

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**ZAMBOANGA WOOD PRODUCTS,  
INC.,**  
*Petitioner,*

*-versus-*

**G.R. No. 82088  
October 13, 1989**

**THE NATIONAL LABOR RELATIONS  
COMMISSION, NATIONAL  
FEDERATION OF LABOR, DIONISIO  
ESTIOCA and THE STRIKERS,**  
*Respondents.*

X-----X

**DECISION**

**GRÑO-AQUINO, J.:**

This is the seventh Petition to come before this Court involving the parties herein, and the fifth by the herein employer, Zamboanga Wood Products, Inc. (the "Company" for short).

Dionisio Estioca was first hired by the petitioner in May 1977 as a clerk in its personnel department. In 1980, he rose to become a personnel aide. On July 1, 1981, he became the Personnel Supervisor, a supervisory and/or managerial position, next in rank to the Personnel Manager.

On March 5, 1982, the National Federation of Labor (NFL) of which Estioca was president, filed a petition for direct certification as the sole and exclusive bargaining representative of all the monthly-salaried employees (90 more or less) of the Company “composed of administrative and supervisory personnel which is an appropriate bargaining” unit (See petition in G.R. No. 67343).

Over the Company’s opposition, the Med Arbiter on August 23, 1982, directly certified the NFL as the sole and exclusive bargaining representative of all the monthly-salaried employees of the Company. The Company appealed but it was dismissed by the Bureau of Labor Relations (BLR). It filed a petition for *certiorari* in the Supreme Court (G.R. No. 67343). The petition was dismissed for lack of merit on July 16, 1984.

On or about April 2, 1982, Estioca posted an announcement on the bulletin board of the employees’ coffee shop criticizing the Company for having earmarked the sum of P250,000 for the interdepartment athletic tournament (which he called “a farce and baloony”) to be held that year, instead of using the money to pay the employees’ claims for living allowance. He urged the employees to boycott the sports event. The announcement authored by him, reads:

“TO ALL ZMEU MEMBERS:

“GEORGE HAS VERBALLY APPROVED THE RELEASE OF P250,000.00 FOR THE INTERDEPARTMENT ATHLETICS FOR THIS YEAR ALONE. THE MOST SUDDEN DECISION FOR THAT AMOUNT IS VERY, VERY MUCH SURPRISING ON THE PART OF MANAGEMENT EVER SINCE.

“THIS IS ENTIRELY A PSYCHOLOGICAL APPROACH TO DIVERT THE MINDS AND THE ATTENTIONS OF THE EMPLOYEES WHO ARE CLAIMING FOR THEIR RIGHTS. REMEMBER, OUR CLAIMS FOR DIFFERENTIAL OF OUR LIVING ALLOWANCE HAS BEEN DENIED BY MANAGEMENT. THEN, WHY SPEND THE P250,000.00 FOR ATHLETICS? GIVE US OUR LIVING ALLOWANCE FIRST

BEFORE ANY ADDITIONAL BENEFITS, THIS IS OUR MONEY.

“I AM APPEALING TO ALL OFFICERS AND MEMBERS OF ZMEU TO WITHDRAW YOUR PARTICIPATION IN THE ATHLETICS BEING ORGANIZED BY MANAGEMENT. THIS IS A FARCE AND BALOONY. I WANT YOU TO SEE ME IF YOU HAVE ANY PROBLEM WITH THE ANNOUNCEMENT.

PRESIDENT  
4/19/82” (p. 6, Rollo)

It turned out that Estioca’s figures were incorrect for the athletic meet budget was P54,000 only.

On April 17, 1982, the employees filed a claim for their living allowance before the Labor Arbiter (NLRC Case No. 0178-82).

On April 26, 1982, Attorney Alberto Dela Rosa, resident manager of the Company (whose main office is in Makati, Metro Manila), wrote a letter to Estioca asking him to show cause why no disciplinary action should be taken against him for:

- “a) Spreading false rumors regarding the so called P250,000.00 budget for athletics during this interdepartment games;
- “b) For agitating employees to fight against management’s plan and programs of athletic activities which are good for the employees and company; and
- “c) For using company materials and equipment for personal and private use/purpose without authority.” (p. 7, Rollo.)

Estioca received the letter on April 26, 1982. He answered it on April 27, 1982. On April 30, 1982, he was notified that the Company was terminating his service as personnel supervisor for loss of trust and confidence in him. The termination was duly reported by the Company to the Ministry of Labor and Employment (MOLE).

On May 3, 1982, the respondent NFL, on behalf of the monthly-paid employees, filed with the Regional Director of the MOLE in Zamboanga City, a notice of strike against the Company for the following grounds:

- “a. Illegal termination of Dionisio Estioca, President of Zambowood Employees Local, National Federation of Labor on April 30, 1982, on account of union activities;
- “b. Unfair labor practice, particularly union busting;
- “c. Non-payment of living allowances;
- “d. Employment of oppressive alien management personnel without proper permit, contrary to law.” (p. 8, Rollo.)

The Company opposed the notice of strike because the grounds stated in the notice were not valid grounds for a strike, the procedural rules for declaring a strike were not followed, and the NFL, had no personality to file the notice because its petition for certification as the collective bargaining agent of the monthly-salaried employees was still pending resolution. (The Company’s petition for review [G.R. No. 67343] of the BLR’s decision certifying the NFL as bargaining agent of the employees was dismissed by the Supreme Court on July 16, 1984).

On May 23, 1982, the respondents struck.

On May 25, 1982, the Company issued a written order to the striking employees to return to work immediately or be dismissed, but they paid no heed.

On May 27, 1982, the Company asked the Minister of Labor to certify the controversy for arbitration.

On May 28, 1982, Estioca filed a complaint for illegal dismissal with the NLRC’s Arbitration Branch. It was docketed as NLRC Case No. RAB-IX-0216-2.

As the strike continued, the company sent letters of termination on June 17, 1982 to the strikers, dismissing them for serious misconduct, willful disobedience, and abandonment. The Company sent a termination report to the MOLE Regional Director in Zamboanga City, and asked that the employees' notice of strike be dismissed for having become moot and academic.

On July 9, 1982, the Company filed in the Court of First Instance of Zamboanga City a complaint against the striking employees for damages arising from the unlawful obstruction of its premises and asked the court to issue an injunction against them. The strikers filed a petition for *certiorari* in the Supreme Court (G.R. No. 61236) alleging lack of jurisdiction of the Court of First Instance over the dispute. On January 31, 1984, We granted the writ of *certiorari* and permanently enjoined the Court of First Instance from taking further action in the case. The Company refiled its action for damages in the Regional Office of the MOLE in Zamboanga City on May 2, 1984.

On August 18, 1982, the Minister of Labor certified the labor dispute to the NLRC for compulsory arbitration (Certified Case No. 0309). The pertinent portion of the certification reads as follows:

“IN VIEW OF ALL THE FOREGOING, the labor dispute at Zamboanga Wood Products, Inc., is hereby certified to the National Labor Relations Commission for compulsory arbitration pursuant to Art. 264(6) of the Labor Code of the Philippines. In line with this certification, all striking workers including those terminated by the company, must return to work immediately and Management shall accept all returning workers under the same terms and conditions prevailing previous to the work stoppage. The assistance of the military and police authorities is requested for the effective and orderly implementation of this order. The NLRC is given thirty (30) days from receipt hereof to terminate proceedings.” (p. 12, Rollo.)

In obedience to the Secretary's order, the strikers tried to return to work on August 19, 1982, but were rebuffed by the Company.

Backtracking from its earlier request for compulsory arbitration, the Company filed a motion for reconsideration of the Minister's order on the pretext that there was nothing more to arbitrate because the strikers had been dismissed. When its motion for reconsideration was denied, the Company brought the matter up to this Court on a petition for *certiorari* (G.R. No. 62893). The petition was dismissed on June 6, 1988.

On the other hand, the strikers filed a petition for mandamus in this Court (G.R. No. 64183) to compel the Company to take them back. On September 15, 1988, this Court granted their petition. The dispositive portion of its decision provided:

“WHEREFORE, the petition for mandamus is granted. Public respondents are hereby ordered to implement their return-to-work order, and private respondent must respect the right of the eighty-one petitioners to resume their respective positions as of the time the strike was called. The question as to the backwages and their seniority rights will be determined in the compulsory arbitration proceeding. This decision is immediately executory.” (p. 13, Rollo.)

Pursuant thereto the NLRC on September 27, 1988, ordered the Company to readmit the striking employees including those who had been dismissed. The Company alleged that the positions of the dismissed strikers had been filled up. On November 18, 1988, fifteen (15) “replacements” filed a petition for injunction in the NLRC, in Certified Case No. 0306, to enjoin the erstwhile strikers from returning to their jobs.

Adopting the report of Commissioner Gabriel Gatchalian who was commissioned to hear the case and its incidents, the NLRC promulgated a decision on June 6, 1984, denying the temporary employees' petition for injunction, upholding the legality of the strike, ordering the reinstatement of the workers and Estioca, finding the company guilty of contempt, and ordering it to pay a fine of P10,000. The dispositive portion of the decision provided:

“WHEREFORE, judgment is hereby entered as follows:

- “1. The respondent is declared guilty of unfair labor practice and is ordered to reinstate all the striking workers including Dionisio Estioca to their former positions without loss of seniority and with full backwages from the date they first presented themselves to return to work on 19 August 1982 until their actual reinstatement; respondent is likewise ordered to cease and desist from further committing the unfair labor practice acts on plaintiffs;
- “2. The petition for injunction filed by the fifteen (15) replacements hired after 19 August 1982 is denied and they are instead ordered to vacate their positions in favor of the returning strikers entitled thereto; and
- “3. The respondent is declared guilty of contempt and is ordered to pay a fine of Ten Thousand Pesos (P10,000) to this Commission payable within ten (10) days from receipt of the Decision.” (p. 59, Rollo.)

Upon the denial of its motion for reconsideration, the Company filed a petition for *certiorari* and mandamus in the Supreme Court (G.R. No. 68028) protesting that the decision of the NLRC was rendered without due notice and hearing, hence, in violation of its right to due process.

In the meantime, Estioca’s complaint for illegal dismissal (RAB-IX-0216-2) had also reached the Supreme Court (G.R. No. 68429) as the Executive Labor Arbiter and the NLRC ordered his reinstatement as personnel supervisor with backwages from April 30, 1982, up to his reinstatement (Annex A, pp. 36-37, Rollo).

The Supreme Court consolidated G.R. No. 68028 and G.R. No. 68429, and on October 29, 1986, it required the NLRC to hold a formal hearing in Certified Case No. 0309 and NLRC Case No. RAB-IX-0216-2 to determine the legality of the strike and the dismissal of Estioca and other incidental questions.

Complying with that directive, the NLRC held hearings where evidence were presented by both sides. On November 6, 1987, the

NLRC reiterated its earlier decision dated June 5, 1985 (Annex A, pp. 35-40, Rollo).

For the fifth time, the Company is before Us seeking relief from the NLRC's decisions. Its petition for *certiorari* (G.R. No. 82088) alleges that the NLRC gravely abused its discretion in holding that the dismissal of Estioca was illegal; that the company committed unfair labor practice; that the strike on May 23, 1982 was lawful, and that hence, the Company should reinstate the strikers including Estioca.

Complying with Our resolution ordering the respondents to comment on the petition, the private respondents filed a comment. The Solicitor General filed no comment for the public respondent failed to comply with Our order to send the records of the case to him.

After carefully considering the pleadings of both parties, We are not persuaded to grant the petition.

The petitioner's allegation that Estioca's position as personnel supervisor was managerial in nature was not denied by Estioca. As next-in-rank to the personnel manager, he performed, in the latter's absence, the duties and functions of that position. He was authorized to sign and approve sick leaves and vacation leaves of the employees, to hire employees (Exhs. 12 and 14), discipline them, give them assignments, and prepare their work schedules, special trips, and operations. He had no less than 17 employees under his direct supervision (Exh. 22).

In view of Estioca's managerial position, the Company contends that its loss of trust and confidence in him was a lawful cause for his dismissal. It argues that Estioca's act of posting a scathing and hostile announcement in the Company's cafeteria, falsely denouncing the Company for its supposed extravagance and fomenting discontent and resentment among the employees on account of the Company's supposed indifference to their claim for increased living allowance, were acts of disloyalty to the management. Although Estioca later apologized for his "intemperate language" and "impetuous action," which he admitted exceeded "the bounds of tolerable dissent which management has the right to reprove or correct," and expressed

regret for “the difficult situation that I have created for the management” (Exh. 23, p. 19, Rollo), the company was not appeased.

Was his dismissal justified?

Art. 245 of the Labor Code provides that “managerial employees are not eligible to join, assist or form any labor organization.” Estioca is, therefore, disqualified to head a union of the rank and file employees.

However, RA 6715 which took effect on March 21, 1989 (15 days after its publication in the “Philippines Daily Inquirer”) provides that although “supervisory employees shall not be eligible for membership in a labor organization of the rank and file employees,” they may, however, “join, assist or form separate labor organization of their own.”

In the NFL’s petition for direct certification as the bargaining representative of the monthly-salaried employees of the Company, it was expressly alleged that said organization is “composed of administrative and supervisory personnel.” Consequently, Estioca’s leadership of that union was not unlawful as it was not inconsistent with his position as personnel supervisor of the Company. However, his act of posting a bellicose announcement critical of the Company and based on false or erroneous information, was undoubtedly prejudicial to the Company. The Company’s reaction was understandable but too harsh in view of Estioca’s subsequent apology for his action. We, therefore, agree with the public respondent that Estioca’s dismissal from the service was illegal.

The other issue that addresses itself to this Court is whether the strike was illegal. The NLRC held that the strike was not illegal:

“Verily, the test of strike legality are its purpose, the means of execution and compliance with legal requirements. From the evidence it appears that a notice of strike was filed by petitioner on May 3, 1982 and that a strike vote was taken whereby 79 voted yes while 3 voted no and forthwith reported the same to the Department seven days before the strike commenced on May 23, 1982. Hence, Art. 264 of the Labor Code was complied with. The ground of the strike is stated in the strike notice

which charges unfair labor practice on the part of respondent by way of union busting in addition to Estioca's dismissal for union activities. The chronology of events disclose that on March 5, 1982, the union of monthly paid employees filed a petition for certification election with the Bureau of Labor Relations. After the filing of the same, as testified to by Estioca, which was not rebutted by respondent Celso Abastillas and Lilio Navarro, Comptroller and Production Manager, respectively called the employees on separate occasions sometime in April 1982 and asked them to withdraw their membership from the union. Respondent also dismissed Dionisio Estioca, union president, on April 30, 1982," (pp. 37-38, Rollo.)

The petitioner alleges that the strike was illegal because long before the union filed the notice of strike, the employees' claim for living allowance had already been filed in the Regional Arbitration Branch No. IV as NLRC Case No. RAB-IX-0178-82 (p. 21, Rollo). Said claim could no longer be invoked as a ground for the declaration of a strike in view of Art. 265 of the Labor Code as amended, which provides:

“ART. 265. PROHIBITED ACTIVITIES. —

“It shall likewise be unlawful to declare a strike or lockout after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the grounds for the strike or lockout.”

The rationale of this prohibition, is that once jurisdiction over the dispute has been properly acquired by competent authority, that jurisdiction should not be interfered with by the application of the coercive processes of a strike.

We hold, however, that the illegal dismissal of Estioca and the Company's union-busting efforts were legal grounds for the strike.

In fact, the Company did not deny the charge of union busting levelled by the respondents. The NLRC found that —

“As testified to by Estioca, which was not rebutted by respondent, Celso Abastillas and Lilio Navarro, Comptroller and Production Manager, respectively, called the employees on separate occasions sometime in April 1982 and asked them to withdraw their membership from the union.” (p. 38, Rollo.)

Union busting, or interference with the formation of a union, constitutes an unfair labor practice (Art. 248, subpar. 4, Labor Code), hence a valid ground for the declaration of a strike.

The Company’s refusal to accept the striking workers when they returned to work as directed in the Labor Secretary’s return-to-work order dated August 18, 1982, was unjustified. For that reason, the Company is liable to pay the workers backwages. However, in view of the admission in the private respondents’ comment that in August 1984 the 81 striking workers were readmitted by the Company (p. 65, Rollo), they are entitled to backwages for the period when they presented themselves for work until they were accepted by the Company in August 1984.

**WHEREFORE**, the Petition for *Certiorari* is dismissed. The Decision of the National Labor Relations Commission in Certified Case No. 0309 is affirmed with modification by ordering the petitioner Zamboanga Wood Products, Inc. to reinstate the strikers, including Dionisio Estioca, to their former positions without loss of seniority rights and with backwages from August 19, 1982 when they offered to report for work, up to August 1984 when they were readmitted by the Company. With respect to Estioca, his backwages shall not exceed a period of three (3) years from April 30, 1982. The fine of P10,000 imposed on the petitioner for its delay in complying with the Secretary’s return-to-work order, is affirmed Costs against the petitioner.

**SO ORDERED.**

**Narvasa, Gancayco and Medialdea, JJ., concur.**  
**Cruz, J., No part. Related to one of the petitioner’s counsel.**