SUPREME COURT
FIRST DIVISION

CALTEX FILIPINO MANAGERS AND SUPERVISORS ASSOCIATION,
***Petitioner*,**

-versus-

G.R. Nos. L-30632-33
April 11, 1972

COURT OF INDUSTRIAL RELATIONS, CALTEX (PHILIPPINES), INC., W. E. MENEFEE and B. R. EDWARDS,
***Respondents*.**
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D E C I S I O N

VILLAMOR, *J.*:

This is an Appeal by the Caltex Filipino Managers and Supervisors' Association from the resolution en banc dated May 16, 1969 of the Court of Industrial Relations affirming the decision dated February 26, 1969 of Associate Judge Emiliano G. Tabigne, Associate Judge Ansberto P. Paredes dissented from the resolution of the majority on the ground that the Industrial Court in a representation case cannot take cognizance of the issue of illegality of a strike and proceed to declare the loss of the employee status of employees inasmuch as that matter ought to be processed as an unfair labor practice case. Judge Tabigne's decision covers two cases, namely, Case No. 1484-MC(1) in

which he declared the strike staged on April 22, 1965 by the Association as illegal with the consequent forfeiture of the employee status of three employees (Jose J. Mapa, President of the Association; Dominador Mangalino, Vice-President; and Herminigildo Mandanas) and Case No. 4344-ULP filed against Caltex (Philippines), Inc., Ben F. Edwards and W.E. Menefee which Judge Tabigne dismissed for lack of merit and substantial evidence.

The following proceedings gave rise to the present appeal:

> The Caltex Filipino Managers and Supervisors' Association is a labor organization of Filipino managers and supervisors in Caltex (Philippines), Inc., respondent Company in this proceeding. After the Association was registered as a labor organization it sent a letter to the Company on January 21, 1965 informing the latter of the former's registration; the Company replied inquiring on the position titles of the employees which the Association sought to represent. On February 8, 1965 the Association sent a set of proposals to the Company wherein one of the demands was the recognition of the Association as the duly authorized bargaining agency for managers and supervisors in the Company. To this the Company countered stating that a distinction exists between representatives of management and individuals employed as supervisors and that it is the Company's belief that managerial employees are not qualified for membership in a labor organization; hence, it suggested that the Association institute a certification proceeding so as to remove any question with regard to position titles that should be included in the bargaining unit. The Association felt disinclined to follow the suggestion of the Company[1] and so on February 22, 1965 the Company initiated a certification proceeding docketed as Case No. 1484-MC.

On March 8, 1965 the Association filed notice to strike giving the following reasons:

> "Refusal to bargain in good faith and to act on demands, a copy of which is enclosed; resort to union-busting tactics in order to discourage the activities of the undersigned association and its members, including discrimination and intimidation of officers

> and members of the association and circulation of promises of immediate benefits to be given by the company to its employees, officers and members of this association or those intending to join the same, if the employees concerned in due course will vote against the selection of this association as the exclusive collective bargaining unit for managers and supervisors of the Company in the petition for certification the latter filed." (Annex "A" of Annex "A", Petition).

On March 29, 1965, during the hearing of the certification proceedings, Judge Tabigne cautioned the parties to maintain the status quo; he specifically advised the employees not to go on strike, making it clear, however, that in the presence of unfair labor practices they could go on strike even without any notice.[2]

On the basis of the strike notice filed on March 8, 1965 and in view of acts committed by the Company which the Association considered as constituting unfair labor practice, the Association struck on April 22, 1965, after the efforts exerted by the Bureau of Labor Relations to settle the differences between the parties failed. Then, through an "Urgent Petition" dated April 26, 1965 filed as Case No 1484-MC(1), or as an incident of the certification election proceedings (Case No. 1484-MC), the Company prayed as follows:

> "WHEREFORE, petitioner respectfully prays this Honorable Court that:
>
> 1. The strike of respondent Caltex Filipino Managers and Supervisors Association be declared illegal;
>
> 2. The officers and members of respondent association who have instigated, declared, encouraged and/or participated in the illegal strike be held and punished for contempt of this Honorable Court and be declared to have lost their employee status;
>
> 3. Pending hearing on the merits and upon the filing of a bond in an amount to be fixed by this Honorable Court, a temporary injunction be issued restraining respondent association, its officers, members and

representatives acting for and on their behalf from committing, causing or directing the commission of the unlawful acts complained of, particularly obstructing and preventing petitioner, its customers, officers and non-striking employees from entering and going out of its various offices, in its refinery, installations, depots and terminals and the use or threat of violence and intimidation;

4. After trial, said injunction be made permanent; and

5. The damages that petitioner has suffered and will suffer up to the trial of this action be ascertained and judgment be rendered against respondent association, its officers, members and representatives jointly and severally for the amount thereof.

"Petitioner prays for such other and further relief as this Honorable Court may deem just and equitable in the premises." (Annex "D", Petition)

Such urgent petition was frontally met by the Association with a motion to dismiss questioning the jurisdiction of the industrial court. The motion to dismiss was opposed by the Company and on May 17, 1965 the trial court denied the same. Not satisfied with the order of May 17, 1965, the Association moved for its reconsideration before respondent court en banc.

Because of the settlement between the parties on May 30, 1965 of some of their disputes, the Association filed with respondent court under date of June 3, 1965 a manifestation (to which was attached a copy of the return-to-work agreement signed by the parties on May 30, 1965), to the effect that the issues in Case No. 1484-MC(1) had become moot and academic. Under date of June 15, 1965 the Company filed a counter-manifestation disputing the representations of the Association on the effect of the return-to-work agreement. On the basis of the manifestation and counter-manifestation, respondent court en banc issued a resolution on August 24, 1965 allowing the withdrawal of the Association's motion for reconsideration against

the order of May 17, 1965, on the theory that there was justification for such withdrawal.

Relative to the resolution of August 24, 1965 the Company filed a motion for clarification which the Association opposed on September 22, 1965, for it contended that such motion was in reality a motion for reconsideration and as such filed out of time. But respondent court brushed aside the Association's opposition and proceeded to clarify the resolution of August 24, 1965 to mean that the Company was not barred from continuing with Case No. 1484-MC(1).

At the hearing on September 1, 1965 of Case No. 1484-MC(1) the Association insisted that the incident had become moot and academic and must be considered dismissed and, at the same time, it offered to present evidence, if still necessary, in order to support its contention. Respondent court thereupon decided to secure evidence from the parties to enlighten it on the interpretation of the provisions of the return-to-work agreement relied upon by the Association as rendering the issues raised in Case No. 1484-MC(1) already moot and academic. Evidence having been received, the trial court ruled in its order of February 15, 1966 that under the return-to-work agreement the Company had reserved its rights to prosecute Case No. 1484-MC(1) and, accordingly, directed that the case be set for hearing covering the alleged illegality of the strike. Within the prescribed period the Association filed a motion for reconsideration of the February 15, 1966 order to which motion the Company filed its opposition and, in due course, respondent court en banc issued its resolution dated March 28, 1966 affirming the order. Appeal from the interlocutory order was elevated by the Association to this Court in G.R. No. L-25955, but the corresponding petition for review was summarily "DISMISSED for being premature" under this Court's resolution of May 13, 1966.

After a protracted preliminary investigation, the Association's charge for unfair labor practices against the Company and its officials docketed in a separate proceeding was given due course through the filing by the prosecution division of respondent court of the corresponding complaint dated September 10, 1965, in Case No. 4344-ULP against Caltex (Philippines), Inc., W. E. Menefee and B.F. Edwards. As noted by respondent court in its decision under review,

Case No. 4344-ULP was filed by the Association because, according to the latter, the Company and some of its officials, including B.F. Edwards, inquired into the organization of the Association and he manifested his antagonism to it and its President; that another Company official, W.E. Menefee, issued a statement of policy designed to discourage employees and supervisors from joining labor organizations; that the Company refused to bargain although the Association commands majority representation; that due to the steps taken by the Company to destroy the Association or discourage its members from continuing their union membership, the Association was forced to file a strike notice; that on April 22, 1965 it declared a strike; and that during the strike the Company and its officers continued their efforts to weaken the Association as well as its picket lines. The Company in its answer filed with respondent court denied the charges of unfair labor practice.

Considering the interrelation of the issues involved in the two cases and by agreement of the parties, the two cases were heard jointly. This explains why only one decision was rendered by respondent court covering both Case No. 1484-MC(1), relating to the illegality of the strike as contended by the Company, and Case No. 4344-ULP, referring to the unfair labor practice case filed by the Association against the Company, W. E. Menefee and B. F. Edwards.

The Association assigned the following errors allegedly committed by respondent court:

I

"RESPONDENT COURT ERRED IN ASSUMING JURISDICTION OVER CASE NO. 1484-MC(1).

II

ASSUMING THAT RESPONDENT COURT HAS JURISDICTION OVER CASE NO. 1484-MC(1), IT ERRED IN NOT HOLDING THAT THE SAME ALREADY BECAME MOOT WITH THE SIGNING OF THE RETURN TO WORK AGREEMENT ON MAY 30, 1965.

III

ASSUMING LIKEWISE THAT RESPONDENT COURT HAS JURISDICTION OVER CASE NO, 1484-MC(1) IT ERRED IN HOLDING THAT CAFIMSA'S STRIKE WAS STAGED FOR NO OTHER REASON THAN TO COERCE THE COMPANY INTO RECOGNIZING THE CAFIMSA AND THAT SUCH STRIKE WAS UNJUSTIFIED, UNLAWFUL AND UNWARRANTED.

IV

RESPONDENT COURT ERRED IN AFFIRMING THE TRIAL COURT'S CONCLUSION THAT CAFIMSA'S STRIKE WAS DECLARED IN OPEN DEFIANCE OF THE MARCH 29, 1965 ORDER IN CERTIFICATION CASE NO. 1484-MC.

V

RESPONDENT COURT ERRED IN AFFIRMING THE TRIAL COURT'S FINDING, DESPITE THE SUBSTANTIAL CONTRARY EVIDENCE ON RECORD THAT THE STRIKERS RESORTED TO MEANS BEYOND THE PALE OF THE LAW IN THE PROSECUTION OF THE STRIKE AND IN DISREGARDING THE CONSIDERATION THAT THE STRIKERS MERELY EMPLOYED LAWFUL ACTS OF SELF-PRESERVATION AND SELF-DEFENSE.

VI

RESPONDENT COURT ERRED IN AFFIRMING THE DISMISSAL BY THE TRIAL COURT OF J.J. MAPA, CAFIMSA'S PRESIDENT, AND OTHERS, OR IN OTHERWISE PENALIZING THE STRIKERS.

VII

ASSUMING ARGUENDO THAT THE FACTS FOUND BY THE TRIAL COURT SHOULD BE ACCEPTED, IN DISREGARD OF THE EVIDENCE PRESENTED BY THE COMPANY DAMAGING TO ITS CAUSE, OR ALTHOUGH THE TRIAL

COURT DISREGARDED THE SUBSTANTIAL INCRIMINATORY EVIDENCE AGAINST THE COMPANY, RESPONDENT COURT ERRED IN NOT APPLYING THE PRINCIPLE OF IN PARI DELICTO.

VIII

RESPONDENT COURT ERRED IN FAILING TO HOLD THAT THE COMPANY IS BARRED UNDER SECTION 9(e) OF THE REPUBLIC ACT NO. 875 FROM SEEKING THE RELIEF PRAYED FOR IN CASE NO. 1484-MC(1).

IX

RESPONDENT COURT ERRED IN ENTIRELY ABSOLVING THE COMPANY FROM THE UNFAIR LABOR PRACTICE CHARGE AND IN DISREGARDING THE SUBSTANTIAL INCRIMINATORY EVIDENCE RELATIVE THERETO AGAINST THE COMPANY.

X

RESPONDENT COURT ERRED IN RENDERING JUDGMENT FOR THE CAFIMSA IN CASE NO. 4344-ULP AND IN NOT ORDERING THE COMPANY TO PAY BACK WAGES AND ATTORNEY'S FEES.

XI

RESPONDENT COURT ERRED IN PREMATURELY IMPLEMENTING THE TRIAL COURT'S DISMISSAL OF J.J. MAPA AND DOMINADOR MANGALINO." (Brief for the Petitioner, pp. 1-4).

To our mind the issues raised in this appeal may be narrowed down to the following:

1. Whether or not the Court of Industrial Relations has jurisdiction over Case No. 1484-MC(1);

2. Whether or not the strike staged by the Association on April 22, 1965 is illegal and, incident thereto, whether respondent court correctly terminated the employee status of Jose Mapa, Dominador Mangalino and Herminigildo Mandanas and reprimanded and admonished the other officers of the Association; and

3. Whether or not respondent court correctly absolved the respondents in Case No. 4344-ULP from the unfair labor practice charge.

Respondent's court's jurisdiction over Case No. 1484-MC(1) has to be tested by the allegations of the "Urgent Petition" dated April 26, 1965 filed by the Company in relation to the applicable provisions of law. A reading of said pleading shows that the same is for injunctive relief under Section 9(d) of Republic Act No. 875 (Magna Charta of Labor); for contempt, obviously pursuant to Sec. 6 of Commonwealth Act No. 103 in conjunction with Sec. 3(b) of Rule 71 of the Rules of Court; and for forfeiture of the employee status of the strikers by virtue of their participation in what the Company considered as an "illegal strike."

It is well known that the scheme in Republic Act No. 875 for achieving industrial peace rests essentially on a free and private agreement between the employer and his employees as to the terms and conditions under which the employer is to give work and the employees are to furnish labor, unhampered as far as possible by judicial or administrative intervention. On this premise the lawmaking body has virtually prohibited the issuance of injunctive relief involving or growing out of labor disputes.

The prohibition to issue labor injunctions is designed to give labor a comparable bargaining power with capital and must be liberally construed to that end (U.S. vs. Brotherhood of Locomotive Engineers, 79 F. Supp. 485, Certiorari denied, 69 S. Ct. 137, 335 U.S. 867, cause remanded on other grounds, 174 F. 2nd 160, 85 U.S. App. D.C., certiorari denied 70 S. Ct. 140, 338 U.S. 872, 94 L. Ed. 535). It is said that the prohibition creates substantive and not purely procedural law. (Oregon Shipbuilding Corporation vs. National Labor Relations Board, 49 F. Supp. 386). Within the purview of our ruling, speaking through Justice Labrador, in Social Security Employees Association

(PAFLU), et al. vs. The Hon. Edilberto Soriano, et al. (G.R. No. L-20100, July 16, 1964, 11 SCRA 518, 520), there can be no injunction issued against any strike except in only one instance, that is, when a labor dispute arises in an industry indispensable to the national interest and such dispute is certified by the President of the Philippines to the Court of Industrial Relations in compliance with Sec. 10 of Republic Act No. 875. As a corollary to this, an injunction in an uncertified case must be based on the strict requirements of Sec. 9(d) of Republic Act No. 875; the purpose of such an injunction is not to enjoin the strike itself, but only unlawful activities. To the extent, then, that the Company sought injunctive relief under Sec. 9(d) of Republic Act No. 875, respondent court had jurisdiction over the Company's "Urgent Petition" dated April 26, 1965.

As to the "contempt aspect" of Case No. 1484-MC(1), the jurisdiction of respondent court over it cannot be seriously questioned it appearing that Judge Tabigne in good faith thought that his "advice" to the Association during the hearing on March 29, 1965 not to strike amounted to a valid order. This is not to say, however that respondent court did not err in finding that the advice given by Judge Tabigne during the hearing on March 29, 1965 really constituted an order which can be the basis of a contempt proceeding. For, in our opinion, what Judge Tabigne stated during said hearing should be construed what actually it was — an advice. To say that it was an order would be to concede that respondent court could validly enjoin a strike, especially one which is not certified in accordance with Sec. 10 of Republic Act No. 875. To adopt the view of respondent court would not only set at naught the policy of the law as embodied in the said statute against issuance of injunctions, but also remove from the hands of labor unions and aggrieved employees an effective lawful weapon to either secure favorable action on their economic demands or to stop unfair labor practices on the part of their employer.

With respect to the alleged "illegality of the strike," as claimed by the Company, and the consequent forfeiture of the employee status of the strikers, we believe these are matters which are neither pertinent to nor connected with a certification case as opined by Judge Paredes, to which we agree. Respondent court, therefore, initially erred in entertaining this issue in Case No. 1484-MC(1). No prejudice, however, has resulted since, as correctly pointed out by respondent

court, the illegality for the strike was squarely raised by the Company as a defense in Case No. 4344-ULP and, in any event, we observe that the Association was given all the opportunity to put forward its evidence.

We now come to the important issue as to whether the strike staged by the Association on April 22, 1965 is illegal. From an examination of the records, we believe that the lower court erred in its findings in this regard.

To begin with, we view the return-to-work agreement of May 30, 1965 as in the nature of a partial compromise between the parties and, more important, a labor contract; consequently, in the latter aspect the same "must yield to the common good" (Art. 1700, Civil Code of the Philippines) and "(I)n case of doubt shall be construed in favor of the safety and decent living for the laborer" (Art. 1702, ibid). To our mind when the Company unqualifiedly bound itself in the return-to-work agreement that all employees will be taken back "with the same employee status prior to April 22, 1965," the Company thereby made manifest its intention and conformity not to proceed with Case No. 1484-MC(c) relating the illegality of the strike incident. For while it is true that there is a reservation in the return-to-work agreement as follows:

> "6. The parties agree that all Court cases now pending shall continue, including CIR Case No. 1484-MC."

we think the same is to be construed bearing in mind the conduct and intention of the parties. The failure to mention Case No. 1484-MC (1) while specifically mentioning Case No. 1484-MC, in our opinion, bars the Company from proceeding with the former especially in the light of the additional specific stipulation that the strikers would be taken back with the same employee status prior to the strike on April 22, 1965. The records disclose further that, according to Atty. Domingo E. de Lara when he testified on October 9, 1965, and this is not seriously disputed by private respondents, the purpose of Paragraph 10 of the return-to-work agreement was, to quote in part from this witness, "to secure the tenure of employees after the return-to-work agreement considering that as I understand there were demotions and suspensions of one or two employees during the strike and, moreover,

there was this incident Case No. 1484-MC(1)" (see Brief for the Petitioner, pp. 41-42). To borrow the language of Justice J.B.L. Reyes in Citizens Labor Union Pandacan Chapter vs. Standard Vacuum Oil Company (G.R. No. L-7478, May 6, 1955), in so far as the illegality of the strike is concerned in this proceeding and in the light of the records.

> "The matter had become moot. The parties had both abandoned their original positions and come to a virtual compromise and agreed to resume unconditionally their former relations. To proceed with the declaration of illegality would not only breach this understanding, freely arrived at, but to unnecessarily revive animosities to the prejudice of industrial peace." (Italics supplied)

Conceding arguendo that the illegality incident had not become moot and academic, we find ourselves unable to agree with respondent court to the effect that the strike staged by the Association on April 22, 1965 was unjustified, unreasonable and unwarranted that it was declared in open defiance of an older in Case No. 1484-MC not to strike; and that the Association resorted to means beyond the pale of the law in the prosecution of the strike. As adverted to above, the Association filed its notice to strike on March 8, 1965, giving reasons therefor any one of which is a valid ground for a strike.

In addition, from the voluminous evidence presented by the Association, it is clear that the strike of the Association was declared not lust for the purpose of gaining recognition as concluded by respondent court, but also for bargaining in bad faith on the part of the Company and by reason of unfair labor practices committed by its officials. But even if the strike were really declared for the purpose of recognition, the concerted activities of the officers and members of the Association in this regard cannot be said to be unlawful nor the purpose thereof be regarded as trivial. Significantly, in the voluntary return-to-work agreement entered into between the Company and the Association, thereby ending the strike, the Company agreed to recognize for membership in the Association the position titles mentioned in Annex "B" of said agreement.[3] This goes to show that striking for recognition is productive of good result in so far as a union is concerned.

Besides, one of the important rights recognized by the Magna Charta of Labor is the right to self-organization and we do not hesitate to say that is the cornerstone of this monumental piece of labor legislation. Indeed, because of occasional delays incident to a certification proceeding usually attributable to dilatory tactics employed by the employer, to a certain extent a union may be justified in resorting to a strike. We should not be understood here as advocating a strike in order to secure recognition of a union by the employer. On the whole we are satisfied from the records that it is incorrect to say that the strike of the Association was mainly for the purpose of securing recognition as a bargaining agent.

As will be discussed hereinbelow, the charge of unfair labor practice against the Company is well-taken. It is, therefore, clear error on the part of the Association is unjust, unreasonable and unwarranted.

We said earlier that the advice of Judge Tabigne to maintain the status quo cannot be considered as a lawful order within the contemplation of the Magna Charta of Labor, particularly Section 10 thereof; to so regard it as an order would be to grant respondent court authority to forbid a strike in an uncertified case which it is not empowered to do. The fact that the strike was not staged until April 22, 1965 is eloquent proof enough of the desire of the Association and its officers and members to respect the advice of Judge Tabigne. However, as shown in this case during the pendency of the certification proceedings unfair labor practices were committed by the Company; hence, the Association was justified in staging a strike and certainly this is not in violation of the advice of Judge Tabigne on March 29, 1965.

Respondent court picked out a number of incidents. taking place during the strike, to support its conclusion that the strikers resulted to means beyond the pale of the law in the prosecution of a strike. Thus, it made mention on the blocking by a banca manned by two striking supervisors by the name of Dominador Mangalino and one Bonecillo of the Caltex M/V Estrella when it was about to depart; the blocking at the refinery of the Company in Bauan, Batangas of the LSCO WARA, the Hills Bros Pinatubo, and the Mobil Visayas so that they could not dock; the blocking by the strikers of incoming vehicles,

non-striking supervisors, and rank-and-file workers to prevent them from entering the refinery gate in Bauan, Batangas, at the Poro Terminal, at the Company's Padre Faura office in Manila, and at the Pandacan Terminal; that at the Legaspi and Mambulao Bulk Depots the striking supervisors refused to surrender to their superiors the keys to the depots and storage tanks; and that also at the Legaspi Depot the truck ignition keys were mixed up or thrown at the seats of the trucks in violation of the Company regulations in order to create confusion and thus prevent the trucks from being used.[4] To refute these and similar findings of respondent court the Association, drawing chief y and abundantly from the Company's own evidence,[5] called attention to the exculpatory declarations of the Company's own witnesses[6] either establishing or tending to establish that the picketing by the strikers was generally peaceful and orderly. We find that such, indeed, was the real situation during the strike and it would be the height of injustice to rule otherwise in the face of the records before us.

In ignoring strong evidence coming from the witnesses of the Company damaging to its case as well as that adduced by the Association also damaging to the Company's case, we believe that respondent court clearly and gravely abused its discretion thereby justifying us to review or alter its factual findings (see Philippine Educational Institution vs. MLQSEA Faculty Association, 26 SCRA 272. 278).[7] There is thus here, to employ the language of Justice J.B.L. Reyes in Lakas ng Pagkakaisa sa Peter Paul vs. Court of Industrial Relations, 96 Phil., 63, "an infringement of cardinal primary rights of petitioner, and justified the interposition of the corrective powers of this Court (Ang Tibay vs. Court of Industrial Relations and National Labor Union, 69 Phil., 635):

> "(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. (Chief Justice Hughes in Morgan vs. U.S., 298 U.S. 468, 56 S. Ct. 906, 80 Law Ed. 1288.) In the language of this Court in Edwards vs. McCoy, 22 Phil., 598, 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is

presented can thrust it aside without notice or consideration.'" (Ibid., p. 67)[8]

We are convinced from the records that on the whole the means employed by the strikers during the strike, taking into account the activities of the Company and the non-striking employees on the same occasion, cannot be labeled as unlawful; in other words, the Company itself through the provocative, if not unlawful, acts of the non-striking employees[9] is not entirely blameless for the isolated incidents relied upon by respondent court as tainting the picketing of the strikers with illegality. As we said through Justice Fernando in Shell Oil Workers' Union vs. Shell Company of the Philippines, Ltd., L-28607, May 31, 1971, 39 SCRA 276:

> "6. Respondent court was likewise impelled to consider the strike illegal because of the violence that attended it. What is clearly within the law is the concerted activity of cessation of work in order that a union's economic demands may be granted or that an employer cease and desist from the unfair labor practice. That the law recognizes as a right. There is though a disapproval of the utilization of force to attain such an objective. For implicit in the very concept of a legal order is the maintenance of peaceful ways. A strike otherwise valid, if violent, in character, may be placed beyond the pale. Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to end, it becomes illegal because of the means employed." (Ibid., p. 292; Italics supplied).

In the same case we further observed:

> "Barely four months ago. in Insular Life Assurance Co., Ltd. Employees Association vs. Insular Life Assurance Co., Ltd.,

> there is the recognition by this Court, speaking through Justice Castro, of picketing as such being inherently explosive. It is thus clear that not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment of the guilty party." (Ibid., pp. 293-294; italics supplied)

In the cited case of Insular Life Assurance Co., Ltd. Employees Association-NATO, FGU Insurance Group Workers & Employees Association-NATU and Insular Life Building Employees Association-NATU vs. The Insular Life Assurance Co., Ltd., FGU Insurance Group, et al., L-25291, January 30, 1971, 37 SCRA 244, we held through Justice Castro, and this is here applicable to the contention of the Association, as follows:

> "Besides, under the circumstances the picketers were not legally bound to yield their grounds and withdraw from the picket lines. Being where the law expects them to be in the legitimate exercise of their rights, they had every reason to defend themselves and their rights from any assault or unlawful transgression." (Ibid., p. 271)

In this cited case, by the way, we reversed and set aside the decision of the Court of Industrial Relations and ordered the Company to reinstate the dismissed workers with backwages.

Let us now examine the charge of unfair labor practice which respondent court dismissed for lack of merit and substantial evidence.

Under Sec. 14(c) of Republic Act No. 875, the parties themselves are required "to participate fully and promptly in such meetings and conferences as the (Conciliation) Service may undertake." In this case, the parties agreed to meet on April 21, 1965 and yet, notwithstanding this definite agreement, the Company sent no representatives. The Company's claim to bargaining in good faith cannot be given credence in the face of the fact that W.E. Menefee, the Company's Managing Director, conveniently left Manila for Davao on April 17 or 18, 1965, as admitted by W.E. Wilmarth.[10]

Nowhere is there serious claim on the part of the Company that it entertains real doubt as to the majority representation of the Association. Consider further that admittedly the certification election proceeding for the Cebu Supervisors Union in the Company had been pending for six (6) years already. From all appearances, therefore, and bearing in mind the deliberate failure of the Company to attend the conciliation meetings on April 19 and 21, 1965, it is clear that the Company employed dilatory tactics doubtless to discredit CAFIMSA before the eyes of its own members and prospective members as an effective bargaining agent, postpone eventual recognition of the Association, and frustrate its efforts towards securing favorable action on its economic demands.

It is likewise not disputed that on March 4, 1965, the Company issued its statement of policy (Exh. B). At that time the Association was seeking recognition as bargaining agent and has presented economic demands for the improvement of the terms and conditions of employment of supervisors. The statement of policy conveyed in unequivocal terms to all employees the following message:

> "We sincerely believe that good employee relations can be maintained and essential employee needs fulfilled through sound management administration without the necessity of employee organization and representations. We respect an employee's right to present his grievances, regardless of whether or not he is represented by a labor organization." (Italics supplied)

An employee reading the foregoing would at once gain the impression that there was no need to join the Association. For he is free to present his grievances regardless of whether or not he is represented by a labor organization.

The guilty conduct of the Company before, during and after the strike of April 22, 1965 cannot escape the Court's attention. It will suffice to mention typical instances by way of illustration. Long prior to the strike, the Company had interfered with the Cebu Supervisors' Union by enticing Mapa into leaving the Union under the guise of a promotion in Manila; shortly before the strike, B. R. Edwards, Manager-Operations, had inquired into the formation and

organization of the petitioner Association in this case. During the strike, in addition to the culpable acts of the Company already narrated above, due significance must be given to the inclusion initially of J. J. Mapa and A. Buenaventura, the Association's President and Vice-President, respectively, in 1965, in two coercion cases filed at that time and their subsequent elimination from the charges at the initiative of the Company after the settlement of the strike;[11] the cutting off of telephone facilities extended to Association members in the refinery; and the use of a member of the Association to spy for the company.[12] The discriminatory acts practiced by the Company against active unionists after the strike furnish further evidence that the Company committed unfair labor practices as charged.[13] Victims of discrimination are J. J. Mapa, A. E. Buenaventura, E. F. Grey, Eulogio Manaay,[14] Pete Beltran, Jose Dizon, Cipriano Cruz, F. S. Miranda and many others. The discrimination consisted in the Company's preferring non-members of the Association in promotions to higher positions and humiliating active unionists by either promoting junior supervisors over them or by reduction of their authority compared to that assigned to them before the strike, or otherwise downgrading their positions.[15]

Then, effective July 1, 1969, the Company terminated the employment of J. J. Mapa and Dominador Mangalino, President and Vice-President, respectively, of the Association at that time, And this the Company did not hesitate to do notwithstanding the Association's seasonable appeal from respondent court's decision. We perceive in this particular action of the Company its anti-union posture and attitude. In this connection, we find merit in the claim of petitioner that the dismissal of Mapa and Mangalino was premature considering that respondent court did not expressly provide that such dismissal might be effected immediately despite the pendency of the appeal timely taken by the Association. The situation would have been different had respondent court ordered the dismissal of Mapa and Mangalino immediately. As the decision is silent on this matter the dismissal of said officers of the Association ought to have been done only upon the finality of the judgment. Because appeal was timely taken, the Company's action is patently premature and is furthermore evidence of its desire to punish said active unionists.

Verily, substantial, credible and convincing evidence appear on record establishing beyond doubt the charge of unfair labor practices in violation of Sec. 4 (a), Nos. (1), (3), 1(4), (5) and (6), of Republic Act No. 875. And pursuant to the mandate of Art. 24 of the Civil Code of the Philippines that courts must be vigilant for the protection of one at a disadvantage — and here the Association appears to be at a disadvantage in its relations with the Company as the records show — adequate affirmative relief, including backwages, must be awarded to the strikers. It is high-time and imperative that in order to attain the laudable objectives of Republic Act 875 calculated to safeguard the rights of employees, the provisions thereof should be liberally construed in favor of employees and strictly against the employer, unless otherwise intended by or patent from the language of the statute itself.

The Court takes judicial notice of the considerable efforts exerted by both parties in the prosecution of their respective cases and the incidents thereof both before the lower court and this Court since 1965 to date. Under the circumstances and in conformity with Art. 2208, No. 11, of the Civil Code of the Philippines, it is but just, fair and equitable that the Association be permitted to recover attorney's fees as claimed in its tenth assignment of error.

WHEREFORE, respondent court's resolution en banc dated May 16, 1969, together with the decision dated February 26, 1969, is reversed and judgment is hereby rendered as follows:

1. In Case No. 1484-MC(1), the Court declares the strike of the Caltex Filipino Managers and Supervisors' Association as legal in all respects and, consequently, the forfeiture of the employee status of J. J. Mapa, Dominador Mangalino and Herminigildo Mandanas is set aside. The Company is hereby ordered to reinstate J. J. Mapa and Dominador Mangalino to their former positions without loss of seniority and privileges, with backwages from the time of their dismissal on July 1, 1969. Since Herminigildo Mandanas appears to have voluntarily left the Company, no reinstatement is ordered as to him.

2. In Case No. 4344-ULP, the Court finds the Company, B. F. Edwards and W. E. Menefee guilty of unfair labor practices and they are therefore ordered to cease and desist from the same. In this connection, the Company is furthermore directed to pay backwages to the striking employees from April 22, 1965 to May 30, 1965 and to pay attorney's fees which are hereby fixed at P20,000.00.

Costs against private respondents.

Concepcion, *C.J.*, Reyes, Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo and Makasiar, *JJ.*, concur.

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[1] Based apparently on the apprehension of the Association that such a proceeding might turn out to be protracted like the certification proceeding for the Cebu Supervisors Union in the Company — initiated in 1962 but still pending as of May 29, 1968 and no collective bargaining agreement had been signed as of the latter date, as admitted by R. E. Wilmarth, the Company's labor relations manager (see Brief for the Petitioner, p. 68).

[2] See Brief for Respondents, pp. 211-212; Brief for the Petitioner, pp. 5-7.

[3] The stipulation reads thus:

"CAFIMSA members holding the following Supervisory Payroll Position Title are Recognized by the Company.

Payroll Position Title
Assistant to Mgr. — National Acct. Sales
Jr. Sales Engineer
Retail Development Asst.
Staff Asst. — O Marketing
Sales Supervisor
Supervisory Assistant
Jr. Supervisory Assistant
Credit Assistant
Lab. Supvr. — Pandacan
Jr. Sales Engineer B
Operations Assistant B
Field Engineer
Sr. Opers. Supvr. — MIA A/S
Purchasing Assistant
Jr. Construction Engineer
St. Sales Supervisor
Depot Supervisor A
Terminal Accountant B
Merchandiser

Dist. Sales Prom. Supvr.
Instr. — Merchandising
Asst. Dist. Accountant B
Sr. Opers. Supervisor
Jr. Sales Engineer A
Asst. Bulk Ter. Supt.
Sr. Opers. Supvr.
Credit Supervisor A
Asst. Stores Supvr. A
Ref. Supervisory Draftsman
Refinery Shift Supvr. B.
Asst. Supvr. A — Operations (Refinery)
Refinery Shift Supvr. B
Asst. Lab. Supvr. A (Refinery)
St. Process Engineer B (Refinery)
Asst. Supvr. A — Maintenance (Refinery)
Asst. Supvr. B — Maintenance (Refinery)
Supervisory Accountant (Refinery)
Communications Supervisor (Refinery)

Finally, also deemed included are all other employees excluded from the rank and file unions but not classified as managerial, or otherwise excludable by law or applicable judicial precedents." (Annex B of Annex "B", Petition).

[4] See Decision, Appendix "A", Brief for the Petitioner, pp. 169-176.

[5] See Brief for the Petitioner, pp. 77-95.

[6] Namely. Jose M. Alejo, the Company's chief security officer Ernesto Roy, staff assistant aid: Conrado Medrano and Esperidion Villanueva, two jobless persons of Bauan, Batangas: E. Baquiran and Modesto Ocoy, security guards at the Pandacan Terminal: A. Orbin; Romulo Reyes and Loreto Herrera, security guards assigned at the Caltex main office; Godofredo Mesina, deputy manager for operations Juanito Garcia, a fisherman; F. Dolezal, refinery manager; Lucas L. Cruz, captain of the M/V Estrella; and J.J. Mapa, the Association's President (who was presented by the Company as its own witness on August 14, 1967) (Ibid.).

[7] Citing Manila Electric Co. vs. National Labor Union, 70 Phil. 617, 620; Mindanao Bus Co. vs. Mindanao Bus Co. Employees Association, 71 Phil. 168, 177; Bohol Land Transportation vs. BLT Employees Labor Union, 71 Phil. 291, 296; Rex Taxicab vs. Court of Industrial Relations, 70 Phil. 621, 631; Bachrach Motor Co. vs. Rural Transit Employees' Ass., 85 Phil. 242, 245; Kaisahan vs. Tantongco. L-18338. Oct. 31, 1962: Rizal Cement Workers Union vs. C.I.R., L-18442, Nov. 30, 1962; Industrial Com. Agricultural Workers Organization vs. Bautista, L-15639, April 30, 1963; Lu Do vs. Phil. Land-Air-Sea Labor Corp. vs. C.I.R., L-20838, July 30, 1965; Manila Pencil Co. vs. C.I.R., L-16903; Aug. 31, 1965; East Asiatic Co. vs. C.I.R., L-17037, April 30, 1966; Barnachea vs. Tabigne, L-22791, May 16, 1967; Laguna College vs. C.I.R. L-28927. Sept. 25, 1968; see also National Waterworks and Sewerage Authority vs. NWSA Consolidated Union, 27 SCRA 227, 237.

[8] This ruling was echoed on Sanches vs. Court of Industrial Relations, 27 SCRA 490, where this Court, through Justice Fernando, indicated, and this is applicable to the instant appeal: "There was thus a manifest failure to observe the requirement that the evidence be substantial. For thereby the actuation of respondent Court was marred by arbitrariness. That was to deprive petitioners of due process which requires reasonableness and fair play." Ibid., p. 501).

[9] E.G., Judge Lorenzo Relova of the Batangas Court of First Instance found the captain of the Mobil Visayas guilty of reckless imprudence (see Decision dated February 25, 1969, Annex "Q", Petition); Jose Alejo, chief security officer of the company, was found guilty of grave coercion (see Annex "P", p. 6, Petition); and Dominador Mangalino suffered injuries at the hands of strike-breakers. (Ibid., p. 12).

[10] See Brief for Respondents, pp. 302-303.

[11] See Annex "P", p. 12, Petition.

[12] Said disloyal CAFIMSA member was promoted by the Company to the position of manager immediately after the strike (see Brief for the Petitioner, p. 110).

[13] In line with our ruling in Caltex Filipino Managers & Supervisors' Association vs. Caltex (Philippines), Inc. (L-28472, June 28, 1968, 23 SCRA 492, 503).

[14] Manaay, a supervisor, had to do even janitorial job like cleaning the toilet and the room where classes were held (Petitioner's Reply Brief, p. 15-A).

[15] See Petitioner's Reply Brief, pp. 11-A to 67-A.