SUPREME COURT
EN BANC

MD TRANSIT & TAXI CO., INC., and CAM TRANSPORTATION CO.,
***Petitioners*,**

-versus-

G.R. No. L-18810
April 23, 1963

BIENVENIDO DE GUZMAN, CECILIO CAJOLES and BERNARDITA ORACION,
***Respondents*.**
x----------x

D E C I S I O N

CONCEPCION, *J.*:

Appeal by *Certiorari*, taken by petitioners MD Transit & Taxi Co., Inc., and CAM Transportation Co., from a decision of the Court of Industrial Relations directing the reinstatement of complainants Bienvenido de Guzman, Bernardita Oracion, and Cecilio Cajoles, as members of the MD-CAM Local 3 (PTWO) as well as the reinstatement of Bernardita Oracion and Bienvenido de Guzman as employees of the MD Transit & Taxi Co., Inc., with back wages from October 27 and November 9, 1958, respectively, and that of Cecilio Cajoles as employee of CAM Transportation Co., from October 27, 1958, until actual reinstatement in all cases, and, likewise, directing

the Chief of the Examining Division of said Court, or his duly authorized representative, to proceed to the premises of said petitioners and go over the records thereof "to determine the back wages" of said "complainants and thereafter to submit a report to the Court for further disposition."

Petitioners MD Transit & Taxi Co., Inc. and CAM Transportation Co. are separate entities engaged in business as common carriers, but under joint management, which had entered into a collective bargaining agreement with the MD-CAM Local 3 (PTWO), a labor union composed of employees of said entities, to which, prior to October 27, 1958, complainants Bienvenido de Guzman, Cecilio Cajoles and Bernardita Oracion were rendering services, the first two as drivers, and the last as conductress. On October 23, 1958, complainants secured the signatures of their co-employees to a petition to the Department of Labor for an auditing of the mutual aid fund of said Union, collected by its president, Felipe de Guzman. As the auditing requested took place, said Department found on October 27, 1958, that there was a shortage of over P22,000.00 in the aforementioned mutual aid fund. The matter was, accordingly, referred to the City Fiscal of Quezon City for appropriate action. On the same date, complainants were suspended as members of the Union by order of said Felipe de Guzman, and several days later, or on November 9, 1958, they were expelled from the Union by its Board of Directors. Complainants were, likewise, dismissed by the petitioners, although the parties do not agree on the date on which this took place. Hence, complainants brought their case to the Court of Industrial Relations, an Acting Prosecutor of which subsequently filed a complaint charging the petitioners, as well as the President, the Vice-President and the members of the Board of Directors of the Union, with unfair labor practice.

In their answer, petitioners denied the commission of unfair labor practice on their part and alleged that complainants' dismissal was due: 1) to their absence from work for four (4) consecutive days, in violation of their collective bargaining contract; and 2) to a communication of the Union to the petitioners urging the same to dismiss the complainants pursuant to a closed shop stipulation in said contract, in view of their expulsion from the Union. The answer filed by the officers of the latter was substantially of the same tenor.

In due course, the lower court rendered the aforementioned decision in favor of the complainants, upon the ground that their expulsion from the Union was illegal it having been effected without previous notice and hearing, and its true cause being, not their alleged absence from work, but the complaint by them filed with the Department of Labor for alleged irregularities in the handling of the mutual aid fund of the Union, and that complainants were dismissed by the petitioners before the latter had received the communication, Exhibit 5, of the Union, asking the petitioners to dismiss the complainants owing to their aforementioned expulsion from the Union. A reconsideration of said decision having been denied by the lower court sitting en banc, the petitioners have interposed the present appeal by certiorari, contending: 1) that, having acted in compliance with a valid closed shop provision of the contract above referred to, petitioners cannot be convicted of the unfair labor practice committed by the Union; and 2) that the lower court had acted on mere conjectures, and, consequently, had erred in finding that complainants were dismissed by the petitioners before the latter had received said letter of the Union, Exhibit 5. The officers of the Union did not appeal from the aforementioned decision.

We find no merit in this appeal of petitioners herein, the lower court found that complainants were dismissed before said Exhibit 5 was received by petitioners herein. Said dismissal could not have been made, therefore, in pursuance either of the request contained in said communication or of the closed shop provision of the aforementioned collective bargaining agreement. Moreover, the lower court found and this is amply supported by the evidence on record — that complainants' suspension by the President of the Union, their subsequent expulsion by its Board of Directors, were due to the charges preferred by said complainants against the officers of the Union, which led to the discovery of an alleged shortage in its Mutual Aid Fund, and the reference of the case to the City Fiscal of Quezon City. Thus the Union was guilty of unfair labor practice under subdivision (b) (2) of Section 4 of Republic Act No. 875. Necessarily, this was, also, the reason why complainants were dismissed by the petitioners herein — since there is no other possible cause for said dismissal, in the light of the circumstance adverted to above —

thereby committing an unfair labor practice under subdivision (a) (5) of said Section 4.

With respect to the sufficiency of the evidence in support of the finding that complainants were dismissed by petitioners before the latter had received the aforementioned Exhibit 5, the record abundantly shows that complainants were not allowed by agents of petitioners herein to enter its premises or work for the petitioners, since November 9, 1958, despite the fact that said communication was not written and sent until November 10, 1958.

WHEREFORE, with the modification that the backwages of the three (3) complainants shall begin from November 9, 1958, which is the date of their dismissal by the petitioners, the decision appealed from is hereby affirmed, in all other respects, with costs against the petitioners.

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