SUPREME COURT
FIRST DIVISION

MANILA DIAMOND HOTEL EMPLOYEES' UNION,
***Petitioner*,**

-versus-

G.R. No. 140518
December 16, 2004

THE HON. COURT OF APPEALS, THE SECRETARY OF LABOR AND EMPLOYMENT, and THE MANILA DIAMOND HOTEL,
***Respondents*.**
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D E C I S I O N

AZCUNA, *J.*:

This Petition for Review of a Decision of the Court of Appeals arose out of a dispute between the Philippine Diamond Hotel and Resort, Inc. ("Hotel"), owner of the Manila Diamond Hotel, and the Manila Diamond Hotel Employees' Union ("Union"). The facts are as follows:

On November 11, 1996, the Union filed a petition for a certification election so that it may be declared the exclusive bargaining representative of the Hotel's employees for the purpose of collective

bargaining. The petition was dismissed by the Department of Labor and Employment (DOLE) on January 15, 1997. After a few months, however, on August 25, 1997, the Union sent a letter to the Hotel informing it of its desire to negotiate for a collective bargaining agreement.[1] In a letter dated September 11, 1997, the Hotel's Human Resources Department Manager, Mary Anne Mangalindan, wrote to the Union stating that the Hotel cannot recognize it as the employees' bargaining agent since its petition for certification election had been earlier dismissed by the DOLE.[2] On that same day, the Hotel received a letter from the Union stating that they were not giving the Hotel a notice to bargain, but that they were merely asking for the Hotel to engage in collective bargaining negotiations with the Union for its members only and not for all the rank and file employees of the Hotel.[3]

On September 18, 1997, the Union announced that it was taking a strike vote. A Notice of Strike was thereafter filed on September 29, 1997, with the National Conciliation and Mediation Board (NCMB) for the Hotel's alleged "refusal to bargain" and for alleged acts of unfair labor practice. The NCMB summoned both parties and held a series of dialogues, the first of which was on October 6, 1997.

On November 29, 1997, however, the Union staged a strike against the Hotel. Numerous confrontations between the two parties followed, creating an obvious strain between them. The Hotel claims that the strike was illegal and it had to dismiss some employees for their participation in the allegedly illegal concerted activity. The Union, on the other hand, accused the Hotel of illegally dismissing the workers. What is pertinent to this case, however, is the Order issued by the then Secretary of Labor and Employment Cresenciano B. Trajano assuming jurisdiction over the labor dispute. A Petition for Assumption of Jurisdiction was filed by the Union on April 2, 1998. Thereafter, the Secretary of Labor and Employment issued an Order dated April 15, 1998, the dispositive portion of which states:

> WHEREFORE, premises considered, this Office CERTIFIES the labor dispute at the Manila Diamond Hotel to the National Labor Relations Commission, for compulsory arbitration, pursuant to Article 263 (g) of the Labor Code, as amended.

Accordingly, the striking officers and members of the Manila Diamond Hotel Employees Union --- NUWHRAIN are hereby directed to return to work within twenty-four (24) hours upon receipt of this Order and the Hotel to accept them back under the same terms and conditions prevailing prior to the strike. The parties are enjoined from committing any act that may exacerbate the situation.

The Union received the aforesaid Order on April 16, 1998 and its members reported for work the next day, April 17, 1998. The Hotel, however, refused to accept the returning workers and instead filed a Motion for Reconsideration of the Secretary's Order.

On April 30, 1998, then Acting Secretary of Labor Jose M. Español, issued the disputed Order, which modified the earlier one issued by Secretary Trajano. Instead of an actual return to work, Acting Secretary Español directed that the strikers be reinstated only in the payroll.[4] The Union moved for the reconsideration of this Order, but its motion was denied on June 25, 1998. Hence, it filed before this Court on August 26, 1998, a petition for certiorari under Rule 65 of the Rules of Court alleging grave abuse of discretion on the part of the Secretary of Labor for modifying its earlier order and requiring instead the reinstatement of the employees in the payroll. However, in a resolution dated July 12, 1999, this Court referred the case to the Court of Appeals, pursuant to the principle embodied in National Federation of Labor vs. Laguesma.[5]

On October 19, 1999, the Court of Appeals rendered a Decision dismissing the Union's petition and affirming the Secretary of Labor's Order for payroll reinstatement. The Court of Appeals held that the challenged order is merely an error of judgment and not a grave abuse of discretion and that payroll reinstatement is not prohibited by law, but may be "called for" under certain circumstances.[6]

Hence, the Union now stands before this Court maintaining that:

> THE HONORABLE COURT OF APPEALS GRIEVIOUSLY ERRED IN RULING THAT THE SECRETARY OF LABOR'S UNAUTHORIZED ORDER OF MERE "PAYROLL REINSTATEMENT" IS NOT GRAVE ABUSE OF DISCRETION.[7]

The petition has merit.

The Court of Appeals based its decision on this Court's ruling in University of Santo Tomas (UST) vs. NLRC.[8] There, the Secretary assumed jurisdiction over the labor dispute between striking teachers and the university. He ordered the striking teachers to return to work and the university to accept them under the same terms and conditions. However, in a subsequent order, the NLRC provided payroll reinstatement for the striking teachers as an alternative remedy to actual reinstatement. True, this Court held therein that the NLRC did not commit grave abuse of discretion in providing for the alternative remedy of payroll reinstatement. This Court found that it was merely an error of judgment, which is not correctible by a special civil action for certiorari. The NLRC was only trying its best to work out a satisfactory ad hoc solution to a festering and serious problem.

However, this Court notes that the UST ruling was made in the light of one very important fact: the teachers could not be given back their academic assignments since the order of the Secretary for them to return to work was given in the middle of the first semester of the academic year. The NLRC was, therefore, faced with a situation where the striking teachers were entitled to a return to work order, but the university could not immediately reinstate them since it would be impracticable and detrimental to the students to change teachers at that point in time.

In the present case, there is no showing that the facts called for payroll reinstatement as an alternative remedy. A strained relationship between the striking employees and management is no reason for payroll reinstatement in lieu of actual reinstatement. Petitioner correctly points out that labor disputes naturally involve strained relations between labor and management, and that in most strikes, the relations between the strikers and the non-strikers will similarly be tense.[9] Bitter labor disputes always leave an aftermath of strong emotions and unpleasant situations. Nevertheless, the government must still perform its function and apply the law, especially if, as in this case, national interest is involved.

After making the distinction between UST and the present case, this Court now addresses the issue of whether the Court of Appeals erred in ruling that the Secretary did not commit any grave abuse of discretion in ordering payroll reinstatement in lieu of actual reinstatement. This question is answered by the nature of Article 263(g). As a general rule, the State encourages an environment wherein employers and employees themselves must deal with their problems in a manner that mutually suits them best. This is the basic policy embodied in Article XIII, Section 3 of the Constitution,[10] which was further echoed in Article 211 of the Labor Code.[11] Hence, a voluntary, instead of compulsory, mode of dispute settlement is the general rule.

However, Article 263, paragraph (g) of the Labor Code, which allows the Secretary of Labor to assume jurisdiction over a labor dispute involving an industry indispensable to the national interest, provides an exception:

> (g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout.
>
> This provision is viewed as an exercise of the police power of the State. A prolonged strike or lockout can be inimical to the national economy and, therefore, the situation is imbued with public necessity and involves the right of the State and the public to self-protection.[12]

Under Article 263(g), all workers must immediately return to work and all employers must readmit all of them under the same terms and

conditions prevailing before the strike or lockout. This Court must point out that the law uses the precise phrase of "under the same terms and conditions," revealing that it contemplates only actual reinstatement. This is in keeping with the rationale that any work stoppage or slowdown in that particular industry can be inimical to the national economy. It is clear that Article 263(g) was not written to protect labor from the excesses of management, nor was it written to ease management from expenses, which it normally incurs during a work stoppage or slowdown. It was an error on the part of the Court of Appeals to view the assumption order of the Secretary as a measure to protect the striking workers from any retaliatory action from the Hotel. This Court reiterates that this law was written as a means to be used by the State to protect itself from an emergency or crisis. It is not for labor, nor is it for management.

It is, therefore, evident from the foregoing that the Secretary's subsequent order for mere payroll reinstatement constitutes grave abuse of discretion amounting to lack or excess of jurisdiction. Indeed, this Court has always recognized the "great breadth of discretion" by the Secretary once he assumes jurisdiction over a labor dispute. However, payroll reinstatement in lieu of actual reinstatement is a departure from the rule in these cases and there must be showing of special circumstances rendering actual reinstatement impracticable, as in the UST case aforementioned, or otherwise not conducive to attaining the purpose of the law in providing for assumption of jurisdiction by the Secretary of Labor and Employment in a labor dispute that affects the national interest. None appears to have been established in this case. Even in the exercise of his discretion under Article 236(g), the Secretary must always keep in mind the purpose of the law. Time and again, this Court has held that when an official by-passes the law on the asserted ground of attaining a laudable objective, the same will not be maintained if the intendment or purpose of the law would be defeated.[13]

WHEREFORE, the petition is **GRANTED** and the assailed Decision of the Court of Appeals dated October 19, 1999 is **REVERSED** and **SET ASIDE**. The Order dated April 30, 1998 issued by the Secretary of Labor and Employment modifying the

earlier Order dated April 15, 1998, is likewise **SET ASIDE**. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., *C.J., (Chairman)*, Ynares-Santiago, and Carpio, *JJ.*, concur.
Quisumbing, *J.*, no part.

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[1] Annex "3" of Respondent's Comment; Rollo, p. 232.
[2] Annex "4" of Respondent's Comment; Rollo, p. 243.
[3] Annex "5" of Respondent's Comment; Rollo, p. 245.
[4] Annex "B" of the Petition; Rollo, pp. 31-35.
[5] G.R. No. 123426, March 10, 1999.
[6] Rollo, pp. 24-30.
[7] Rollo, p. 11.
[8] 190 SCRA 758 (1990).
[9] The Insular Life Assurance Co., Ltd., Employees Association-NATU vs. The Insular Life Assurance Co. Ltd., 37 SCRA 244, 271 (1971).
[10] Article XIII, Section 3 of the Constitution:

> Sec. 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.
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> It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
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> The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.
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> The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth. (Underscoring ours)

[11] Art. 211. Declaration of Policy. –

> A. It is the policy of the State:
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> (a) To promote and emphasize the primacy of free collective bargaining and negotiations, including voluntary arbitration, mediation and conciliation, as modes of settling labor or industrial disputes;

(b) To promote free trade unionism as an instrument for the enhancement of democracy and the promotion of social justice and development;
(c) To foster the free and voluntary organization of a strong and united labor movement;
(d) To promote the enlightenment of workers concerning their rights and obligations as union members and as employees;
(e) To provide an adequate administrative machinery for the expeditious settlement of labor or industrial disputes;
(f) To ensure a stable but dynamic and just industrial peace; and
(g) To ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.

B. To encourage a truly democratic method of regulating the relations between the employers and employees by means of agreements freely entered into through collective bargaining, no court or administrative agency or official shall have the power to set or fix wages, rates of pay, hours of work or other terms and conditions of employment, except as otherwise provided under this Code. (Underscoring supplied.)

[12] Phimco Industries, Inc. vs. Brillantes, 304 SCRA 747, 763 (1999).

[13] Colgate-Palmolive Philippines, Inc. vs. Ople, et al., 163 SCRA 323, 330 (1988).