SUPREME COURT
FIRST DIVISION

EUGENIO LOPEZ, SR., EUGENIO LOPEZ, JR. and "CHRONICLE PUBLICATIONS,
***Petitioners*,**

-versus-

G.R. Nos. L-20179-81
December 28, 1964

CHRONICLE PUBLICATIONS EMPLOYEES ASSOCIATION, PHILIPPINE NEWSPAPER WORKERS GUILD, ORLANDO AQUINO, CARMELITO VICENTE JOSE GABOR, ARNALDO MOSS, JR. and LETTY DE LA RAMA-ECHAUS,
***Respondents*.**
x----------x

D E C I S I O N

BARRERA, *J.*:

This is a Petition for Review of the Decision and Resolution of the Court of Industrial Relations in Cases Nos. 1940-ULP, 2412-ULP, and 2571-ULP, finding respondents Chronicle Publications, Inc. (in the first 2 cases) and Eugenio Lopez, Sr., Eugenio Lopez, Jr. and the Chronicle Publications (in the last case) guilty of unfair labor practice,

for their refusal to give to complainants Orlando Aquino, Jose Gabor, Arnaldo Moss, Letty de la Rama, Echaus, and Carmelito Vicente, in 1958 and 1959, the traditional Christmas bonus given to all employees of the Chronicle Publications; to include them in the general increase of salary granted to all employees on April 1, 1959; and for the dismissal of Aquino and Vicente on September 9, 1959, because of said employees' union activities.

The lower court found as amply established the fact that the complaining employees, in cooperation with Virgilio P. Reyes who at the time was the news Editor of the newspaper, The Manila Chronicle, organized the Chronicle Publications Employees Association on June 8, 1958; that thereafter or in September, 1958, complainants were "grounded" or not given any assignments in the publication; that in 1958 and 1959, said complainants were not given the traditional Christmas bonus, as well as the increase of salaries granted to all employees on April 1, 1959; that complainants Orlando Aquino and Carmelito Vicente were dismissed from employment on September 9, 1960 after they caused the publication in the union paper, "The Newsman", of an article entitled "Political Pressure?"

Herein petitioners do not seriously contest such facts in this proceeding, but contend that the acts complained of were taken as measures of self-preservation, the complainants, by their participation in the alleged illegal organization of a rank-and-file union with a supervisor, having thereby indulged in inimical and disloyal activities against the employer. With respect to the dismissal of complainants Vicente and Aquino, it is claimed that their publication of an article in the union newspaper, accusing the employer of a criminal act, i.e., corrupting or attempting to corrupt a public official[1] which accusation was based merely on rumors and suspicions of said employees, justifies the employer to take disciplinary action against them. It is also claimed that although Virgilio P. Reyes, one of the organizers of the union, resigned from his position as News Editor of the Manila Chronicle on June 7, 1958 or before he was elected union president in the organizational meeting held on June 8, 1958, the union was actually "conceived" or planned by him while he was still holding a supervisory position in the establishment. Thus, the petitioners allege that the union was formed

in violation of Republic Act 875 and, consequently, the activities of its members are beyond the protection of the law.

In assailing the legality of the respondent union, petitioners cite Section 3 of Republic Act 875 which reads:

> "SEC. 3. Employees Right to Self-Organization. — Employees shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. Individuals employed as supervisors shall not be eligible for membership in a labor organization of employees under their supervision but may form separate organization of their own." (Italics supplied.)

The foregoing granted to all employees, whether belonging to the so called rank-and-file or those occupying supervisory positions, the right to organize, form or join labor unions of their own choosing, with the only proviso that supervisors are not eligible for membership in the organization of employees under their supervision. It may be observed that nothing is said of the effect of such ineligibility upon the union itself or on the status of the other qualified members thereof should such prohibition be disregarded. Considering that the law is specific where it intends to divest a legitimate labor union of any of the rights and privileges granted to it by law,[2] the absence of any provision on the effect of the disqualification of one of its organizers upon the legality of the union, may be construed to confine the effect of such ineligibility only upon the membership of the supervisor. In other words the invalidity of membership of one of the organizers does not make the union illegal, where the requirements of the law for the organization thereof are, nevertheless, satisfied and met.

In the instant case, the union was formally organized by Virgilio P. Reyes, and the herein complainants after the former had ceased being a supervisory employee. But even if Reyes took part in the organization of the respondent rank-and-file union while holding a supervisory position in the company and, therefore, disqualified to become a member thereof, still the nullity of his membership did not

make the union itself invalid nor deprive it and the members thereof of the protection granted to them by law.[3]

Neither can it be charged that the complainants' participation in the organization of the union, in cooperation with a supervisor, constituted disloyalty to the employer as to make them (the employees) subject to disciplinary measure. The formation by rank-and-file employees of a rank-and-file union is authorized by law. Although if one looks at labor and management interests as adverse to one another, the participation of a supervisor in the organization of a rank-and- file union may constitute disloyalty on the part of such supervisor, who is supposed to promote the management's interest, even under that theory, the herein complainants cannot be considered disloyal for having aided in the formation of their own union. Under the present circumstances, the discriminatory acts in respect to the bonus and increase in salary committed by petitioners against the complainants are not justified.

In this connection, petitioners Eugenio Lopez, Sr. and Eugenio Lopez, Jr. allege that they should not be held liable for unfair labor practice as charged in Cases Nos. 1940-ULP and 1412-ULP, because they were not made parties in these cases and, hence were not given their day in court. We find this to be correct, for although the three cases were consolidated and tried jointly, the same must be understood to be for purposes only of facilitating the hearing of said cases and did not make the Lopezes respondents in Cases Nos. 1940-ULP and 1412-ULP. The liability for the acts complained of therein and which were found established, is confined to the Chronicle Publications, Inc., the sole respondent in said cases.

Differently as regard the dismissal of Orlando Aquino and Carmelito Vicente, we are inclined to uphold the action taken by the employer as proper disciplinary measure. A reading of the article which allegedly caused their dismissal reveals that it really contains an insinuation albeit subtly of the supposed exertion of political pressure by the Manila Chronicle management upon the City Fiscal's Office, resulting in the non-filing of the case against the employer. In rejecting the employer's theory that the dismissal of Vicente and Aquino was justified, the lower court considered the article as "a report of some acts and omissions of an Assistant Fiscal in the exercise of his official

functions" and, therefore, does away with the presumption of malice. This being a proceeding for unfair labor practice, the matter should not have been viewed or gauged in the light of the doctrine on a publisher's culpability under the Penal Code.[4] We are not here to determine whether the employees' act could stand criminal prosecution, but only to find out whether the aforesaid act justifies the adoption by the employer of disciplinary measure against them. This is not sustaining the ruling that the publication in question is qualified privileged, but even on the assumption that this is so, the exempting character thereof under the Penal Code does not necessarily erase or neutralize its effect on the employer's interest which may warrant employment of disciplinary measure. For it must be remembered that not even the acquittal of an employee, of the criminal charges against him, is a bar to the employer's right to impose discipline on its employees, should the act upon which the criminal charges was based constitute nevertheless an activity inimical to the employer's interest.[5]

In the herein case, it appears to us that for an employee to publish his "suspicion", which actually amounts to a public accusation, that his employer is exerting political pressure on a public official to thwart some legitimate activities of the employees, which charge, in the least, would sully the employer's reputation, can be nothing but an act inimical to the said employer's interest. And the fact that the same was made in the union newspaper does not alter its deleterious character nor shield or protect a reprehensible act on the ground that it is a union activity, because such end can be achieved without resort to improper conduct or behavior. The act of the employees now under consideration may be considered as a misconduct which is a just cause for dismissal.[6]

Modified as above indicated, the decision of the lower court appealed from is hereby affirmed in all other respects. No costs. So ordered.

Bengzon, *C.J.*, Bautista Angelo, Concepcion, Reyes, Regala, Makalintal, Bengzon, and Zaldivar, *JJ.*, concur.

---

[1] The article entitled "Political Pressure?" which appeared in the July-August, 1960 issue of the union's news magazine, contains the following statements:

"The Manila Chronicle seems to have the City Fiscal's Office on the uncomfortable end of a political pressure play.

"Aggrieved labor leaders expressed this suspicion after they had gone to the City Hall to look into the prosecution of their suits against the Chronicle (June, Newsman). The newspaper is owned by Eugenio Lopez, Sr., who is the behind-the-scene head of the sugar bloc and brother of the senator.

x x x

It went on further to say that despite the lapse of time and repeated assurances of the investigating fiscal, no case against the management has as yet been filed, which situation allegedly made a labor lawyer feel that "the Fiscal's Office was working 'under pressure' at every turn."

[2] Sec. 15, Rep. Act 875.
[3] Cox, Cases on Labor Laws, pp. 282-283.
[4] Art. 354, Revised Penal Code.
[5] National Organization of Laborers & Employees vs. Roldan, G.R. No. L-6888, Aug. 31, 1954.
[6] See Rep. Act 1052, as amended by Rep. Act 1787.