SUPREME COURT
EN BANC

VISAYAN BICYCLE MANUFACTURING CO., INC.,
***Petitioner*,**

-versus-

G.R. No. L-19997
May 19, 1965

NATIONAL LABOR UNION and COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
x----------x

D E C I S I O N

BENGZON, *J.*:

On November 3, 1958, workers in the Visayan Bicycle Manufacturing CO., Inc. formed the Visayan Bicycle Employees and Workers Union (VIBEMWU). Pedro Evangelista was its president. On November 14, 1958, VIBEMWU and the company signed a collective bargaining agreement. Among other things it provided for union security, check off, wage increases, fifteen days vacation leave and fifteen days sick leave.

On February 21, 1959, Pedro Evangelista was again elected president, for 1959. Felicisimo Rodiel was elected board member.

For the year 1960 VIBEMWU, on December 12, 1959, re-elected Pedro Evangelista president and elected Fulgencio Besana and Felicisimo Rodiel, vice-president and secretary, respectively.

On February 27, 1960, through its executive board headed by Besana, acting as president, VIBEMWU affiliated with the National Labor Union (NLU). Subsequently, on March 4, 1960, the Constitution and By-laws of VIBEMWU were amended. On March 9, 1960, another election was held and Besana was chosen president thereby replacing Evangelista.

On March 17, 1960, the national secretary of NLU, by a letter, informed the company of VIBEMWU's affiliation to NLU, and demanded enforcement of the collective bargaining agreement. The company, however, did not accede to the demand. Consequently, on April 5, 1960, VIBEMWU filed a notice to strike.

The Department of Labor's Conciliation Service held several hearings on the union's demands and strike notice, but the company still refused.

On April 25, 1960, the company dismissed Besana and Rodiel after they figured, on the same day, in a fight with two other employees, within the premises and during working hours. Alleging unfair labor practice, NLU, on behalf of VIBEMWU, as well as of Besana and Rodiel, filed on May 6, 1960 a complaint against the company in the Court of Industrial Relations. The company answered it on May 23, 1960. It stated that the dismissal of Besana and Rodiel was due to violation of a company rule that penalizes "Inciting or provoking a fight or fighting during working hours or on company premises."

The Presiding Judge of the Court of Industrial Relations, after trying the case, rendered a decision on March 3, 1962 in favor of the complainant union. An unfair labor practice, according to said decision, was committed by the company in dismissing Besana and Rodiel due to their union activities. The dispositive portion reads:

> "This Court finds substantial evidence to sustain the charge against respondent Company in violation of Section 4 (a),

paragraphs 1 and 4 of the Industrial Peace Act, and, therefore, orders respondent Company, its official and/or agents to:

> "(1) Cease and desist from interfering, restraining or coercing its employees in the exercise of their rights guaranteed by Section 3 of the Act;
>
> "(2) Cease and desist from discriminating against employees in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization;
>
> "(3) Reinstate Fulgencio Besana and Felicisimo Rodiel to their former or equivalent positions in respondents Company with backwages from the time of their dismissals on April 25, 1960, up to the time of their actual reinstatements and with the rights and privileges formerly appertaining thereto, including seniority;
>
> "To facilitate the proper payment of backwages due them, the Chief of the Examining Division of this Court and/or his duly designated assistant is hereby directed to examine the payrolls, daily time records and other pertinent documents relative to complainants Besana's and Bodiel's services with respondent Company, and to submit a corresponding report for further disposition.
>
> "SO ORDERED."

After receipt of copy of the decision on March 13, 1962, the company filed on March 15, 1962 a motion for reconsideration. It contained no argument but reserved the "right" to file supporting memorandum within ten days from March 18, 1962. A motion, however, was filed on March 27, 1962, requesting for 15-day extension of time to file the memorandum.

Adhering to a "no-extension" policy thereon, the Court of Industrial Relations en banc denied, on March 28, 1962, the aforesaid motion

for extension to file memorandum. Accordingly, on April 6, 1962, it further denied the motion for reconsideration.

Following its receipt on July 6,1962 of the last resolution, the company filed this petition for review on July 16, 1962.

Petitioner has raised two issues: First, did the Court of Industrial Relations abuse its discretion in denying the motion for extension of time to file memorandum in support of the motion for reconsideration? Second, did the company's dismissal of Besana and Rodiel constitute unfair labor practice?

The first issue has already been settled. The denial by the Court of Industrial Relations of a motion to extend the 10-day period to file arguments in support of a motion for reconsideration, pursuant to its standing rule against such extension, does not constitute abuse of discretion.[1]

Regarding the second issue, the record shows that on April 25, 1960, Besana and Rodiel were provoked by Saturnino Reyes and Silvestre Pacia into a pre-arranged fight pursuant to a strategy of the company designed to provide an apparently lawful cause for their dismissal. Reyes and Pacia were hired only within that week.[2] Besana and Rodiel were not shown to have previously figured in similar incidents before or to have violated company rules and regulations in their many years with the company.[3] The company did not investigate the incident, and its manager, Co Hing, admitted that Besana was dismissed because he was a "hard-headed leader of the union". It was this manager who had warned VIBEMWU's officers responsible for the affiliation that if they will not withdraw VIBEMWU from the NLU, he would "take steps in order to dismiss them from work."

The findings of the Court of Industrial Relations to the foregoing effect are supported by substantial evidence. No reason obtains to alter the conclusion that Besana and Rodiel were in reality dismissed because of their union activities and not because of their violation of a company rule against fight in the premises or during working hours. Furthermore, the so-called violation of company rules having been brought about by the company itself, thru the recent employment of Saturnino Reyes and Silvestre Pacia who provoked the fight as above

indicated, the same cannot be regarded as a ground to punish the aforementioned employees.

Such being the case, the dismissal of Besana and Rodiel constituted unfair labor practice under Section 4(a) (1) and (4) of Republic Act 875:

> "Sec. 4. Unfair Labor Practices.—
>
> "(a) It shall be unfair labor practice for an employer:
>
> "(1) To interfere with, restrain ,or coerce employees in the exercise of their rights guaranteed in section three;"[4]
>
> x x x
>
> "(4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization:"

Rothenberg has this to say:

> "it can be established that the true and basic inspiration for the employer's act is derived from the employee's union affiliations or activities, the assignment by the employer of another reason, whatever its semblance or validity, is unavailing. Thus, it has been held that the facts disclosed that the employer's acts in discharging employees were actually prompted by the employer's improper interest in the affected employee's union affiliations and activities, even though the employer urged that his acts were predicated on economic necessity, desire to give employment to more needy persons, lack of work, cessation of operations, refusal to work overtime, refusal of non-union employees to work with union employees, seasonal lay-off, libelous remarks against management, violation of company rules." (Rothenberg on Labor Relations, pp. 400-401; Emphasis supplied.)

Since the only reason or basis for Besana and Rodiel's dismissal was in fact their actuation as officers of VIBEMWU, the dismissal is clearly discriminatory.

It is this inconsiderate act of power that makes a subordinate a rebel, it is this malicious tactic that forces labor to dislike management; this unjustifiable conduct that creates a gap between management and labor; and this attitude that makes the laborer hate the officials of the company to the detriment of all efforts to harmonize management and labor for the benefit of both as envisioned by the Industrial Peace Act. So plain from the record is the bad faith that attended the company's deliberate and calculated act of unfair labor practice that we find in the present appeal an obvious attempt to delay and carry on a pretense which this Court can ill afford to let go without stern disapproval.

WHEREFORE, the decision and resolutions appealed from are hereby affirmed, with treble costs against petitioner. So ordered.

Bengzon, *C.J.*, Bautista Angelo, Reyes, Barrera, Paredes, Dizon, Regala, Makalintal and Zaldivar, *JJ.*, concur.
Concepcion, *J.*, took no part.

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[1] Luzon Stevedoring Co., Inc. vs. CIR, L-16682, July 26,-1963; Manila Metal Caps and Tin Cans Manufacturing Co., Inc. vs. L-17578, July 31, 1963.
[2] April 19, 1960 and April 18, 1960, respectively.
[3] Besana was employed since October 4, 1956; Rodiel, since November, 1957.
[4] "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 for the purpose collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose collective bargaining and other mutual aid or protection."