragon, pursuant to Sañgilo's constitution and by-laws and Section 17(k) of Republic Act 875; and that no financial report had been submitted to the Department of Labor.

> And then, the witness testified as follows:
>
> "ATTY. RILLERA [Counsel for Sañgilo]:
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> Q Now, Mr. Fabella, per your records, do you have the final order cancelling the permit of the complainant union, or is the proceeding still going on?
>
> WITNESS
>
> A As far as the record is concerned, it seems that the proceeding is still going on because there is no other order pertaining [to] the nonsubmittal of the union of the financial report required within fifteen (15) days."[10]

So it is, that there is no order final in character cancelling Sañgilo's registration permit and dropping its name from the roster of legitimate labor unions. Sañgilo's status does not appear in the record to have changed. Therefore, Sañgilo still enjoys all the rights accorded by law to a legitimate labor union. One of those rights is the right to sue.

Even assuming that Sañgilo later lost its registration permit in the course of the present proceedings, still Sañgilo may continue as a party without need of substitution of parties, "subject however to the understanding that whatever decision may be rendered therein will only be binding upon those members of the union who have not signified their desire to withdraw from the case before its trial and decision on the merits."[11]

Really, we perceive of no reason why the judgment in favor of the fifteen individual respondent laborers should be overturned simply because the union of which they were members ceased to be a legitimate labor union. It cannot be disputed that CIR's prosecutor brought this case not merely for Sañgilo; it was also on behalf of the 107 employees enumerated therein. This accounts for the fact that CIR's judgment for reinstatement and backpay was rendered in favor of the fifteen respondent laborers. To accept petitioner's argument as valid is to shunt aside substance to give way to form. Error, if any, was harmless. It does not affect the substantial rights of the parties in

interest. It is no ground for reversal.[12] At this stage this Court may even strike out Sañgilo-Itogon Workers' Union and leave the fifteen individual respondents alone.[13]

2. Next to be considered is petitioner's claim that respondents were guilty of splitting their cause of action.

Petitioner argues that the first unfair labor practice suit (CIR Case 50-ULP-Pang.) heretofore mentioned covers the second unfair labor practice suit — the case at hand. And this, because "[a]ll acts of unfair labor practice allegedly committed by the herein petitioner [the company] prior to November 18, 1958 [when CIR Case 50-ULP-Pang. was filed] against the members of respondent union [Sañgilo] constituted one single cause of action." Petitioner continues on to say that since CIR Case 50-ULP-Pang. has been finally decided by this Court in a decision promulgated on December 24, 1964, said case is a bar to the present action.

We do not go along with petitioner.

The rule against splitting of a cause of action applies only where the actions are between the same parties.[14] Here, the parties in the two cases aforecited are different. The first case involves only two (2) laborers, namely, Jose Baldo and A. Manaois; the second refers to the claim of other laborers numbering 107 in all. These two cases, it is true, were brought in the name of Sañgilo. However, the real parties in interest in both cases are the dismissed employees. Sañgilo merely represented its members before CIR.[15] CIR found that the members "are not situated under similar circumstances", and that their alleged dismissal "took place on different dates."[16] Each one of these employees has a cause of action arising from his particular dismissal. And the cause of action of one is separate and distinct from the others.[17] Although, of course, they may be joined and brought in the name of the union. Res judicata has not attached.

3. Petitioner's averment that it gave out notices for a return to work would not be of help to its cause. On this point, the court said: "The Court is aware of the offer of the company to the strikers to return to work, but it is even more cognizant of the fact that passions and emotions among the striking employees were

running high at the heat of the strike."[18] The validity of this reasoning we do not find cause to dispute.

And then, evidence there is that the individual respondents were driven out of and denied admission into the company's mine premises because they staged a strike. They were turned out of the bunkhouses they rented in the premises as living quarters. They were virtually locked out. Evidence there is, too, that because of the strike the laborers were not allowed to go back to their jobs.[19]

4. Petitioner seeks to nullify individual respondents' right to reinstatement and backpay upon the ground that they are guilty of laches. Really, the present case was started after the lapse of almost two years and two months after the strike.

Laches has been defined as "such delay in enforcing one's rights as works disadvantage to another" and "in a general sense is the neglect, for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do what in law should have been done."[20] As we go into the core of this problem, we are reminded that for the doctrine of stale demand to apply, four essential requisites must be present, viz: "(1) conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation of which complaint is made and for which the complaint seeks a remedy; (2) delay in asserting the complainant's rights, the complainant having had knowledge or notice of the defendant's conduct and having been afforded an opportunity to institute a suit; (3) lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and (4) injury or prejudice to the defendant in the event relief is accorded to the complainant, or the suit is not held barred."[21]

With these as guideposts, let us look at the facts.

It is true that CIR declared Sañgilo and its members who did not come to court and testify guilty of laches.[22] But as to the 15 individual respondents, the question of laches was passed by — sub-silentio. Clearly, implicit in this is that CIR is of the opinion that laches is not a bar to reinstatement and recovery of back wages for these 15 individual respondents who actually testified in court. For

CIR, despite a categorical finding of laches on the part of the union and some of its complaining members, proceeded to order reinstatement and back wages for the 15 respondents. By and large, appreciation of laches rests mainly with the trial court. Absent a clear abuse, we are not to disturb its ruling thereon.

Indeed, these fifteen respondents showed sufficient interest in their case. They went to court and supported their cause by their own testimony. Delay in the filing of suit should not hamper their suit. We must not for a moment forget that these fifteen laborers belong to the lower economic stratum of our society. They are not expected to possess the intelligence or foresight of those who have been favored by high formal education.[23] Individually, they may not be in a position to file suit; they may not have the means. Thrown out of job, driven off, and refused entrance to, the company's premises, each had to go his own way. They had to return — as most of them did — to their families in the lowlands, far from the mine site. And yet they were not remiss in their duty to report the matter to their president. But the president, respondent Bartolome Mayo, was then in the Baguio General Hospital. Mayo lost no time in reporting the laborers' plight to the union counsel. The laborers had every right to assume that their union was doing something for them. They had done their part. They had to depend on the action taken by their union leaders. A labor union certainly would not be of much use if it does not act for the welfare of its members.

As to respondent Mayo himself, evidence appears on record that from the time of his dismissal, he had personally and by telephone asked superintendent Fertig for his reinstatement. He was brushed off with the reply: "Your union went on strike."[24] On one occasion after the strike, when Mayo met Fertig in Baguio, the former repeated his request for reinstatement, but received the same answer: "You are still on strike."[25]

Laches, if any, we must say, is not solely to be laid at the door of respondents. The company contributed too in the delay of the filing of the present suit. And this because, as testified to by the union president in court, such delay in filing the present ULP case was due to the fact that the legality of their strike precisely was being litigated in the Court of First Instance of Baguio in Injunction Case 774 filed

on June 2, 1958 by the very company itself against some of the strikers. Naturally, if the strike is there declared illegal, the strikers including the herein fifteen respondents would lose their right to reinstatement and backpay. But as said suit became apparently dormant, the union, on behalf of respondents, decided to lodge their present complaint with the CIR.

Thus it is, that the taint of laches cannot attach to individual respondents. For the second element required for the defense of laches to prosper is here absent.

5. The judgment below directs petitioner to pay individual respondents back wages from the time of their dismissal to their actual reinstatement without loss of seniority and privileges.

Since the dismissal of respondents in 1958, more than ten years had elapsed. It would not seem out of place to restate the guidelines to be observed in the ascertainment of the total back wages payable under the judgment below. These are:

> First. To be deducted from the back wages accruing to each of the laborers to be reinstated is the total amount of earnings obtained by him from other employment(s) from the date of dismissal to the date of reinstatement. Should the laborer decide that it is preferable not to return to work, the deduction should be made up to the time judgment becomes final. And these, for the reason that employees should not be permitted to enrich themselves at the expense of their employer.[26] Besides, there is the "law's abhorrence for double compensation."[27]
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> Second. Likewise, in mitigation of the damages that the dismissed respondents are entitled to, account should be taken of whether in the exercise of due diligence respondents might have obtained income from suitable remunerative employment.[28] We are prompted to give out this last reminder because it is really unjust that a discharged employee should, with folded arms, remain inactive in the expectation that a windfall would come to him. A contrary view would breed idleness; it is conducive to lack of initiative on the part of a laborer. Both bear the stamp of undesirability.

For the reasons given, the judgment under review is hereby affirmed.

Let the record of this case be returned to the Court of Industrial Relations with instructions to forthwith ascertain the amount of back wages due individual respondents in accordance with the guidelines herein set forth.

Costs against petitioner. It is so ordered.

Concepcion, *C.J.*, Reyes, Dizon, Makalintal, Zaldivar, Castro, Angeles and Fernando, *JJ.*, concur.

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[1] Italics supplied.
[2] CIR Case 50-ULP-Pang.
[3] G.R. No. L-17739.
[4] The case below, Case No. 84-ULP-Pans., entitled "Sañgilo-Itogon Workers' Union, Complainant vs. Itogon-Suyoc Mines, Inc., Claude Fertig and Itogon Labor Union, Respondents". The charge was filed on July 12, 1960.
[5] They were: Melchor Fabro, Eduardo Sandoval, Jose Dacay, Sufelo Balajo, Pedro Domingo, Fernando Ceralde, B. Aquintay, Liagao Fiatacag, Emilio Gomez, Ponciano Espero. CIR Record, pp. 91-99.
[6] Exh. 6-62-Co (CIR Record, p. 107).
[7] Brief for the Petitioner, pp. 25-28.
[8] CIR Record, p. 69.
[9] The grounds for such cancellation are not plain in the record.
[10] Tr., July 27, 1962, pp. 23-27, 29-30; italics supplied.
[11] Philippine Land-Air-Sea Labor Union (PLASLU), Inc. vs. Court of Industrial Relations, 93 Phil. 747, 748 (syllabus).
[12] Section 5, Rule 51, Rules of Court.
[13] Chua Kiong vs. Whitaker, 46 Phil. 578. 581-583; Alonso vs. Villamor, 16 Phil. 315, 320-322.
[14] 1 C.J.S., p. 1312. See: Jalandoni vs. Martin-Guanzon, 102 Phil. 859, 861-862; Enguerra vs. Dolosa, 21 Supreme Court Reports Anno. 241.
[15] Gallego vs. Kapisanan Timbulan ng mga Manggagawa, 83 Phil. 124, 130. See: Section 3, Rule 3 of the Rules of Court.
[16] See: Annex B, Decision, and Petitioner's Brief, pp. 31-32; National Brewery and Allied Industries Labor Union of the Philippines (PAFLU) vs. San Miguel Brewery, Inc., L-19017, December 27, 1963.
[17] See: A. Soriano Cia, vs. Jose, 86 Phil. 523; International Colleges, Inc. vs. Argonza, 90 Phil. 470.
[18] Italics supplied.

[19] Tr., July 11, 1962, pp. 18, 74-76 (witness D. Deray); Tr., August 21, 1962 p. 12 (witness A. Laop); Tr., August 21, 1962, p. 47 (witness G. Laureta) Tr., August 21, 1962, pp. 92, 97 (witness M. Datuin); Tr., August 21, 1962, p. 112 (witness A. Deogracias); Tr., August 22, 1963, pp. 8-10 (witness J. Santos); Tr., August 22, 1962, pp. 66-67 (witness C. Pogay); Tr., September 24, 1962, p. 8 (witness F. Ceralde); Tr., September 24, 1962, p. 41 (witness M. Idos); Tr., September 25, 1962, p. 18 (witness P. Espiritu); Tr., October 26, 1962, pp. 6-7 (witness Aquino); Tr. October 26, 1962, pp. 37-38 (witness R. Quinto); Tr., October 27, 1962, pp. 7-8 (witness T. Valerio); Tr., November 19, 1962, p. 16 (witness S. Tambaoan); Tr., November 20, 1962, pp. 67-68 (witness E. Mayo).

[20] Gutierrez vs. Bachrach Motor Co., Inc., 105 Phil. 9, 29, quoting 30 C.J.S., pp. 520-521.

[21] Nielson & Company, Inc. vs. Lepanto Consolidated Mining Company, 18 Supreme Court Reports Anno, 1040, 1053, quoting Co Chi Gun vs. Co Cho, 96 Phil. 622. See also: Z.E. Lotho, Inc. vs. Ice and Cold Storage Industries of the Philippines, Inc., L-16563, December 28, 1961; Vergara vs. Vergara, L-17524, May 18, 1962; Custodio vs. Casiano, L-18977, December 27, 1963.

[22] CIR'S Decision, pp. 4-5.

[23] See: Carillo vs. Allied Workers' Association of the Philippines (AWA), L-23689, July 31, 1968; Central Azucarera Don Pedro vs. The Workmen's Compensation Commission, L-24987, July 31, 1962.

[24] Tr., November 20, 1962, p. 67.

[25] Id., p. 68.

[26] Philippine Air Lines, Inc. vs. Philippine Air Lines Employees Association, L-15544, July 26, 1960 and cases cited therein.

[27] Republic Savings Bank vs. Court of Industrial Relations, 1967D Phil. 198, 202 (Resolution).

[28] Sotelo vs. Behn, Meyer & Co., H. Mij., 57 Phil. 775, 778-779, citing Garcia Palomar vs. Hotel de France Co., 42 Phil. 660. See: Sta. Cecilia Sawmills, Inc. vs. Court of Industrial Relations, L-19273 & L-19274, February 29, 1964; Mindanao Motor Line, Inc. vs. Court of Industrial Relations (L-18418) and Aboitiz and Company, Inc. vs. Court of Industrial Relations (L-18419), November 29, 1962; Durable Shoe Factory vs. Court of Industrial Relations, 99 Phil. 1043; Aldaz vs. Gay, 7 Phil. 268, 271.