CHANROBLES PUBLISHING COMPANY

SUPREME COURT
FIRST DIVISION

LIWAYWAY PUBLICATIONS, INC.,
***Plaintiff-Appellee*,**

-versus-

G.R. No. L-25003
October 23, 1981

PERMANENT CONCRETE WORKERS UNION, Affiliated with the NATIONAL ASSOCIATION OF TRADE UNIONS, HERMOGENES ATRAZO, AQUILINO DISTOR, BENJAMIN GUTIERREZ, JOSE RAMOS, TIBURCIO MARDO, ERNESTO ALMARIO and DOMINGO LEANO,
***Defendants-Appellants*.**
x---x

D E C I S I O N

GUERRERO, *J.*:

This is an appeal from the Decision of the Court of First Instance of Manila declaring permanent the writ of preliminary injunction issued in this case and condemning the defendants (herein appellants) to pay plaintiff (herein appellee), the amount of P10,152.42 with interest thereon at the legal rate from the commencement of this action until fully paid, P1,000.00 as attorney's fees and costs.

The case commenced when Liwayway Publications, Inc. brought an action in the CFI-Manila against Permanent Concrete Workers Union, et al. for the issuance of a writ of preliminary injunction and for damages it incurred when its employees were prevented from getting their daily supply of newsprint from its bodega.

Plaintiff alleged that it is a second sublessee of a part of the premises of the Permanent Concrete Products, Inc. at 1000 Cordeleria Street, Sta. Mesa, Manila from Don Ramon Roces, a first lessee from the aforesaid company. The premises of the plaintiff is separated from the compound of Permanent Concrete Products, Inc. by a concrete and barbed wire fence with its own entrance and road leading to the national road. This entrance is separate and distinct from the entrance road of the Permanent Concrete Products, Inc.[1]

Plaintiff further alleged that it has a bodega for its newsprints in the sublet property which it uses for its printing and publishing business. The daily supply of newsprint needed to feed its printing plant is taken from this bodega.

On September 10, 1964, the employees of the Permanent Concrete Products, Inc. who are representatives and members of the defendant union declared a strike against their company.

On October 3, 1964 for unknown reasons and without legal justification, Permanent Concrete Workers Union and its members picketed, stopped and prohibited plaintiff's truck from entering the compound to load newsprint from its bodega. The union members intimidated and threatened with bodily harm the employees who were in the truck.

On October 6, 1964, union members stopped and prohibited the general manager, personnel manager, bodega in-charge and other employees of the plaintiff from getting newsprint in their bodega.[2]

Plaintiff made repeated demands to the defendants not to intimidate and threaten its employees with bodily harm and not to blockade, picket or prohibit plaintiff's truck from getting newsprint in their

bodega. Defendants refused and continued to refuse to give in to the demands of the plaintiff.

As a consequence thereof, plaintiff rented another bodega during the time members of the defendant union prevented its employees from entering its bodega in the compound of Permanent Concrete Products, Inc. and thus incurred expenses both in terms of bodega rentals and in transporting newsprint from the pier to the temporary bodega.

On December 14, 1964, the lower court issued a writ of preliminary injunction enjoining the defendants from:

(a) threatening and intimidating plaintiff's executive officers and their representatives, who are going to its bodega as well as its employees who are getting newsprint from it;

(b) ordering the defendants and their representatives not to blockade and/or picket the compound and the gate of the plaintiff;

(c) ordering the defendants not to stop, prohibit, molest and interfere with the free passage of the plaintiff in going in and out of the bodega.

Defendant union moved to dismiss the complaint on the following grounds:

1. That this case arose out of a labor dispute involving unfair labor practices and, therefore, the Court of First Instance where this action was brought has no jurisdiction to issue an injunction since this case falls within the exclusive jurisdiction of the Court of Industrial Relations;

2. That plaintiff is not the real party in interest in whose name the present action may be prosecuted in accordance with Section 2, Rule 3 of the Rules of Court.

On the first ground, defendants argued that the Court of Industrial Relations is vested with the exclusive power to issue injunctions in

labor disputes involving unfair labor practices and that in the long line of decisions, the Supreme Court has repeatedly held that ordinary courts do not have jurisdiction to issue an injunction in any labor dispute particularly when the Court of Industrial Relations has already acquired jurisdiction over it.

As to the second ground, defendants argue that the real party in interest in this case is the Permanent Concrete Products, Inc. against whom the defendants' strike and picket activities were directed and confined, and they point to cases between the real parties in interest, namely: Permanent Concrete Products, Inc. on one hand and the Permanent Concrete Workers Union on the other, pending before the Court of Industrial Relations docketed therein as CIR Case No. 156-Inj., Charge 212-ULP and Charge No. 1414-M.C.

Plaintiff Liwayway Publications, Inc. opposed the motion, alleging that:

1. There is no employer-employee relationship between the plaintiff and the defendant;

2. There is no labor dispute between them;

3. Plaintiff's compound is separate and distinct from the compound of the company where the defendants are employed.

Defendants by way of reply to the abovementioned opposition argued that even if there was no employer-employee relationship, still the Court of First Instance would have no jurisdiction to issue an injunction, citing several cases holding that there could be a labor dispute regardless of whether or not the disputants stand in proximate relation of employer and employee and that peaceful picketing is an extension of the freedom of speech guaranteed by the Constitution,[3] a fundamental right granted to labor which cannot be enjoined.

Since plaintiff averred in its complaint that "it is a second sublessee of a part of the premises of the Permanent Concrete Products, Inc. at 1000 Cordeleria Street, Sta. Mesa, Manila from Don Ramon Roces,

first lessee from the aforementioned company, defendants contend that plaintiff has no cause of action against them but against Don Ramon Roces under the provisions of Article 1654 of the New Civil Code which obliges the lessor to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract.

On October 22, 1964, the lower court issued an order denying the motion to dismiss and motion to dissolve the writ of preliminary injunction on the ground that there was no labor dispute between the plaintiff and defendant of which the Court of Industrial Relations may take cognizance.

On November 16, 1964, the court, on motion of the plaintiff, declared defendants in default. Defendants prayed for the lifting of the order of default, which plaintiff opposed. In the order of December 16, 1964, the court denied the motion to lift the order of default, and subsequently defendants' motion for reconsideration. Thereafter, the court rendered its decision dated February 16, 1965 which declared permanent the writ of preliminary injunction and ordered the defendants to pay the plaintiff jointly and severally the amount of P10,152.42 with interest thereon at legal rate from the commencement of the action until fully paid, P1,000.00 as attorney's fees and the costs. Copy of this decision was received by defendants on July 20, 1965 and forthwith, defendants filed the notice of appeal on July 26, 1965.

On October 12, 1965, Liwayway Publications, Inc. filed with the Supreme Court a petition praying that a writ of attachment be issued on any sum of money which is owing from the company to the union and to other defendants to be used to satisfy the judgment in its favor should the same be affirmed by the Supreme Court.

Defendants filed an opposition to the petition for attachment alleging that even assuming that there is an amount owing to the union from the company, such would be in the concept of uncollected wages due the strikers and, therefore, cannot be subject of attachment as provided by Art. 1708 of the New Civil Code that the laborers' wages shall not be subject to execution or attachment except for debts incurred for food, shelter, clothing and for medical attendance.

The Supreme Court denied the above petition for attachment but without prejudice to the movant seeking remedy in the Court of First Instance.

The sole issue raised in the instant appeal is whether or not the lower court has jurisdiction to issue a writ of preliminary injunction considering that there was a labor dispute between Permanent Concrete Products, Inc. and appellants for alleged unfair labor practices committed by the former.

The first question that strikes Us to be of determinative significance is whether or not this case involves or has arisen out of a labor dispute. If it does, then with certainty, Section 9 of Republic Act 875, the "Industrial Peace Act," would apply. If it does not, then the Rules of Court will govern the issuance of the writ of preliminary injunction because it will not partake the nature of a labor injunction which the lower court has no jurisdiction to issue.

The record before Us reveals that appellant union and its members picketed the gate leading to appellee's bodega. This gate is about 200 meters from the gate leading to the premises of the employer of the appellants. Appellee is not in any way related to the striking union except for the fact that it is the sublessee of a bodega in the company's compound. The picketers belonging to the appellant union had stopped and prohibited the truck of the appellee from entering the compound to load newsprint from its bodega, the union members intimidating and threatening with bodily harm the employees of the appellee who were in the truck. The union members also stopped and prohibited the general manager, personnel manager including the man in-charge of the bodega and other employees of the Liwayway Publications, Inc. from getting newsprint in said bodega. The business of the appellee is exclusively the publication of the magazines Bannawag, Bisaya, Hiligaynon and Liwayway weekly magazines which has absolutely no relation or connection whatsoever with the cause of the strike of the union against their company, much less with the terms, conditions or demands of the strikers. In such a factual situation, the query to be resolved is whether the appellee is a third party or an "innocent by-stander" whose right has been invaded and, therefore, entitled to protection by the regular courts.

At this juncture, it is well to cite and stress the pronouncements of the Supreme Court on the right to picket. Thus, in the case of Phil. Association of Free Labor Unions (PAFLU) vs. Judge Gaudencio Cloribel, et al., L-25878, March 28, 1969, 27 SCRA 465, 472, the Supreme Court, speaking thru Justice J.B.L. Reyes, said:

> "The right to picket as a means of communicating the facts of a labor dispute is a phase of the freedom of speech guaranteed by the constitution. If peacefully carried out, it cannot be curtailed even in the absence of employer-employee relationship.
>
> The right is, however, not an absolute one. While peaceful picketing is entitled to protection as an exercise of free speech, we believe that courts are not without power to confine or localize the sphere of communication or the demonstration to the parties to the labor dispute, including those with related interest, and to insulate establishments or persons with no industrial connection or having interest totally foreign to the context of the dispute. Thus, the right may be regulated at the instance of third parties or `innocent bystanders' if it appears that the inevitable result of its exercise is to create an impression that a labor dispute with which they have no connection or interest exists between them and the picketing union or constitute an invasion of their rights. In one case decided by this Court, we upheld a trial court's injunction prohibiting the union from blocking the entrance to a feed mill located within the compound of a flour mill with which the union had a dispute. Although sustained on a different ground, no connection was found other than their being situated in the same premises. It is to be noted that in the instances cited, peaceful picketing has not been totally banned but merely regulated. And in one American case, a picket by a labor union in front of a motion picture theater with which the union had a labor dispute was enjoined by the court from being extended in front of the main entrance of the building housing the theater wherein other stores operated by third persons were located."

The same case state clearly and succinctly the rationalization for the court's regulation of the right to picket in the following wise and manner:

> "Wellington and Galang are mere 'innocent bystanders'. They are entitled to seek protection of their rights from the courts and the courts may, accordingly, legally extend the same. Moreover, PAFLU's right to peacefully picket METBANK is not curtailed by the injunctions issued by respondent judge. The picket is merely regulated to protect the rights of third parties. And the reason for this is not farfetched. If the law fails to afford said protection, men will endeavor to safeguard their rights by their own might, take the law in their own hands, and commit acts which lead to breaches of the law. This should not be allowed to happen."

It may be conceded that the appellant Union has a labor dispute with the Permanent Concrete Products company and that the dispute is pending before the Court of Industrial Relations docketed therein as CIR Case No. 156-Inj., Charge 212-ULP and Charge No. 1414-M.C. Nonetheless, the rule laid down in the case of National Garment and Textile Workers' Union (PAFLU) vs. Hon. Hermogenes Caluag, et al., G.R. No. L-9104, September 10, 1956, cited by the appellants as authority holding that "where the Court of Industrial Relations has already acquired jurisdiction over two unfair labor practices cases and much later on as a consequence thereof, the Court of First Instance cannot legally issue a writ of preliminary injunction against the picketers. Besides, the jurisdiction of the Court of Industrial Relations is exclusive. "Sec. 5-a, Republic Act 875" is not controlling, much less applicable to the instant case where the facts are essentially and materially different.

Neither is the case of SMB Box Factory Workers' Union vs. Hon. Gustavo Victoriano, et al., G.R. No. L-12820, Dec. 29, 1957, where We held that "the Court of First Instance cannot take cognizance of an action for injunction where the issue involved is interwoven with unfair labor practice cases pending in the Court of Industrial Relations," nor the rule laid down in Erlanger & Galinger, Inc. vs. Erlanger & Galinger Employees Association-NATU, G.R. No. L-11907, June 24, 1958, 104 Phil. 17, holding that "even if no unfair labor

practice suit has been filed at all by any of the parties in the Court of Industrial Relations at the time the present petition for injunction was filed in the court below, still the latter court would have no jurisdiction to issue the temporary restraining order prayed for if it is shown to its satisfaction that the labor dispute arose out of unfair labor practices committed by any of the parties. The parties would still have to institute the proper action in the Court of Industrial Relations, and there ask for a temporary restraining order under Sec. 9(d) of the Industrial Peace Act."

We cannot agree that the above rules cited by the appellants are controlling in the instant case for as We said in Phil. Association of Free Labor Unions (PAFLU), et al. vs. Tan, 99 Phil. 854, that "with regard to activities that may be enjoined, in order to ascertain what court has jurisdiction to issue the injunction, it is necessary to determine the nature of the controversy," (italics supplied) We find and hold that there is no connection between the appellee Liwayway Publications, Inc. and the striking Union, nor with the company against whom the strikers staged the strike, and neither are the acts of the driver of the appellee, its general manager, personnel manager, the man in-charge of the bodega and other employees of the appellee in reaching the bodega to obtain newsprint therefrom to feed and supply its publishing business interwoven with the labor dispute between the striking Union and the Permanent Concrete Products company. If there is a connection between appellee publishing company and the Permanent Concrete Products company, it is that both are situated in the same premises, which can hardly be considered as interwoven with the labor dispute pending in the Court of Industrial Relations between the strikers and their employer.

The contention of appellants that the court erred in denying their motion to dismiss on the ground that the complaint states no cause of action, is likewise without merit.

Article 1654 of the New Civil Code cited by the appellants in support of their motion to dismiss, which obliges the lessor, among others, to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract, and therefore, the appellee publishing company should have brought its complaint against the first sublessee, Don Ramon Roces, and not against the

appellant Union, is not in point. The acts complained of against the striking union members are properly called mere acts of trespass (perturbacion de mero hecho) such that following the doctrine laid down in Goldstein vs. Roces, 34 Phil. 562, the lessor shall not be obliged to answer for the mere fact of a trespass (perturbacion de mero hecho) made by a third person in the use of the estate leased but the lessee shall have a direct action against the trespasser.

The instant case falls squarely under the provisions of Article 1664 of the New Civil Code which provides as follows:

> "Art. 1664. The lessor is not obliged to answer for a mere act of trespass which a third person may cause on the use of the thing leased; but the lessee shall have a direct action against the intruder.
>
> There is a mere act of trespass when the third person claims no right whatever."

The Goldstein doctrine had been reiterated in Reyes vs. Caltex (Phil.) Inc., 84 Phil. 654; Lo Ching, et al. vs. Court of Appeals, et al., 81 Phil. 601; Afesa vs. Ayala y Cia, 89 Phil. 292; Vda. de Villaruel, et al. vs. Manila Motor Co., Inc., et al., 104 Phil. 926; Heirs of B.A. Crumb, et al. vs. Rodriguez, 105 Phil. 391.

The obligation of the lessor under Art. 1654, New Civil Code, to maintain the lessee in the peaceful and adequate enjoyment of the lease for the entire duration of the contract arises only when acts, termed as legal trespass (perturbacion de derecho), disturb, dispute, object to, or place difficulties in the way of the lessee's peaceful enjoyment of the premises that in some manner or other cast doubt upon the right of the lessor by virtue of which the lessor himself executed the lease, in which case the lessor is obliged to answer for said act of trespass.

The difference between simple trespass (perturbacion de mero hecho) and legal trespass (perturbacion de derecho) is simply but clearly stated in Goldstein vs. Roces case, supra, thus:

"Briefly, if the act of trespass is not accompanied or preceded by anything which reveals a really juridic intention on the part of the trespasser, in such wise that the lessee can only distinguish the material fact, stripped of all legal form or reasons, we understand it to be trespass in fact only (de mero hecho)." (pp. 566-567)

WHEREFORE, IN VIEW OF THE FOREGOING, the Decision appealed from is hereby **AFFIRMED** in toto. Costs against appellants.

SO ORDERED.

Teehankee, *C.J., (Chairman)*, Makasiar, Fernandez and Melencio-Herrera, *JJ.*, concur.

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[1] Annex A, Exhibit H-4.
[2] Annex C, D, E, F, G, and H.
[3] Art. 3, Sec. 1, Paragraph 8 of the 1935 Constitution provides: "No law shall be passed abridging the freedom of speech or of the press or the right of the people to peacefully assemble and petition the government for redress of grievances."

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