SUPREME COURT
EN BANC

MALAYANG MANGGAGAWA SA ESSO (PFPW) and PHILIPPINE FEDERATION OF PETROLEUM WORKERS,
***Petitioners*,**

-versus-

G.R. No. L-24224
July 30, 1965

ESSO STANDARD EASTERN, INC., and HON. CARMELINO G. ALVENDIA, Judge of the Court of First Instance of Manila,
***Respondents*.**
x----------x

D E C I S I O N

MAKALINTAL, *J.*:

The respondent, hereinafter to be referred to as ESSO, is a foreign corporation registered in the Philippines and engaged in the marketing and distribution of petroleum, oil, gas and other allied products. There are two labor organizations to either of which its employees are affiliated: the Citizens Labor Union (CLU) and the Malayang Manggagawa sa ESSO (MME). ESSO, however, has its

collective bargaining agreement only with CLU, entered into on April 8, 1963, to expire on July 8, 1966.

On January 7, 1965, MME filed a petition for certification election with the Court of Industrial Relations (Case No. 1459-MC), claiming to represent a majority of ESSO's employees at the latter's terminal plant in Pandacan, Manila, and praying that after due hearing it be certified as the exclusive bargaining agent of all said employees. Hearings on the petition were conducted on several dates in February 1965. They had been scheduled for continuation on the 20th and 22nd of the same month when on February 19 MME declared a strike at the Pandacan Terminal.

On February 22 ESSO filed a petition for injunction in the Court of First Instance of Manila (Civil Case No. 59942) against MME and the Philippine Federation of Petroleum strikers (PFPW), of which MME is an affiliate. ESSO asked for a writ of preliminary injunction, which the Court issued ex parte on the same day on a bond of P1,000.00. The writ commanded the respondents to "refrain from continuing to strike, picket and engage in other concerted activities, causing stoppage or slow-down of work at the petitioner's Pandacan Terminal and other related stations as long as or while the certification election filed by the (MME) is pending determination by the proper court."

On February 24, 1965 MME came to us in this original action for certiorari to have the injunctive order set aside, and upon proper application we issued a writ of preliminary injunction on February 26, to restrain its enforcement. The validity of the order of respondent court is assailed by petitioner MME on three grounds:

> "(a) The order of injunction is directed not against the commission of illegal acts but against the very right to strike and the right to picket both of which are protected by law (Sec. 9 (a) (1) (5), R.A. 875) and the exercise of which cannot be enjoined;"
>
> "(b) The injunction order did not comply with the procedural requirements of R.A. 875 and is therefore null and void;" and

(c) The respondent court did not have jurisdiction to issue the injunction as this belongs, under the facts of the case, to the Court of Industrial Relations exclusively."

The third ground is, in the opinion of this Court, decisive of this case. At the time ESSO applied for injunction below there was already pending before the Industrial Court the petition for certification election initiated by MME. While the controversy as to who should be the exclusive bargaining agent for the employees was primarily between the two contending unions ESSO became a party when it submitted to that Court, under date of January 30, 1965, a motion to dismiss MME's petition for certification election on the ground that the bargaining agreement between ESSO and CLU was still effective and would not expire until July 8, 1966. On March 6, 1965 the Industrial Court, over the signature of Associate Judge Emiliano C. Tabigne, issued an order denying the motion and requesting the Department of Labor to conduct the certification election prayed for by MME. Concerning the strike declared by MME on February 19, 1965, the following statement of the Industrial Court appears in the said order:

> "In the course of the hearings, petitioner union called the attention of this Court to the alleged threatened dismissal or change in the working conditions of the employees which it feared had the effect of influencing the election. This Court succeeded in getting the parties to agree to maintain the status quo during the pendency of the case. Unfortunately, before the hearings were terminated, petitioner union declared a strike allegedly on the ground of unfair labor practices and the alleged violation by the Company of the agreement in open court that status quo will be maintained." (Emphasis ours)

A similar allegation has been made by MME in its petition and memoranda filed in and during the hearing of this certiorari case, to the effect that it declared the strike because of certain unfair labor practices committed by ESSO. This, if true, would mean that the authority to issue an injunction in connection with that strike pertained exclusively to the Industrial Court in accordance with Republic Act No. 875 and that respondent Court of First Instance had no such authority, acting under the provisions of the Rules of Court.

ESSO maintains however, that the question of jurisdiction must be determined in the light of the allegations in the petition invoking it, and that there is nothing in its petition for injunction below to indicate the existence of a labor dispute or the commission by it of any unfair labor practice, which in fact is expressly denied. What is alleged among other things, is that the concerted activities of MME sought to be enjoined, namely, strike and picketing (and blocking entrance and exit of ESSO's Pandacan Terminal) are illegal and unjustified because of the still pending election certification case and the existing collective bargaining agreement with CLU, and that said activities were "resorted to in order to compel the petitioner (ESSO) to commit an unlawful act which is to discriminate against the Citizens Labor Union even before MME is certified by the Court of Industrial Relations."

The controversy between the two rival unions as to which of them should be the recognized bargaining agent for the employees constitutes a labor dispute within the meaning of the Industrial Peace Act (Balaquezon Transportation Labor Union vs. Hon. Muñoz-Palma, 106 Phil. 532, Nov. 27, 1959). Section 2 (j) of said Act defines a labor dispute as including "any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."

ESSO says the dispute is between the two unions, and suggests that the result of the certification election between them is to it a matter of indifference. But the fact is ESSO became virtually a disputant when it intervened in the certification case before the Industrial Court and made common cause with CLU by asking for the dismissal of MME's petition. The strike which MME declared after it filed said petition may be considered as merely an incident in said case, interwoven as it was, according to the allegations of ESSO itself, with the contest for bargaining supremacy between the two labor organizations. From the standpoint of both law and expediency the remedy lay with the Industrial Court in the certification case, and not with the respondent Court of First Instance.

ESSO cites the case of Goodwins, Inc. vs. Frank Hagedorn, et al., 303 N. Y. 303, 101 N. E. (2d) (697), where the New York Court of Appeals held that the picketing there in question was unlawful and could be enjoined by the courts because its purpose was to coerce plaintiff employers "to yield to a demand that they recognize the defendant union instead of some rival organization as the exclusive collective bargaining agent for the employees in advance of a certification by the National Labor Relations' Board in the pending representation proceeding."

We do not see that the decision relied upon is here applicable. In the present case no coercion to accomplish the same particular objective as that found by the New York Court is alleged in ESSO's petition below. It would be unjustified to derive gratuitously a similar conclusion from the vague assertion that MME struck to compel ESSO to discriminate against CLU, the rival union, especially considering the fact that it was MME that went to the Court of Industrial Relations precisely to ask for a certification election. Having resorted to such judicial process, as provided by law, MME could hardly be expected to employ coercive measures to attain the same result. If anything, the allegation that MME declared a strike to compel ESSO to discriminate against CLU is an allegation of unfair labor practice on the part of MME under Section 4, b (2) of Republic Act No. 875, which would put the case within the jurisdiction of the Industrial Court.

The harshness of the remedy resorted to by ESSO may be readily appreciated. The right of employees to strike and picket is recognized and protected by law. This is part of the right "to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection" set forth in section 3 of the Industrial Peace Act. The issuance of a temporary or permanent injunction in a case involving or growing out of a labor dispute, where it is authorized by said Act, is restricted by indispensable procedural requisites, among which is a previous hearing wherein certain facts must be established, namely, the substantial and irreparable injury will be caused to the property of the complainant unless the injunction is issued; that the injury thus averted is greater than that caused by the injunction to the defendant; that the complainant has no adequate remedy at law; and

that the public officers charged with the duty to protect the complainant's property are unable or unwilling to furnish adequate protection (Section 9, d, R.A. 875). And yet, notwithstanding such safeguards ESSO was able to obtain a preliminary injunction ex-parte not against specific unlawful acts but against the strike and picketing conducted by the employees affiliated with MME, by the simple expedient of going to a regular court, alleging in its petition that no labor dispute existed, and invoking the Rules of Court on injunctions instead of the provisions of the Industrial Peace Act.

Petitioner, in challenging the jurisdiction of respondent Court to issue the injunction, maintains that the strike it declared was caused by unfair labor practices committed by ESSO, and in support cites excerpts from the transcript of the proceedings before the Industrial Court in the certification election case. For instance, reference is made, quoting from said transcript, to the suspension by ESSO of two of its employees in violation of a directive by the said court that the status quo should be maintained until the case was resolved. We make no finding here as to whether the fact referred to is true or not; but it does suggest quite forcefully that if the injunction had not been issued by respondent court ex-parte and petitioner here had first been heard the court would have had before it certain facts vital to the basic question of jurisdiction in the case. As it turned out, in view of the absence of any hearing and only in accordance with the prayer in the petition before it respondent Court enjoined the strike, the picketing and other concerted activities of the MME members in their entirety — activities which fundamentally are recognized and accorded protection by law.

ESSO invites attention to our recent decision in Associated Labor Union et al., vs. Judge Ramolete et al., 121 Phil. 559, March 31, 1965, and submits that the same is controlling in the present case. Respondent Judge of First Instance there issued a preliminary injunctive writ ex-parte against specific activities of the Associated Labor Union consisting of allegedly "harassing and coercive tactics, threats, cajoleries and other overt acts which (were) claimed to be illegal interference in the contractual relations" between the two other respondents (petitioners below), the Katipunan Lumber Co. and Roque Abellar. The union applied to us for a writ of certiorari and prohibition, which we denied on the principal ground that in view of

the allegations in the petition for injunction upon which respondent Judge acted he did not do so without or in excess of jurisdiction or with grave abuse of discretion. We said: "In the case at bar, the plaintiffs sought the amount of P50,000.00 by way of damages on overt acts, which they considered illegal, and which had caused them losses. They also asserted that there existed no employer-employee relationship between them. Generally, therefore, upon such allegations, the CFI had jurisdiction over the case and it was authorized under the Rules of Court to issue an injunctive writ even ex-parte, upon a valid showing of the necessity thereof."

The case before us is demonstrably different. ESSO's petition in respondent Court contains no claim for damages in any stated amount and asserts no specific acts on the part of MME members which are on their face illegal and to which the injunction is exclusively directed, the same being a blanket one against continuing to strike, picket and engage in other concerted activities. Those engaged in the strike and picketing are admittedly employees of ESSO; the existence of a labor dispute between them and the other labor organization (CLU), in which dispute ESSO became virtually a party, is clearly inferable from its petition below; and such dispute was already before the Court of Industrial Relations when ESSO went to respondent Court of First Instance.

It is true petitioner here applied to us for relief in a rather precipitate manner, not having waited until respondent Court could resolve its motion to reconsider the injunction issued. The excuse given is that the striking laborers were being arrested in mass (32 of them on February 23, 1965) by the police for picketing, in violation of the broad terms of the injunction. Ordinarily relief by certiorari is not extended unless the lower court has been given a chance to correct itself; but under the circumstances of this case, especially considering that in our opinion said court acted without jurisdiction and the question involved should go to the Court of Industrial Relations as an incident in the certification election case already filed there, the procedural prerequisite referred to should be disregarded.

WHEREFORE, the writ prayed for is granted; the order complained of is set aside, and the injunction issued by this Court is made permanent, with costs against private respondent.

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