

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**JOHN I. NEVANS, VICTOR M. NALUS  
and LUZON BROKERAGE COMPANY,  
INC.,**

*Petitioners,*

*-versus-*

**G.R. No. L-21510  
June 29, 1968**

**COURT OF INDUSTRIAL RELATIONS,  
LUZON BROKERAGE SUPERVISORS'  
UNION (PTGWO) and GUILLERMO  
STA. ANA,**

*Respondents.*

X-----X

**DECISION**

**CONCEPCION, J.:**

Petition for Review on *Certiorari* of a Decision and a Resolution of the Court of Industrial Relations, hereinafter referred to as CIR.

At the behest of respondents Guillermo Sta. Ana and the Luzon Brokerage Supervisors' Union, on July 3, 1961, a complaint for unfair labor practice was filed with the CIR against herein petitioners, Luzon Brokerage Co., Inc. — hereinafter referred to as the Company — suspended and, soon later, dismissed Sta. Ana owing, according to

respondents, to Sta. Ana's union activities. Petitioners herein denied the charge and alleged that Sta. Ana had, together with three (3) other employees of the Company, been suspended because they were implicated in the losses sustained by the Company owing to pilferage and that Sta. Ana was later dismissed, after thorough investigation establishing his complicity in the theft. After appropriate proceedings, a Judge of the CIR rendered a decision finding the petitioners guilty as charged and sentencing them to reinstate him to his former or equivalent position, with backpay.

Petitioners filed a motion for reconsideration, and soon thereafter, a supplemental motion for new trial, on the ground of newly discovered evidence. Upon denial of these motions by the CIR en banc, the present petition for review on certiorari was filed by petitioners herein, upon the ground that the CIR had erred and/or acted with grave abuse of discretion; 1) in denying their aforesaid motion for reconsideration and supplemental motion for new trial; 2) in finding that they had committed an unfair labor practice in suspending and dismissing Sta. Ana; and 3) in finding petitioners Nevans and Nalus liable for the payment of Sta. Ana's back wages, despite the fact that they had merely acted as agents of the Company.

The main facts are not disputed. As set forth in the decision appealed from:

“Guillermo Sta. Ana worked in respondent company from September, 1953 to August 24, 1960. He was head checker of the company before he ceased working and his salary was P215.00 a month. Two months after September, 1953 he joined the Luzon Brokerage Employees Association as a member, by 1955 he was appointed special observer, and by 1957 he became a member of the board of directors of said Association. When his appointment as head checker was confirmed, he resigned from the Luzon Brokerage Employees Association and joined the Luzon Brokerage Supervisory Union on March 8, 1960. Before he joined the latter, he was Auditor of the former.”

Under Sta. Ana's supervision, on August 11, 1960, four (4) cases of merchandise were loaded, in the Manila Port Area, on a truck of the Company, driven by Roberto Yumul. One (1) of the cases was, by

order of Sta. Ana, unloaded in front of the offices of the Company in said area. Then, provided with a gate pass, supplied by him, for the three (3) remaining boxes, the truck proceeded to and did deliver the same to the consignee thereof, Shurdut Mill Supply & Co. — hereinafter referred to as Shurdut — at the Walled City.

Soon thereafter, the Manila Port Service reported to the Manila Police Department the alleged theft of one (1) case, containing 5006 Atkins Saw Teeth valued P2,887.28, which turned out to be one of those consigned to Shurdut. In connection therewith, Sta. Ana and Yumul, as well as Eugenio Belarmino and Victor Aloat, truck helper and “extra” checker of the Company, respectively, were investigated by the police. On August 24, 1960, Sta. Ana received a letter of petitioner Nevans, as President of the Company, advising him that, “in view of the numerous ramifications of the Shurdut Case, the Management regrets to inform you that they find it necessary to suspend you indefinitely, effective Thursday, August 25, 1960, as they feel that your suspected implication in this case reflects badly on the performance of your duties and can endanger the good reputation of the Company,” and that the same would conduct its “own administrative investigation, the outcome of which will be the deciding factor on what further and permanent action we would take.” On September 23, 1960, the Management decided to dismiss him for cause, namely, his “implication in pilferages on the Shurdut case and the U.S. Veterans Administration case,” as well as his “other negligences.”

On February 21, 1961, Sta. Ana brought the matter to the CIR, one of the prosecutors of which filed therein, on July 3, 1961, a complaint charging petitioners herein with unfair labor practice, upon the ground that they suspended him on August 24, 1960, on account of his union activities, and on September 23, 1960, “to stop his contact with the members of the Luzon Brokerage Association whose members are employees” of the Company.

The main proof in support of this charge consisted of Sta. Ana’s testimony. In the language of the decision appealed from:

“Mr. Guillermo Sta. Ana testified, among others that those who negotiated the collective bargaining agreement with the

company were the president, vice-president, secretary and the auditor of the Lubrocoem Association; that he was requested by his co-officers, as auditor of the Association, to attend the negotiation of the union with the management, and he attended the negotiation two or three times; that he proposed that the company provide legal assistance to them especially when they commit honest mistakes; that he suggested that employees who commit mistakes should not be immediately suspended or dismissed, but should be given a chance to be heard through their union; that management answered that it was immaterial to provide legal assistance for it might become a habit on the part of employees to make mistakes and then they would just depend on the legal assistance by the company.

“Mr. Guillermo Sta. Ana also declared that in July, 1957, he was verbally authorized by the president of the company, Mr. T. K. Norton, to hire ten extra men for the job of checker; that Mr. Nalus recommended to Mr. Ponce the appointment of Eraño Nepomuceno; that those who were qualified were hired while those who were not qualified, including Eraño Nepomuceno, were not hired; that Eraño Nepomuceno was disqualified upon recommendation of the regular checker through him; that when Mr. Nalus heard about it, he telephoned him and told him that if Eraño Nepomuceno would not be hired, he was going to use his influence to dismiss all the ten checkers that he had hired, and then Mr. Nalus told him that he would put him down; that after July, 1957, he and Mr. Nalus were not in good terms anymore because of Nepomuceno’s case.

“Mr. Sta. Ana also stated that after the death of his supervisor, Mr. Felipe Badillo, he was recommended by Mr. Capili to the position of acting head checker at Pier 3; that after five months as head checker, he was called up by the telephone by the operations manager, Mr. Capili, concerning the pilferage in the pier; that he was given an indefinite suspension on August 24, 1960; that he was given a memorandum of Mr. Nalus to submit to a lie-detector test; that he was not informed of the result of the lie-detector test to which he submitted himself.

The question for our determination is whether the foregoing evidence substantially supports the following conclusion, made in said decision:

“The first paragraph of the foregoing facts tends to prove the veracity of the testimony of Mr. Guillermo Sta. Ana concerning his union activities, and the second paragraph tends to prove the truth of the statement of Mr. Sta. Ana that his dismissal, on account of his union activities, had something to do with his rejection of the recommendee (Eraño Nepomuceno) of Mr. Victor Nalus to become one of the checkers of the company. The third paragraph shows the bias of Mr. Victor Nalus in not showing to Mr. Sta. Ana the result of the lie- detector test to which the latter had submitted himself at the request of the former.

“Upon the whole, it appears that the dismissal of Mr. Guillermo Sta. Ana from the service of respondent company was due to his union activities. In other words, the allegations in the Complaint are supported with substantial evidence.

x x x”

We note that Sta. Ana did not testify that, either his suspension, or his dismissal, was prompted by his union activities. Indeed, these activities began since November 1953, when he joined the Luzon Brokerage Employees Union. Said activities must have been manifest since, at least, 1955, when the Union appointed him as its special observer. What is more, in 1957, he became a member of the Union’s Board of Directors. Yet, it is not even suggested that petitioners had shown any animosity or bias against him, on account of his union activities, during these four (4) years.

Sta. Ana claims that in 1957, he had an incident with the office manager, petitioner Victor Nalus, because he (Sta. Ana) did not appoint Eraño Nepomuceno, a recommendee of Nalus, as checker, upon the ground of lack of the requisite qualifications. Sta. Ana testified that Nalus phoned him and said that, if Nepomuceno would not be hired, he (Nalus) would put him (Sta. Ana) down, apart from

using his (Nalus') influence to dismiss the checkers appointed by Sta. Ana, and that, since 1957, he was "not in good terms" with Nalus.

This alleged resentment or ill-feeling was generated, however, not by Sta. Ana's union activities, but, by his failure to accommodate a recommendee of Nalus. There is, moreover, nothing in the record to indicate that Sta. Ana's action in connection therewith had any connection whatsoever with his aforementioned activities. Neither does it suggest that either Nalus or the other petitioners herein had been thereby induced to take any adverse action against Sta. Ana.

On the contrary, on September 19, 1959, Nalus appointed Sta. Ana "as Acting Head Checker for a trial period of six months, effective retroactively on September 1, 1959," with a raise of P25 in his monthly salary. Nalus further advised Sta. Ana, that "if your services are found satisfactory the management may consider confirming your permanent appointment as Head Checker with an upward revision in your salary." Nalus even added: We appreciate the satisfactory work you have been doing and trust you will continue to serve the Company faithfully." In fact, on March 4, 1960, Nalus issued the corresponding "Notification of personnel action," to the effect that Sta. Ana had been permanently appointed as Head Checker, with another increase in pay, this time a substantial one, from P165 to P215 a month.

These two (2) promotions in status and in pay, and the circumstances surrounding the same, strongly tend to show that the alleged incident between Sta. Ana and Nalus, way back in 1957 had not so hurt the latter, as to have left a wound still unhealed three (3) years later, and impelled him — taking advantage of the pilferage that took place on August 11, 1960 — to suspend and then dismiss Sta. Ana in August and September, respectively, of the same year, on account of the union activities in which he had been engaged for the past seven (7) years. In fact, there is neither direct nor indirect evidence that the ultimate cause of the disciplinary action taken against Sta. Ana was his union activities. The failure of the Company to inform Sta. Ana of the result of the lie-detector test, to which he had submitted, does not and can not show the alleged bias of Nalus, there being no proof or claim that Sta. Ana had so much as asked or inquired about it. In short, the conclusion of the CIR on the cause of his dismissal is based,

therefore, on pure and simple speculation, justified, neither by the events preceding August 11, 1960, nor by those that took place thereafter.

Indeed, it is not disputed that out of four (4) cases of goods picked up from the Manila Port Area, on August 11, 1960, one (1) was unloaded by order of Sta. Ana, in front of the offices of the Company, and the other three (3) were delivered to the consignee thereof. The Manila Port Detachment, the Manila Police Department and the Company were under the impression that the unloaded case had been stolen. Having taken part in the process of taking said four (4) cases and delivering three (3) of them to the consignee, Eugenio Belarmino, Victorino Aloat, Roberto Yumul and respondent Sta. Ana, truck helper, extra checker, driver and head checker, respectively, of the Company, were investigated.

The first three (3) made written statements to the Manila Police Department. Belarmino declared that, on August 11, 1960, four (4) cases were loaded on a truck of the Company (at the Manila Port Area); that one (1) of said cases was unloaded by Sta. Ana in front of the offices of the Company (in said area); that, after securing a gate pass for the three (3) remaining cases, the same were delivered to Shurdut, in "Intramuros"; and that, on August 12, 1960, Yumul gave him P10.00 out of P20.00 allegedly given to him (Yumul) by Sta. Ana.

Aloat stated that Sta. Ana had ordered the loading of said four (4) cases and then bade him to secure a gate pass for only three (3) cases.

Yumul, in turn, affirmed that, after said four (4) cases had been loaded on his truck, he drove the same to the place in front of the offices of the Company, where Sta. Ana ordered him to unload one (1) case; that, after obtaining a gate pass for three (3) cases, he, together with Aloat and Belarmino, delivered the same to Shurdut; that the next day, Sta. Ana handed him P20, half of which he gave to Belarmino; and that he, later, learned that the case left in front of the Company premises had been taken out (of the Manila Port Area) and that the money given to him was his share of the sale thereof.

Upon the other hand, Sta. Ana refused to make any written statement, despite the unfavorable implications of the statements made by Belarmino, Aloat and Yumul.

The CIR was seemingly under the impression that petitioners had committed an unfair labor practice because they did not prove satisfactorily that the aforementioned case of merchandise had been stolen by Sta. Ana. Our point of inquiry, however, is not whether Sta. Ana is guilty of theft, but, petitioners' motive in suspending and then dismissing him. And, since there is neither direct nor strong circumstantial evidence thereon, the issue boils down to what was in all probability, the main cause for said suspension and dismissal.

Under the circumstances adverted to above, petitioners had reasonable grounds to believe, if not to entertain the moral conviction, that Sta. Ana was the person mainly responsible for the disappearance of the case of goods consigned to Shurdut and not delivered thereto, and for which the Company would have to indemnify Shurdut in the sum of P2,469.45, or, at least, that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position as head checker, and that, accordingly, he should be dismissed, not only to punish him and as a deterrent to similar behaviour of other employees, but, also, to protect the reputation of the Company.

As a matter of fact, the investigator of the Manila Police Department concluded that:

“Gleaned from the foregoing facts, it is obvious that Guillermo Sta. Ana holds the key to the mysterious disappearance of the missing case. While it is true that the others shared him with the proceeds of the loot although comparatively in a very small way, yet it is clear that they acted only upon his (Sta. Ana) direction. Besides, it has been established that Sta. Ana was the one responsible for leaving behind the one (1) missing box and as Yumul side, he “just learned that the one box which was ordered left, was taken out by them and the money was my share from the sale”.

and expressed the conviction Sta. Ana is “all behind the crime.”

It is true than the written statements of Belarmino, Aloom and Yumul, and the report of the police investigator were not sought to be introduced in evidence until after the rendition of the decision of the trial Judge, although before the action taken by the CIR en banc. This was due, however, to the fact that said report, with the statements forming part thereof, had not been submitted until sometime after petitioners had completed the presentation of their evidence before the CIR hearing officer. At any rate, petitioner Nalus had testified on the investigations made and the “implications” of the facts disclosed in the course thereof.

**WHEREFORE**, the decision and the resolution appealed from are hereby reversed and judgment shall be entered dismissing the complaint for unfair labor practice against petitioner herein, without costs. It is so ordered.

**Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.**