SUPREME COURT
SECOND DIVISION

LUZON MARINE DEPARTMENT UNION,

***Petitioner*,**

-versus-

G.R. No. L-2660
May 30, 1950

ARSENIO C. ROLDAN, JUAN L. LANTING and MODESTO CASTILLO judges of Court of Industrial Relations, LUZON STEVEDORING CO., INC. UNION DE OBREROS ESTIVADORES DE FILIPINAS, and UNIVERSAL MARINE UNION,

***Respondents*.**

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D E C I S I O N

OZAETA, *J.*:

This Petition for *Certiorari* to Review a Resolution of the Court of Industrial Relations raises the question of the legality of a strike declared by the petitioner during the pendency of its petition for the settlement of an industrial dispute before the Court of Industrial Relations.

The facts out of which the question arose are briefly as follows:

On June 17, 1948, the petitioner, which is a duly registered labor union, presented to the respondent Luzon Stevedoring Company, Inc. a petition containing twelve demands, among which was that it be granted full recognition "with the right to collective bargaining, closed-shop and check-off." On June 21, 1948, said petitioner initiated the present proceeding in the Court of Industrial Relations by filing a petition therein, praying that the respondent company be directed "to comply immediately with all the demands embodied in the aforesaid petition."

The Union de Obreros Estivadores de Filipinas (U.O.E.F.) a labor organization claiming some 75,000 members, divided into units or committees, one of which is the Universal Marine Union, intervened on behalf of the latter for the reason that the demand of the petitioner for recognition with the right to collective bargaining, closed-shop, etc., would violate an agreement entered into between the respondent company and the said U.O.E.F. in the early part of 1947, whereby the said company recognized the U.O.E.F. "as the labor organization of the workers rendering services to the Luzon Stevedoring Company, Inc., with full right for collective bargaining, and that no person or persons must be hired by the company unless he or they are bona fide members of the Union."

The intervenor U.O.E.F. moved for the dismissal of the petition for lack of jurisdiction, on the ground that the petitioner did not count with more than thirty members employed by the respondent company. The petition for dismissal was duly heard and the parties adduced evidence on the question of jurisdiction on July 7, 10, and 12, 1948. On July 19, 1948, Judge Jose S. Bautista issued an order denying the motion to dismiss and declaring that the court had jurisdiction over the case. Before receipt of notice of said order, 65 alleged members of the petitioner failed to report for work on the morning of July 19, 1948, without previously notifying the respondent of the cause of their absence. The foreman of the Towing Department of the respondent requested the U.O.E.F. to furnish men who could take the places of the absent ones, and that request was promptly complied. It was only at 8:15 a. m. on July 21, 1948, that the general

manager of the respondent company received by mail a notice from the petitioner that the said 65 men struck on July 19, 1948, at 6 a. m.

On July 20, 1948, the petitioner filed with the Court of Industrial Relations a petition alleging that all members of petitioner, numbering more than 300, went on strike at 6 a. m. on July 19 due to the refusal of the respondent company to grant their demands or to negotiate with them and "the challenge flung to them that there are not more than thirty members of the petitioning union employed by the respondent company," and praying for the issuance of a restraining order to prevent the respondent from employing strike breakers. The respondent company and the intervenor U.O.E.F. filed their respective oppositions to that petition.

On August 16, 1948, Associate Judge Jose S. Bautista issued an order directing the strikers to return to work immediately and the respondent company to reinstate them in the positions they were occupying before the strike. The intervenor and the respondent company immediately filed a motion for the reconsideration of the order, and the court sitting in banc, with the dissent of Judge Bautista, set said order aside on the ground that the strike was unjustified and illegal.

The opinion of the Court, penned by Associate Judge Lanting and concurred in by Presiding Judge Roldan and Associate Judge Castillo, held: Although section 19 of Commonwealth Act No. 103 provides that, pending award or decision by the Court of Industrial Relations, the employee, tenant or laborer shall not strike or walk out of his employment when so enjoined by the Court, and although the Court had not enjoined the petitioner not to strike, it does not necessarily follow that the strike was legal and justified. In the case of Rex Taxicab Company vs. Court of Industrial Relations (70 Phil., 621), wherein this Supreme Court held that "the employee, tenant or laborer is inhibited from striking or walking out of his employment only when so enjoined by the Court of Industrial Relations," it was also held that "in cases not falling within the prohibition, the legality or illegality of a strike depends, first, upon the purpose for which it is maintained, and, second, upon the means employed in carrying it on." And in the case of Manila Trading and Supply Company vs. Philippine Labor Union (71 Phil., 124), the Supreme Court further

held that “the right of the employees, tenants or laborers to be continued in the service under the last terms and conditions existing before the dispute arose carries with it the corresponding obligation on their part not to strike or walk out of their employment, or to return to it if they have already done so.” Conformably to these principles the Supreme Court, in the case of National Labor Union, Inc. vs. Philippine Match Company, (70 Phil., 300), declared illegal and unjustified a strike motivated by an unreasonable demand of the labor union for the dismissal of a factory foreman. In that case the Court, speaking through Mr. Justice Moran, held that although Commonwealth Act No. 103 recognizes, in a negative way, the laborers’ right to strike, it also creates all the means by which a resort thereto may be avoided, “because a strike is a remedy essentially coercive in character and general in its disturbing effects upon the social order and the public interests”; that “as the strike is an economic weapon at war with the policy of the Constitution and the law, a resort thereto by laborers shall be deemed to be a choice of a remedy peculiarly their own, and outside of the statute, and, as such, the strikers must accept all the risks attendant upon their choice”; and that when the petitioners declared a strike even before the outcome of the investigation by the company of their complaint against the factory foreman was announced, “and without previously having resorted to any of the pacific means provided by law, they acted unreasonably, and the law cannot interpose its hand to protect them from the consequences of their behavior. Their cessation from their employment as a result of such an unjustified strike is one of such consequences which they must take by the choice of a remedy of their own, outside of the statute.”

The Court of Industrial Relations found from the testimony of Ciriaco C. Sarmiento, president of the petitioning union, that his men went on strike because “the opposite party claims or asserts that we have no members inside the company, and because the members of the union were becoming impatient to wait for the decision of the court, and they are in suspense - they are doubting.” From this, the Court concluded, that the purpose of the strike was to influence the decision and to compel the Court to decide the question promptly. According to the Court, “it was an unwarranted interference with the ordinary processes of law and cannot be tolerated because it tends to destroy the confidence of the public in the machinery instituted by the

Government for the orderly solution of industrial disputes." Applying the rulings laid down by this Court in the cases above stated, the Court of Industrial Relations declared the strike in question illegal.

Counsel for the petitioner insist before this Court that the strike in question was called for a lawful purpose. They contend that the evidence clearly shows that the members of the petitioning union struck "in order to show the company and the U. O. E. F. that they had more than thirty members, and due to the threats of Alejo Villanueva, who threatened to dismiss the laborers from the company." Thus, according to the petitioner, the strike was motivated (1) by the desire of the strikers to show the company and the U. O. E. F. that they were more than thirty in number, and (2) by the threat of Alejo Villanueva to dismiss them from the company.

In our opinion, neither of these motives nor both of them justified such a drastic measure as a strike, which necessarily entails pernicious consequences not only to the company but also to the laborers themselves and the public. It was of no avail to the petitioner to strike to show to the company and the intervenor U. O. E. F. that the petitioner had more than thirty members, because the question of whether or not the petitioner had more than thirty members employed in the service of the company was at that time sub judice, both parties having submitted evidence before the court to prove their respective contentions, and the company had the right to wait for the decision of the court upon the evidence adduced before it. As the lower court correctly observed, "the only permissible way to prove an allegation and to influence the decision of the court is to adduce evidence in the regular course of the proceedings." The second motive, referring to the alleged threat of dismissal by Alejo Villanueva, is likewise trivial and puerile. Villanueva was not an officer or employee of the respondent company, and the petitioner knew that he had no power or authority to dismiss any of the company's employees. He was merely an officer of the intervenor U. O. E. F. Indeed, we venture to say, that even if the threat had been made by an officer of the respondent company, the petitioner would not have been justified thereby to declare a strike because the petitioner knew that under the law, during the pendency of an industrial dispute before the Court of Industrial Relations, the

employer cannot lay off, and much less dismiss, the petitioning employees without the permission of the Court.

Counsel contend "that there is no provision of law, decision, ruling or doctrine which provides that a strike called for such a purpose is against the law." We have adverted to the ruling of this Court in Rex Taxicab Company vs. Court of Industrial Relations, supra, that in cases not falling within the prohibition against strikes, the legality or illegality of a strike depends, first, upon the purpose for which it is maintained, and, second, upon the means employed in carrying it on. Thus, if the purpose which the laborers intend to accomplish by means of a strike is trivial, unreasonable or unjust (as in the case of the National Labor Union, Inc. vs. Philippine Match Company, supra), or if in carrying on the strike the strikers should commit violence or cause injuries to persons or damage to property (as in the case of National Labor Union, Inc. vs. Court of Industrial Relations and Manila Gas Corporation, 68 Phil., 732), the strike, although not prohibited by injunction, may be declared by the court illegal, with the adverse consequences to the strikers.

To summarize, the rulings of this Court in the cases hereinabove cited are:

(1) The law does not look with favor upon strikes and lockouts because of their disturbing and pernicious effects upon the social order and the public interests; to prevent or avert them and to implement section 6, Article XIV of the Constitution, the law has created several agencies, namely: the Bureau of Labor, the Department of Labor, the Labor-Management Advisory Board, and the Court of Industrial Relations. (See sec. 4, Commonwealth Act No. 103; and Executive Order No. 158, dated July 28, 1948.)

(2) The law does not expressly ban strikes except when enjoined against by the court; but if a strike is declared for a trivial, unjust or unreasonable purpose, or if it is carried out through unlawful means, the law will not sanction it and the court will declare it illegal, with the adverse consequences to the strikers.

(3) If the laborers resort to a strike to enforce their demands, instead of resorting first to the legal processes provided by law, they do so at their own risk, because the dispute will necessarily reach the court and, if the latter should find that the strike was unjustified, the strikers would suffer the adverse consequences.

The Court of Industrial Relations has merely applied to this case the settled doctrines of this Court as above summarized. We reaffirm those doctrines and must, consequently, sustain the resolution complained of.

We do not deem it necessary to decide the two collateral issues raised by counsel for petitioner in their memorandum, namely: (1) whether or not the business of the respondent company is coupled with public interest; and (2) whether or not the closed-shop agreement between the respondent company and the U. O. E. F. is valid, legal and binding. These questions do not affect the main issue of the illegality of the strike in question.

The Resolution appealed from is affirmed, with costs against the petitioner.

Pablo, Bengzon, Tuason, Montemayor, and Reyes, *JJ.*, concur.