

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PHILIPPINE ASSOCIATION OF FREE
LABOR UNIONS (PAFLU) and
MAJESTIC AND REPUBLIC THEATERS
EMPLOYEES ASSOCIATION (PAFLU),
*Petitioners,***

-versus-

**G.R. No. L-9281
September 28, 1956**

**Hon. EDILBERTO BAROT, Judge of the
Court of First Instance of Manila and
REMA, INCORPORATED,
*Respondents.***

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D E C I S I O N

LABRADOR, J.:

Petition for Certiorari against an order of the Court of First Instance of Manila, Hon. Edilberto Barot, presiding enjoining petitioners herein, Philippine Association of Free Labor Unions (PAFLU) and Majestic and Republic Theaters Employees Association, their members, representatives, agents, and all other persons assisting or acting for them, to immediately cease and desist from picketing respondent's (herein) premises and preventing said respondent from the lawful and peaceful possession and use of said premises, and from

molesting, interfering or preventing persons who desire to enter the Republic and the Majestic Theaters, and from committing any act of violence or intimidation against the respondent company and said persons. The incidents giving rise to the above orders are as follows:

Before March 31, 1955, L. C. Eugenio & Co., Inc., owner of the Republic and the Majestic theaters, leased the theaters to the Republic Theater Enterprises, Inc., and the Majestic Theater, Inc. These two corporations operated the said theaters. On February 16, 1955, these two corporations entered into a collective bargaining agreement with the PAFLU, some of the members of which were employees of the Republic Theater Enterprises and the Majestic Theater, Inc. This agreement was to expire on December 31, 1956, renewable for another period of two years, if neither party rescinds the contract. On March 31, 1955, L. C. Eugenio sold the Republic and the Majestic theaters to the Goodwill Trading Co., Inc. for the sum of P950,000, of which P301,545.25 was paid at the time of the execution of the sale. On April 25, 1955, the former owner terminated the lease of the two theaters in favor of the Republic Theater Enterprises and the Majestic Theater, Inc., and on April 26, 1955, the Goodwill Trading leased the said theaters to Rema, Inc., respondent in these proceedings. As a result of the contract of sale and the termination of the lease of the theaters by the Republic Theater Enterprises and the Majestic Theater, Inc., the respondent Rema, began to operate the two theaters, employing persons other than those employed therein by the Republic Theater Enterprises and the Majestic Theater, Inc. The unions to which the employees belong started picketing the said theaters, claiming that they could not be deprived of their right under the collective bargaining agreement of February 16, 1955, and alleging further that the contract of sale with the Goodwill Trading was a fictitious sale. Thereupon Rema, instituted civil case No. 26169 in the Court of First Instance of Manila against the said labor unions for declaratory relief with preliminary injunction. The respondent judge set the petition for preliminary injunction for hearing, and at this hearing Rema submitted evidence consisting of affidavits A, A-1, B, B-1, C, C-1, D, D-1 and E. These affidavits show that members of the respondent union were committing acts of violence on persons desiring to enter the theaters and were threatening customers of the said theaters. The respondent union and association were permitted to submit counter- affidavits, but they did not do so, and upon the

expiration of the period granted them the court issued the order subject of the present petition for certiorari.

The ground upon which the present petition is based is that the controversy between the union of the employees formerly working in the two theaters and the new operator of the said theaters, the respondent Rema, is a labor dispute, and that the respondent court, therefore, did not have jurisdiction to take cognizance of the same or to issue injunction in the case. The trial judge held that there was no relation of employee and employer between the petitioning union and the respondent Rema. This issue has already been passed upon in the case of PAFLU, et al., vs. Tan and Rema, supra, p. 854. We held in that case, which involved the same parties and the same dispute exists.

“Thus, it was held that ‘The disputants need not stand in relation of employer and employee for case to involve a ‘labor dispute’ within Norris-La Guardia Act regulating issuance of restraining order or injunction in cases involving labor disputes’ (Green, et al. vs. Oberfell, et al., 121 F 2d., 46). While, under our own Industrial Peace Act, the term ‘labor dispute’ includes any controversy concerning terms, tenure, or conditions of employment, ‘regardless of whether the disputants stand in the proximate relation of employer and employee’ [Section 2, (j), Republic Act 872.] In our opinion, considering the equities involved, the relation of petitioners to respondent comes within the purview of this definition.”

But we also held therein that the Court of Industrial Relations has no jurisdiction to take cognizance of cases involving labor disputes since the approval of Republic Act No. 875, except when the dispute relates to certain specific cases like the following:

“(1) When the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the industrial court (Section 10, Republic Act 875); (2) when the controversy refers to minimum wage under the Minimum Wage Law (Republic Act 602); (3) when it involves hours of employment under the Eight-Hour Labor Law (Commonwealth Act 444); and (4) when it involves an unfair

labor practice ‘Section 5, (a), Republic Act 875].” (p. 8, Decision in PAFLU, et al., vs. Tan, et al. L-9115.)

It follows, therefore, that the Court of First Instance of Manila had jurisdiction to take cognizance of the action instituted by the Rema, Inc., against the labor union and associations, petitioners herein. So, the question remaining to be decided is whether or not the respondent court of first instance abused its discretion in granting the preliminary injunction.

Republic Act No. 875 expressly provides for the procedure to be followed by courts in the consideration of petitions for injunction against picketing. Section 9, paragraph d, expressly provides:

“(d) No court of the Philippines shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as herein defined, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after finding of fact by the Court, to the effect:

- “(1) That unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act or actually authorizing or ratifying the same after actual knowledge thereof;
- “(2) That substantial and irreparable injury to complainant’s property will follow;
- “(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than will be inflicted upon defendants by the granting of relief;

“(4) That complainant has no adequate remedy at law; and

“(5)” That the public officers charged with the duty to protect complainant’s property are unable or unwilling to furnish adequate protection.

“Such hearing shall be held after due and personal notice thereof has been given, in such manner as the Court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the province or city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant’s property:”

Judged by the above-quoted provision, the order complained of is subject to the following objections: (1) there was no hearing of the testimonies of witnesses in open court; (2) there is no finding of fact by the court that unlawful acts have been threatened and will be committed nor that complainant has no adequate remedy at law, and that public officers charged with the duty to protect complainant’s property are unable or unwilling to furnish adequate protection.

The order also prohibits the petitioning union and associations “from picketing plaintiff’s premises.” This is a denial of a fundamental right granted employees of labor unions, which the courts may not validly prohibit. What may be enjoined is the use of violence or the act of unlawful picketing, such as the commission of acts of violence or intimidation against employees or those who want to see the shows, not lawful picketing.

It is evident, therefore, that while the Court of First Instance had jurisdiction to take cognizance of the petition, it had transcended its powers (called jurisdiction in the Act) because it enjoined the petitioners from picketing, a legitimate labor right, and because the procedure expressly outlined in the law for the issuance of an injunction was not strictly followed.

WHEREFORE, the writ prayed for is hereby **GRANTED**, and the order complained of annulled. Without costs.

Padilla, Montemayor, Bautista Angelo, Endencia, and Felix, JJ., concur.

SEPARATE OPINIONS

CONCEPCION, J., with whom PARAS, C.J., concurs:

I concur in the result, for the reasons, and subject to the qualifications, set forth in the concurring and dissenting opinion of Mr. Justice Reyes (J.B.L.) in PAFLU vs. Tan and Rema Incorporated, (supra, p. 854).