SUPREME COURT
EN BANC

MANILA HOTEL COMPANY,
***Petitioner*,**

-versus-

G.R. No. L-30139
September 28, 1972

COURT OF INDUSTRIAL RELATIONS and PINES HOTEL EMPLOYEES ASS'N. (CUGCO),
***Respondents*.**

x----------x

MANILA HOTEL COMPANY and SOFRONIO G. RIVERA,
***Petitioners*,**

-versus-

G.R. No. L-30755
September 28, 1972

COURT OF INDUSTRIAL RELATIONS and PINES HOTEL EMPLOYEES ASSOCIATION (CUGCO),
***Respondents*.**

x----------x

MANILA HOTEL COMPANY,
***Petitioner*,**

-versus-

G.R. No. L-30818
September 28, 1972

PINES HOTEL EMPLOYEES ASS'N. (CUGCO) and COURT OF INDUSTRIAL RELATIONS,

Respondents.

x----------x

D E C I S I O N

TEEHANKEE, *J.*:

BARREDO, J., concurring:

These three Appeals by *Certiorari* filed on various dates in 1969 involve the same parties and various incidents between them, commencing from an unfair labor practice charge originally filed by respondent union against petitioner company and culminating in supplemental proceedings to enjoin the abrupt dismissal and termination of employment of all eighty-six employees at the Pines Hotel with its sudden sale on March 28, 1968 to a third party.

Petitioner-employer has appealed from the cease-and-desist order of respondent court of industrial relations in its decision in the original unfair labor case as well as from the orders issued by it to enforce the settlement of the supplemental dispute arising from the sudden sale of the Pines Hotel and the abrupt dismissal of all its eighty-six employees with the award and payment to them of gratuities as agreed to by the company itself and embodied in a formal resolution of its board of directors, and from the court's en banc resolutions denying reconsideration thereof.

Hence, the Court in giving due course to the last appeal filed by petitioner-employer on August 26, 1969, and docketed as Case L-

30818, ordered per its resolution therein of August 28, 1969 that all the three cases at bar be jointly taken up and decided, in view of their related nature.

In L-30755, upon proper complaint filed by respondent court's prosecutor at the instance of the union and after preliminary investigation, an unfair labor practice on six (6) counts was filed against herein petitioner Manila Hotel Company then engaged in the operation of the Pines Hotel in Baguio City and its co-petitioner Sofronio G. Rivera as the hotel's then general manager.[1] After due hearing, respondent court dismissed four (4) counts and found said petitioners guilty of unfair labor practice on two (2) counts, viz, (1) the charge of discrimination in the granting of the 1965 Christmas bonus and (2) the charge of discrimination in the granting of salary adjustments pursuant to the then newly enacted Minimum Wage Law, Republic Act 4180, passed on April 21, 1965, and decreeing a two-peso increase in the daily minimum wage for workers in industrial and commercial establishments from four pesos (P4.00) to six pesos (P6.00). Respondent court in its decision dated December 16, 1968, accordingly ordered respondents:

> "(1) To cease and desist from further committing such unfair labor practice acts;
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> "(2) To distribute the 1965 Christmas bonus on a 'prorata' basis as having been gone in the previous years; and
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> "(3) To implement the salary adjustments of all the employees, except the assistant manager of the Pines Hotel, in accordance with their salary scale in consonance with the minimum monthly salary of P180.00 as provided for in the New Minimum Wage Law, effective July 1, 1965 until the sale of the Pines Hotel to the Resort Hotels Corporation."

Their motion for reconsideration having been denied by respondent court's en banc resolution of May 20, 1969, petitioners filed their present appeal on August 11, 1969.

Re L-30139 — During the pendency of the unfair labor practice case in the court below (subject of L-30755, supra), the eighty-six

employees of Pines Hotel were stunned when they abruptly received on March 28, 1968 written notices that the National Development Company as owner of the Pines Hotel had sold it to the Resort Hotels Corporation on that same date, March 28, 1968, and that since petitioner Manila Hotel Company's operation of the hotel would cease effective the next day, "(their) services are hereby terminated as of the close of business hours of March 28, 1968.[2]

Since the unfair labor practice case, No. 4506-ULP, was still pending before the industrial court, respondent union forthwith filed with said court on the same date, March 28, 1968, an "Urgent Petition with prayer for a temporary restraining order"[3] complaining of petitioner's actions in bad faith in abruptly giving them their termination papers (during the very pendency of their case for other unfair labor practices on its part) in violation of the guarantee of their tenure of employment in their subsisting collective bargaining agreement while disclaiming at their latest conciliation conference held only twelve (12) days earlier on March 16, 1968 any knowledge of a reported plan to sell the Pines Hotel.

The union accordingly prayed inter alia that "this case be consolidated with CIR Case No. 4506-ULP" and that pending consideration of the merits, an ex-parte restraining order be issued against their abrupt dismissal or termination of services until further orders of respondent court. The union also promptly established picket lines in protest of the termination of their members without due notice and despite their pending urgent petition for an injunction or restraining order against such termination.

Respondent court took cognizance of the union's petition which was docketed with the same number as the original unfair labor practice case as "No. 4506-ULP (1)" and called the parties immediately to a conference which it set on March 29, and April 2, 1968.[4] At the conference and hearing of the union's urgent petition for injunction, petitioner-employer expressly manifested that it was willing to grant retirement gratuity to all the employees, and its board of directors met and deliberated on April 4, and April 8, 1968 to approve the corresponding resolutions.

Hence, petitioner's board expressly approved the payment of such gratuity to "those who have served for 20 years or more (who) shall be paid in accordance with law" and "(T)hat the basis of computing the gratuity pay shall be the basic salary as of the day of separation."[5] This expressly refers and applies to the sixteen (16) [out of 86] employees who have twenty years or more of service with petitioner company and whose gratuity pay has been ordered paid as per respondent court's order of December 5, 1968 in the amounts therein computed.

Notwithstanding petitioner's having deposited with respondent court pursuant to its own offer the sum of P100,000.00 through its check on which was written "for payment of gratuity and/or separation pay and other money claims of the petitioner union," and the union in turn having withdrawn its picket line, petitioner nevertheless questioned the issuance of said order on grounds of alleged lack of jurisdiction and impropriety thereof. Its motion for reconsideration having been denied per respondent court's en banc resolution of January 9, 1969, it filed on February 22, 1969 its appeal, which was docketed as L-30139.

Re L-30818 — In connection with the same sale on March 28, 1968 of the Pines Hotel and the abrupt termination of all its employees as of the same date, petitioner's board of directors had likewise approved on April 8, 1968 the payment of retirement gratuity to the greater remainder of seventy (70) [of a total 86] employees who had not completed 20 years of service and were not qualified under the Retirement Law, R.A. No. 186, at the rate of "one month salary for every year of service, but not exceeding twelve months."[6]

Citing the various manifestations in the record of petitioner's willingness to pay such gratuity, respondent court issued its order of February 27, 1969 for the payment of such gratuity not exceeding 12 months to the remaining seventy (70) employees who have rendered one year to nineteen years of service to petitioner company. Nevertheless, as in L-30139, petitioner raised the same questions of jurisdiction and propriety of the industrial court's issuance of said payment order. Its motion for reconsideration having been denied by respondent court's en banc resolution of May 3, 1969, petitioner filed on August 26, 1969 its herein appeal, docketed as L-30818.

I. Re L-30755

1. In the original unfair labor practice case, respondent court found petitioner guilty of discrimination and unfairness in the distribution of the 1965 Christmas bonus in that it radically departed from its adopted procedure of distributing pro-rata among all the employees of the Manila Hotel, Taal Vista Lodge and the Pines Hotel the traditional Christmas bonus (7% of the net profit of the company) as approved by the Office of the Economic Coordinator which it had followed for the past six or seven years prior to 1965.

The industrial court found that instead 'in the year 1965, the Manila Hotel Company, thru its general manager, distributed the 7% from the net profit as Christmas bonus in a way that 50% was allotted to the Manila Hotel employees, 25% to the Taal Vista Lodge employees and the remaining 25% to the Pines Hotel employees. With this way of distributing the 7% of the net profit amounting to P8,239.73, the share of the Manila Hotel amounting to P4,119.63, when divided equally among its eight employees each will receive P500.00 more or less; the share of the Taal Vista Lodge amounting to P2,060.05, when divided equally among its thirty employees, each will receive P70.00, more or less; while the share of the Pines Hotel amounting to P2,060.05, when divided equally among its one hundred twenty employees, each will receive P20.00, as their respective bonus."[7]

The industrial court stressed that the Pines Hotel employees who were the most numerous "would receive a lesser bonus than the employees of the Manila Hotel and Taal Vista Lodge where neither is there any existing labor organization nor the complainant union has any member" and that "(T)wo employees of the Manila Hotel, namely, Modesto Hilario and Margarita Reyes, were granted a year-end bonus in the amount of P2,011.55 and P1,645.82, respectively, despite the fact that the latter had been employed by the company for over a year only, that is in September, 1964."

Petitioner's contention that the giving of the lion's share of the 1965 Christmas bonus to the eight administrative employees at its Manila office was a valid exercise of discretion on the pretext that "the head office of the petitioner Manila Hotel realized a net profit for the year

1965 in the amount of P226,055.42 while the Pines Hotel and the Taal Vista Lodge incurred heavy losses for the same period."[8] is shown by the record to be bereft of factual basis. The record clearly shows that the only income from petitioner's Manila Hotel is derived from the lease of it hotel building and facilities to a third party (Mrs. Esperanza Zamora) with the earning of which petitioner's eight administrative employees at the head office in Manila had nothing to do, whereas the Pines Hotel and the Taal Vista Lodge were actually operated as such by petitioner company, with the Pines Hotel at times making actual profits from operations in contrast to the Taal Vista Lodge which always showed operational losses.

Respondent court thus correctly held that: "(T)o the mind of the Court, whether or not the Pines Hotel incurred losses is of no moment. The fact that management granted Christmas bonus to its employees, the same should have been divided equally as it has been done before. Aside from the Christmas bonus of 50% that was allocated to the Manila Hotel employees, some of them were granted year-end bonus while the employees of the Pines Hotel did not receive any year-end bonus. This is a clear case of discrimination, it appearing that there is no union at the Manila Hotel or the Taal Vista Lodge and considering further that lately respondents had always been beset with demands for better living conditions from the complainant union as well as strikes being staged by the union."

The Court finds that petitioner has failed to show any error in respondent court's decision that petitioner distribute the bonus pro rata among all its employees regardless of their place of work, as was consistently done in the previous years, and that respondent court's order was but a proper exercise of its power under Section 5 of Republic Act 875 to grant affirmative relief whenever it has adjudged the existence of an unfair labor practice.

2. Respondent court also found petitioner guilty on a second count in the granting of salary adjustments pursuant to the two-peso increase in the daily minimum wage ordained by the then newly enacted Republic Act 4180.

On this point, petitioner's contention is that it could not be held guilty of unfair labor practice because "it is not the herein petitioners who

are not agreeable to paying the respondent union members a minimum salary of P180.00, but the Office of the Economic Coordination for the reason that the minimum monthly salary for said employees, as prescribed by the Interpretative Bulletin of the Bureau of Labor Standards of the Department of Labor, is P157.00."[9]

The Court finds no error in respondent court's rejection of petitioner's claims, when it held that it "cannot agree to the contentions of respondents that their failure to implement the New Minimum Wage Law was due to the interpretative bulletin of the Bureau of Labor Standards of the Department of Labor, which in the opinion of the Office of the Economic Coordinator should apply to the employees of the Pines Hotel because the said interpretative bulletin refers to daily wage employees (prescribing a new minimum monthly salary of P157.00 for daily workers) and not to monthly paid ones (such as the Pines Hotel employees) and, besides that, this is a mere opinion. Likewise, the contention that the company finances do not warrant the revision of the salary scales of the Pines Hotel employees is untenable considering that the employees of the Manila Hotel and some employees of the Taal Vista Lodge where there is no existing labor organization were given salary adjustments beginning the fiscal period July 1, 1965, and that despite the alleged financial reverses suffered by the company, the latter was able to grant year-end bonus to two of its employees, which in effect belies the contention of the company that they are in a financial strait. Furthermore, the Taal Vista Lodge had always been losing in its operation while the Pines Hotel makes profits at times. Yet, despite all these, the respondent company granted salary adjustments to some employees of the former without strictly adhering to the aforesaid interpretative bulletin. which in the Court's opinion was purposely done to discourage the members of the complainant union."[10]

Respondent court's finding of unfair and unjust discrimination in the granting of salary adjustments pursuant to the two-peso increase ordained by the then new Minimum Wage Law is amply borne out by the record, with the eight (8) employees at the Manila office being granted a total of P18,000.00 in salary adjustments for the fiscal year July 1, 1965 to June 30, 1966, whereas eighty (80) regular employees of Pines Hotel received only an aggregate salary adjustment in the lesser amount of P15,000.00. Stated in another way, the total salary

adjustments given every ten Pines Hotel employees would not even equal the salary adjustment given one single Manila office employee.

Hence, without in any way turning down or modifying the increases and high salary adjustments which petitioner saw fit to grant to its Manila office employees, respondent court correctly removed the unfair discrimination by granting the corresponding affirmative relief to the Pines Hotel employees through ordering the payment to them by petitioner of the new minimum monthly salary of P180.00 for monthly-paid employees to which they were entitled under Republic Act 4180.[11]

II. Re L-30139

As above stated, upon filing on March 28, 1968 by the union of its urgent petition with prayer to restrain their abrupt separation from employment without prior notice by virtue of the sale on that same date of the Pines Hotel to the Resort Hotels Corporation, respondent court took cognizance thereof, permitted its docketing as a supplemental case of the original unfair labor practice case as "No. 4506-ULP (1)" and forthwith called the parties to a conference on March 29, and April 2, 1968.

A settlement of such dispute was worked out at such conference with petitioner agreeing to pay retirement gratuities to all 86 Pines Hotel employees as above mentioned and the union in turn withdrawing its picket line. Petitioner deposited with respondent court the amount of P100,000.00 (per NDC-issued check dated April 5, 1968)[12] on account of such gratuity and/or separation pay and other money claims of the union. An advance equivalent to one month's salary chargeable to any amount that may be due the employees was given them therefrom in April, 1968. Much later, on September 5, 1968, respondent court further issued in the same case its order for the payment out of said deposit to the employees of their accrued leaves. Such order was never questioned or challenged by petitioner.

On December 5, 1968, respondent court issued its order for the payment of the full gratuity of the sixteen (16) Pines Hotel employees with twenty (20) years or more of service, stating the premises thereof as follows:

"After the order dated September 5, 1968 in the above-entitled case had been satisfied with the actual payment of the accrued leaves of absences of the members of the complainant union, the other matter deemed by the Court as the issue to be resolved is the subject of gratuity. This order particularly refers to those employees with twenty (20) years or above of service.

"The facts on this matter are quite clear and to the point. After the termination of employment of individual claimants on March 28, 1968, the Board of Directors of the Manila Hotel Company, on April 4, 1968, met, deliberated and decided to extend some monetary benefits to the terminated employees. The deliberation was formally reduced to writing in a subsequent meeting of the same Board on April 8, 1968. Pertinent portion of the deliberation reads:

> 'Paragraph 2: —
>
> Those who have served for 20 years or more shall be paid in accordance with law.
>
> 'Paragraph 3: —
>
> That the basis of computing the gratuity pay shall be the basic salary as of the day of separation.' (Exhibit '1-B')

"The records is also rich with manifestations of the Company's counsel reiterating willingness to pay gratuity in accordance with law.

Indeed, the records as well as the evidence is replete with the willingness of the Company to pay gratuity to the members of the complainant union.

"The records also show that individual claimants herein were extended sometime in April, 1968 an advance equivalent to one month's salary chargeable against any amount that may be due them (Exhibit '5')"

As to outstanding hotel bills totalling P1,847.23 which respondent court held to be definitely deductible against the individual employees who incurred the same, respondent court ruled that it would hold in its custody the corresponding amount thereof, thus: "(A)s a condition of the payment of the claims of complainant members, it was resolved by the Board of Directors of the Company that 'a) any amount due to the Company from any employees shall be deducted before payments including their personal accounts with the Company.' (Exhibit 'A'). The Company submitted a list of hotel bills which unfortunately were unsupported with the very evidence of indebtedness. Hence, said hotel bills, though definitely a deduction from the claims of individual claimant, for very obvious reasons, will not be disposed of in this order but will be held in abeyance until after sufficient facts are in the Court's possession for it to treat later on. Meanwhile, the Court will hold in its custody the total amount of hotel bills."

Accordingly, respondent court ordered as follows:

> "IN VIEW OF ALL THE FOREGOING, as manifested and agreed upon by the respondents' counsel, the Cashier of the Court is hereby ordered to issue, subject to the usual accounting and auditing rules and regulations, a check in favor of the Pines Hotel Employees Association (CUGCO), complainant herein, thru its counsel, Atty. Benjamin C. Pineda, in the amount of P75,714.77 representing the net gratuity of the hereunder named employees who have to their credit twenty years of service or above and another check in favor of J. C. Espinas & B. C. Pineda & Associates, thru Atty. Benjamin C. Pineda, in the amount of P27,139.00 as attorney's fees.
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> "For the proper guidance of the union president and Atty. Pineda, who are authorized to make individual distributions of the claims of the employees and who must submit a report or accounting thereafter within fifteen (15) days from receipt of the total gratuity for those with twenty (20) years of service or above, less twenty-five per cent attorney's fees and one month advance gratuity, the individual distribution is as stated hereunder, to wit:

(Note: Follows a list of the names of the sixteen (16) employees, with five (5) columns, giving the total gratuity due each of them, the 25% attorney's fee deductible therefrom, hotel bills deductible from five (5) employees accountable therefor, amount of one month's advance gratuity deductible from each employee, and the net gratuity due each of them.)

"The total hotel bills of P1,847.23 shall remain with the custody of the Court until its further disposition. There is still a balance of P78,415.57 remaining with the Court out of the initial deposits. And so an additional amount of P26,285.48 must still be deposited with the Court in order that the full gratuity of those with twenty years of service or above could be paid. The Company is therefore ordered to deposit the said amount of TWENTY-SIX THOUSAND TWO HUNDRED EIGHTY-FIVE PESOS AND FORTY-THREE CENTAVOS (P26,285,43) plus the amount of SIXTY-TWO PESOS AND EIGHTY-SIX CENTAVOS (P62.86) representing the Court's deposit fee."

Petitioner bases its present appeal from respondent court's order on the strength of the "Opposition and/or Motion to Dismiss" dated April 28, 1968 that it filed with respondent court on May 2, 1968,[13] after the union had filed on April 3, 1968 its "Amended Urgent Petition" of the same date[14] formally impleading the National Development Company, owner-seller of Pines Hotel, as party respondent.[15]

Four grounds were stated by petitioner in said "opposition and/or motion to dismiss," as follows:

(1) that the urgent petition States no valid cause of action;

(2) that the respondent Court has no jurisdiction over the subject matter of the petition and over the respondent;

(3) that the claim set forth in the petition has been paid, waived, abandoned or otherwise extinguished; and

(4) that the injunction prayed for does not lie against the Company.

The first two grounds are now re-assigned by petitioner as errors on appeal, claiming that respondent court had no jurisdiction over the case below because "there exists no longer employer-employee relationship notwithstanding that the case refers to acts of unfair labor practice where no reinstatement is sought" and that "the lawyer of the respondent union cannot file charge for unfair labor practices directly with the court, because it is only the prosecutor of the respondent CIR that can file the same pursuant to Sec. 5(b) of Republic Act 875" and that "respondent CIR cannot just issue an order granting awards without first resolving a motion to dismiss for lack of jurisdiction and/or granting (petitioner) its right to file its answer to a complaint."[16]

These alleged errors assigned now by petitioner are actually moot and academic, for even as of the time petitioner had filed the same with respondent court on May 2, 1968, it had already recognized respondent court's valid jurisdiction over the unfair labor complaint raised by the union over the abrupt termination of services of the Pines Hotel employees and had come to a settlement of the dispute as early as April, 1968 with its agreement to pay retirement gratuity to the employees in two categories (those with 20 years of service and above, and those with 1 to 19 years of service, supra) and had deposited with respondent court the sum of P100,000.00 for the purpose. On the other hand, the union, accepting the settlement, had lifted their picket line and no longer insisted on its members' guarantee of tenure of employment under their subsisting collective bargaining agreement.

Since the employees' claims had been settled with petitioner's agreement to pay them retirement gratuity, respondent court certainly had jurisdiction to issue its questioned payment order of December 5, 1968 to implement the very agreement and settlement arrived at by the parties in the case before it.

As a matter of fact, the third-stated ground of petitioner's formal opposition below — which it completely ignores in the present appeal — was that the union's claim or demand has been paid, waived,

abandoned or otherwise extinguished, citing precisely the policy adopted as early as April 5, 1968 by petitioner "regarding the payment of gratuity and/or termination pay to said employees," submitting photostat copy of the board's resolution thereon, recording petitioner's "good faith and earnest desire" and resolution to deposit P200,000.00 for the purpose and citing union's counsel's conformity to the settlement and to the proviso "that all pending cases in relation to the present dispute against MHCo, NDC and Resort Hotels Corporation and its officials shall be withdrawn by the Pines Hotel Employees Association (Cugco) and its members and to lift the picket lines at the Pines Hotel."[17]

Such withdrawal of the case could not of course be literally implemented, as petitioner would insinuate. The union did withdraw its complaint for continued employment of its members despite the sale of the Pines Hotel and it did lift the picket line, leaving the new owner to go freely about its business. The case itself had to remain for implementation in turn of petitioner's undertaking to pay retirement gratuity to all the 86 Pines Hotel employees who had lost their jobs, and this is exactly what respondent court has done through its December 5, 1968 payment order. Respondent court having properly assumed jurisdiction over the dispute and sanctioned the settlement thereof offered by petitioner itself, certainly had unquestioned jurisdiction in all incidents relating to the implementation and carrying out of the settlement.

Prescinding from the foregoing nevertheless and dealing with the alleged errors which petitioner has assigned on appeal, it is obvious that its claim that the union members sought no reinstatement has no factual basis in the record. The union precisely sought an injunction against the abrupt termination of its members and claimed that they were entitled to continued employment as guaranteed by their collective bargaining agreement.

Petitioner's claim that the union counsel could not file an unfair labor practice charge directly with respondent court may be correct as far as it goes. What the union had actually filed on March 28, 1968 was a separate "urgent petition with prayer for a restraining order." Respondent court however in effect granted the union's alternative prayer for consolidation of the new unfair labor practice charge with

the union's pending case No. 4506-ULP. Assuming that a prior preliminary investigation was necessary to determine the merit of the complaint, it cannot be gainsaid that in effect respondent court undertook such preliminary investigation on its own when it immediately called the parties to a conference on the next day, March 29, 1968 and April 2, 1968. No prejudice could be said to have been caused to petitioner thereby, for the very merit of the union complaint is borne out by the fact that the parties promptly arrived at a satisfactory settlement thereof upon petitioner's undertaking to pay retirement gratuity to all eighty-six affected employees. By the same token, respondent court no longer had to formally rule on petitioner's "opposition and/or motion to dismiss" of May 2, 1968 by virtue of the earlier settlement reached by the parties in April, 1968, as already shown above.

Only one point apparently not raised by petitioner in its opposition-motion below merits mention, and it is that payment of the retirement gratuity to the employees directly through the respondent court from the amount therein deposited by petitioner (and not through the Government Service Insurance System in accordance with the usual practice) might disregard and not take into account "some accountabilities" and "outstanding obligations" of said employees.[18] It is to be expected that respondent court will take the necessary safeguard measures to avoid such contingency, by properly calling in a GSIS representative in charge of the GSIS accounts of said sixteen (16) employees to make the proper verification before authorizing final payment of the amounts due to them.

III. Re L-30818

This appeal involves the last order issued on February 27, 1969 by respondent court for the payment to the greater remainder of seventy (70) Pines Hotel employees with less than twenty (20) years of service (and therefore rot qualified for gratuity under the Retirement: Act, R.A. No. 186) of retirement gratuity of "one month salary for every year of service, but not exceeding twelve months" as offered and agreed to by petitioner itself, pursuant to its past practice.

In said order, respondent court, after noting the previous payment of the accrued leaves and one month's salary advance, and the

manifestations of record evidencing petitioner's reiterations of its willingness to pay such gratuity, as in the case of the sixteen other employees with 20 years or over of service (in Case L-30139), noted that:

> "After the order dated September 5, 1968 in the above-entitled case had been satisfied with the actual payments of the accrued leaves of absences of the members of complainant union, the remaining issue to be determined is the subject of gratuity for those with services ranging from one year to nineteen years. Those with twenty or above years of service were treated in a separate order.
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> "It appears that the facts are quite clear and not controverted. After the termination of employment of the individual complainants on March 28, 1968, the Board of Directors of the Manila Hotel Company, on April 4, 1968 met, deliberated and decided to extend some monetary benefits to the terminated employees who are incidentally members of complainant union. This deliberation was formally reduced to writing in a subsequent meeting on April 8, 1968. Pertinent portions of the deliberation reads:
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> > 'Paragraph 1 — Employees who have rendered one year to nineteen years of services with the Manila Hotel Company should be paid one month salary for every year of service, but not exceeding 12 months' (Exh. 1-B).
> >
> > x x x
>
> "Finally the company admitted that former employees of the Manila Hotel Company in Manila were given one month pay for every year of service but not exceeding twelve (12) months when their services were terminated as a result of the relief of Mr. Zamora in 1954, June 30, 1954, except those employees who were transferred to the Pines Hotel. (t.s.n., page 122, Aug. 9, 1968)"

Respondent court, as in L-30139, made the same reservation of holding in abeyance settlement of outstanding hotel bills in the total

amount of P2,921.94 against the individual employees liable therefor until after presentation by petitioner of the necessary evidence.

Respondent court accordingly ordered the following:

> "From the evidence, testimonial and documentary, attached herewith is a statement of the claims of the individual workers including hotel bills, one-month advance pay, and 25% attorney's fees. (Exh. B-2, B-3)[19]
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> "In view of the foregoing, the respondent, Manila Hotel Company, is hereby ordered to deposit with the Court the amount of P103,856.30 in order to meet the total claims of the workers less their one-month advance pay."

As already adverted to above, petitioner assigns this appeal the very same identical errors assigned by it in Case L-30139, based on its "opposition and/or motion to dismiss" filed on May 2, 1968 with respondent court.

Accordingly, petitioner's appeal must perforce be rejected for the very same grounds already stated above with reference to Case L-30139. As in said case L-30139, petitioner has in no manner questioned or disputed the factual bases and findings of respondent court as to its undertaking and agreement in the record to pay the retirement gratuity to the employees, by way of settlement of their dispute arising from the protested abrupt termination of their employment with the sudden sale of the Pines Hotel to a third party.

Respondent court in issuing the appealed payment order was but acting within its jurisdiction properly assumed of implementing the very agreement and settlement for payment of retirement gratuity arrived at by the parties in the case before it.

ACCORDINGLY, the decision, orders and resolutions appealed from are hereby affirmed. With reference to Case L-30139 involving payment of retirement gratuity to the sixteen (16) qualified employees therein named, respondent court is directed to make the corresponding verification that their accountabilities to the Government Service Insurance System as such members-employees

are fully discharged before final payment of the amounts found due to them under the appealed order, herein affirmed, is made. No costs.

Concepcion, *C.J.*, Zaldivar, Castro, Makasiar, Antonio and Esguerra, *JJ.*, concur.
Makalintal, *J.*, is on official leave.
Fernando, *J.*, concurs except as to the last paragraph in II — re L-30139.

SEPARATE OPINION

BARREDO, J., concurring:

I agree fully with the judgment in this case. The only purpose of this separate concurrence is to emphasize the fact that the appeals in G.R. Nos. L-30139 and 30818 are completely devoid of merit and should be declared as frivolous and dilatory. The attack against the decision and orders of the Court of Industrial Relations involved in said appeals for want of jurisdiction has absolutely no basis.

The record shows that on March 28, 1968, when respondent union filed with the Industrial Court its "Urgent Petition, with prayer for a temporary restraining order" to enjoin the implementation of the abrupt termination of the services of its members working at the Pines Hotel, there was pending with said court an unfair labor practice case, No. 4506-ULP, in which the matter involved was discrimination in the payment of Christmas bonus and salary adjustments. While it may be true that such abrupt termination of the services of said union members could be considered independently of the then pending unfair labor practice case, the developments that swiftly took place after the filing of the union's petition on March 28, 1968 made resort to the usual procedure in unfair labor practice cases unnecessary insofar as the matter of such abrupt termination of services was concerned, for the simple reason that when the court tried to look into the union's grievance in the conferences of March 29 and April 2, 1968, the question of whether or not petitioner had committed an unfair labor practice in relation to the termination of

services just mentioned had become moot and academic, considering that by resolving to grant gratuities to the members concerned, and the latter agreeing thereto, it is as if the said abrupt termination of services were admitted to be improper and unjustified without granting the said gratuities. Accordingly, there was no reason anymore for the court to proceed any further.

The pertinent provision of the Industrial Peace Act, Section 5, Paragraphs (a) and (b) read as follows:

> "(a) The Court shall have jurisdiction over the prevention of unfair labor practices and is empowered to prevent any person from engaging in any unfair labor practice. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise.
>
> "(b) The Court shall observe the following procedure without resort to mediation and conciliation as provided in Section four of Commonwealth Act Numbered One hundred and three, as amended, or to any pre-trial procedure. Whenever it is charged by an offended party or his representative that any person has engaged or is engaging in any such unfair labor practice, the Court or any agency or agent designated by the Court must investigate such charge and shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect and containing a notice of hearing before the Court or a member thereof, or before a designated Hearing Examiner at the time and place fixed therein not less than five nor more than ten days after serving the said complaint. The person complained of shall have the right to file an answer to the complaint and to appear in person otherwise (but if the Court shall so request, the appearance shall be personal) and give testimony at the place and time fixed in the complaint. In the discretion of the Court, a member thereof or a Hearing Examiner, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding, the rules of evidence

> prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that the Court and its members and Hearing Examiners shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure. In rendering its decisions, the Court shall not be bound solely by the evidence presented during the hearing but may avail itself of all other means such as (but not limited to) ocular inspections and questioning of well-informed persons which results must be made a part of the record. In the proceeding before the Court or a Hearing Examiner thereof, the parties shall not be required to be represented by legal counsel and it shall be the duty and obligation of the Court or Hearing Examiner to examine and cross-examine witnesses on behalf of the parties and to assist in the orderly presentation of the evidence."

It is true that under these provisions, there is an indication that mediation and conciliation as well as pre-trial procedure need not be resorted to in unfair labor practice cases, but this is because such procedures may unnecessarily delay the prevention of the unfair labor practice complained of, contrary to the spirit of the law. I take it, however, that the very provisions of the Section aforequoted to the effect that "In any such proceeding, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Act that the Court and its members and Hearing Examiners shall use all reasonable means to ascertain the facts in each case speedily and objectively without regard to technicalities of law or procedure" even to the extent of allowing the Court to base its decision on matters beyond those presented during the hearing and parties who are non-lawyers to appear without counsel, viewed properly, do not enjoin the immediate termination of unfair labor practice case if, for one reason or another, all the parties concerned happen to be before the Court and after an exchange of views agree on how to fairly settle the case without further proceedings, when by doing so, as in these cases, the unfair labor practice charged is practically assumed to be true and the complainants are granted relief which appears to the Court just and consistent with the objective of the law, under the circumstances obtaining. In other words, my view

is that the procedure for unfair labor practice cases outlined in Paragraph (b) above should be generally followed, but it is not violative of the law and subversive of the broad jurisdiction of the Industrial Court conferred in Paragraph (a) above for said Court to adopt in any given case a speedier and more practical procedure for accomplishing the purpose of the law and rendering justice to the parties.

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[1] Docketed as Case No. 4506-ULP of the industrial court, entitled "Pines Hotel Employees Assign, (Cugco), complainant, vs. Manila Hotel Co. and Sofronio G. Rivera, respondents" and filed on May 16, 1966.
[2] Annex D of Annex B, petition in L-30139.
[3] Annex E, petition in L-30139.
[4] The General Manager of the National Development Company as owner of the Pines Hotel was called to the second conference of April 2, 1968, although said company was actually formally impleaded as party respondent in the Amended Urgent Petition filed by the union on April 3, 1968.
[5] Paragraphs 2 and 3 of petitioner's board's deliberations of April 8, 1968, cited in respondent court's questioned order of December 5, 1968, Annex A, petitioner's brief in L-30139.
[6] Paragraph 1 of petitioner's board's deliberation of April 8, 1968, cited in respondent court's questioned order of Feb. 27, 1969, Annex A, petitioner's brief in L-30818.
[7] Emphasis supplied.
[8] Petitioner's brief in L-30755, pp. 16.17.
[9] Petitioner's brief in L-30755, p. 9.
[10] Notes in parentheses supplied.
[11] Cf. Automotive Parts & Equipment Co. Inc. vs. Lingad, 30 SCRA 248 (Oct. 31, 1969).
[12] Annex C, Rollo, in L-30139, p. 141.
[13] Annex H, petition in L-30139.
[14] Annex G, petition in L-30139.
[15] See fn. 4, supra.
[16] Petitioner's brief in L-30139, pp. 3-4.
[17] Petitioner's brief in L-30139, Annex C, pp. ix and x.
[18] Petitioner's brief in L-30139, p. 23.
[19] The statement attached to this order in L-30818 actually lists, besides the seventy (70) regular employees (with less than 20 years of service) twenty-two (22) additional "extra regular employees."
