

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**LARAP LABOR UNION AND PEDRO A.
VENIDA,**

Petitioners,

-versus-

**G.R. No. L-7761
August 26, 1955**

**GUSTAVO VICTORIANO, Judge of the
Court of First Instance of Camarines
Norte, PEDRO ILIGAN, DOMINGO
BAUTISTA, ET AL.,**

Respondents.

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DECISION

BENGZON, C.J.:

CONCEPCION, J., concurring:

On April 19, 1954, Pedro A. Venida on his own behalf and on behalf of the Larap Labor Union, a duly registered labor organization, filed in the court of first Instance of Camarines Sur, a second amended complaint for prohibition, damages and injunction against Pedro Iligan and others, alleging substantially that on April 4 of the same year, at an election for officers of said Union he had been duly elected President of the same; that defendants who were the rivals he had defeated for that post planned and threatened illegally to convene on April 21 another meeting to elect officers, to his prejudice and damage, because the constitution and by-laws of the association permitted only one election every year. Pedro A. Venida asked for preliminary injunction, and prayed that after a hearing on the merits such injunction be made permanent.

Acting on the petition, the Hon. Gustavo Victoriano, Judge, issued a temporary injunction. However on April 27 His Honor granted defendants' motion to dissolve the injunction, upon the filing of a suitable bond.

Wherefore on May 12, 1954, Pedro A. Venida for himself and for the Larap Labor Union presented, in this Court, this petition for certiorari to revoke the order dissolving the preliminary injunction. After alleging the facts hereinbefore stated, he complained that he had not been heard before the issuance of the order of April 27, because he was in Manila, and the judge knew it. He also asserted that the members of the Union were under pressure by the respondent Aguedo Masocol, general foreman of the Philippine Iron Mines Inc. in Paracale, Camarines Sur, wherein the laborers forming the Larap Union were working; and that the attempt of defendants to hold another election had given rise to a critical situation in the locality, the labor union having declared a strike and formed picket lines in a dispute with the employer mining company.

Thru the petitioner's failure to submit sufficient copies, his petition could not be taken up until July 2, 1954 when this Court adopted a resolution requiring the respondents to answer within ten days, and granting the petitioner's prayer for preliminary injunction to prevent the holding of another election of officers of the Larap Labor Union.

On July 26, 1954, the respondents filed their answer, supported by the necessary documents.

It appears that the Larap Labor Union is an association of laborers and employees of the Philippine Iron Mines Inc.; that on April, 1954 it hold a meeting to elect its officers; that Pedro A. Venida was nominated as candidate for president, against some of the respondents herein; that Venida's candidacy was contested on the ground that he was not employed by the said mining corporation; that as a spirited discussion ensued and confusion prevailed, the persons appointed to conduct the balloting resigned en masse and the officers of the Union decided to postpone the election; that Pedro A. Venida and his partisans held a rump election which resulted in his asserted majority votes; that the officers exerted efforts to hold another election but were prevented by the injunction issued by the respondent judge; but after the lifting of said injunction order, the members of the Larap Labor Union in an orderly election, on May 6, 1954, elected the following as their officers for the year 1954: P. S. Iligan, President; R. de la Paz, Vice-President; E. Pura, Secretary; F. Bascombe, Treasurer and others as Board of Directors.

There is a certificate before us that the said election proceedings were on the whole, smooth and orderly, thru the cooperation of the Provincial Governor, the representative of the Department of Labor, the Constabulary officers and the company's security officers.

The fact that at the meeting of April 4, 1954 no set of officers was selected because the election was postponed, is attested by the minutes of the Board of Directors' meeting, Annex 3, properly certified by the President and the Secretary of the Union.

There is no question that Pedro A. Venida was not and is not employed in the Philippine Iron Mines Inc., was not a member of the Larap Labor Union and could not therefore be elected officer thereof. He contends however, that as he could be appointed as a representative of the Union under section 2(h) of Republic Act 875 which reads as follows:

“Representative” includes a legitimate labor organization or any officer or agent of such organization, whether or not employed

by the employer or employees whom he represents, he could be chosen officer thereof, even if he is not employed in the company. The argument is unsound, because it assumes, mistakenly, that “representative” of the union and “officer” of the labor association always mean the same thing.

Wherefore, as Pedro A. Venida was not elected President of the Larap Labor Union, he had no reason to complain either in the court of first instance of Camarines or in this Court. On the basis of facts subsequently disclosed, it must be held that the preliminary injunction was improvidently issued in the Camarines Court. And it is unnecessary to discuss procedural errors, if any, in the lifting thereof; although the record yields a sufficient excuse for the alleged failure to give petitioner a chance to object to the petition to lift the injunction.^[1] Anyway, dissolution of a preliminary injunction may even be ordered *ex parte*. (Ong Su Han vs. Gutierrez David, 43 Off. Gaz. 95.)

The preliminary injunction issued by this Court in July, 1954 upon the strength of petitioners’ *prima facie* representations could not, of course, affect the election previously held on May 6, 1954,^[2] and respondents are not to blame therefor. And “an action for a permanent restraining injunction should be dismissed when it appears upon the trial that the acts, to restrain which the action was begun, have been fully executed.” (Reyes vs. Harty, 21 Phil. 422.)

For all the foregoing, this petition will be dismissed with costs against petitioner Pedro A. Venida. So ordered.

Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador and Reyes, JJ., concur.

SEPARATE OPINION

CONCEPCION, J., concurring:

I concur in the result. For the reasons stated in my separate opinion in the case of “Epifanio Farrales vs. Antonio Fuentecilla” (95 Phil., 417), decided on July 26, 1954, I cannot agree with the view that a writ of preliminary injunction may, consistently with the due process clause, be dissolved ex parte.

[1] Cf. Caluya vs. Ramos, 45 Off. Gaz. 2075; Clark vs. Ready Mix Concrete Co., 88 Phil., 460; Cine Ligaya vs. Judge of Laguna, 66 Phil., 659.

[2] Mantile vs. Cajucom, 19 Phil., 563; Reyes vs. Harty, 21 Phil., 422.