SUPREME COURT
EN BANC

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

-versus-

G.R. No. L-9115
August 31, 1956

HONORABLE BIENVENIDO A. TAN, 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

BAUTISTA ANGELO, *J.*:

This is a Petition for Certiorari and Prohibition with Preliminary Injunction seeking to nullify all the proceedings had before respondent Judge in Civil Case No. 26169 of the Court of First Instance of Manila, particularly that which refers to the order issued by him on May 10, 1955, enjoining the Philippine Association of Free Labor Unions (PAFLU), its members, associates, or agents to cease and desist from picketing the properties of respondent REMA, Incorporated, as well as molesting, transferring or preventing the

public from entering the Republic and Majestic theaters leased and operated by said respondent. In due course, this Court issued the writ of preliminary injunction prayed for upon the filing by petitioners of a bond of P500.

On May 9, 1955, REMA, Incorporated filed an action for damages with preliminary injunction against petitioners in the Court of First Instance of Manila alleging, among other things, that the "plaintiff is the lessee and operator of the 'Republic' and 'Majestic' Theaters doing business at Florentino Torres Street, Manila, which establishments were leased by the plaintiff on April 27th, 1955 from the Goodwill Trading Co., Inc., who on the same date acquired the said theaters by way of purchase from the L. C. Eugenio and Co., Inc., the former owner"; that "the members of the defendant labor union, PAFLU and the other defendants who are mostly members of the defendant labor union, PAFLU, were formerly employed with the above-mentioned theaters when the latter were still under the ownership, operation and management of the former owner, L. C. Eugenio and Co., Inc., but who ceased to be such employees since the sale of the said theaters on April 27, 1955, to the Goodwill Trading Co., Inc., and their subsequent lease to the plaintiff on the same date"; and that "the plaintiff and the defendants have no employer-employee relation because the latter are not in any manner the employees or laborers of the plaintiff and as such they have no labor dispute between them."

The court, presided over by Hon. Bienvenido A. Tan, set for hearing the petition for injunction requiring defendants (now petitioners) to appear on May 10, 1955 to show cause why the writ should not be issued as prayed for in the complaint. On the date of hearing, defendants assailed the jurisdiction of the court on the ground that, it involving a labor dispute or an employer-employee relation, the sole power to determine the issue is the Court of Industrial Relations as provided for in Republic Act No. 875. After the case has been argued orally by counsel of both parties, but without receiving any evidence in support of the factual allegations of the petition, respondent judge declared himself with jurisdiction to act and in effect issued on May 10, 1955 an order granting the writ of injunction upon plaintiff's filing a bond in the amount of P500. Hence the present petition for certiorari.

The first issue to be determined is whether the main case involves a labor dispute or an employer-employee relation. This needs a brief statement of the facts which led to the institution of the main case in the lower court.

On September 11, 1954, a collective bargaining agreement was entered into by and between the Republic Theater Enterprises and the Majestic Theater, Inc. on one hand and the Majestic and Republic Theaters Employees Association on the other. This agreement was to run for a period of two years. Because of the failure of the theater enterprises to comply with some terms of the agreement, the employees of the association went on strike on January 2, 1955. In consideration of the return of the strikers to work, the collective bargaining contract was modified and a new one entered into also for a term of two years on February 16, 1955. This new agreement was signed by the Philippine Association of Free Labor Unions (PAFLU), with which the employees association had affiliated after the conclusion of the original collective bargaining agreement. Among the pertinent provisions of the agreement, as amended, were that during the period of its life the association or any laborer or employee shall not declare a strike, nor engage in picketing, while the management of the theaters in return "shall not lockout their employees." The revised agreement also included rigid clauses in the payment of overtime pay, night differential pay and a provision for the examination of the books of the theaters on June 30, 1955.

On March 31, 1955, the two theaters, Republic and Majestic, with all their assets and improvements thereunto appertaining, were sold by the owner L. C. Eugenio and Co., Inc. to Goodwill Trading Co., Inc., which was later supplemented by another agreement executed by the same parties on April 26, 1955. On the same date, April 26, 1955, a contract of lease concerning the operation of the two theaters was executed by Goodwill Trading Co., Inc. in favor of the REMA, Incorporated, and on April 27, 1955, the latter corporation, as lessee and operator of the two theaters, sent a circular letter to all the employees of the former owner requiring them to apply for employment with the new management in a form expressly prepared for the purpose. On May 8, 1955, the employees of the association started picketing the premises of the two theaters with the help of the members of the Philippine Association of Free Labor Unions

(PAFLU), for which reason the REMA, Incorporated filed the present action for damages with preliminary injunction in the Court of First Instance of Manila. And on May 20, 1955, a complaint for unfair labor practice was filed before the Court of Industrial Relations by the Majestic and Republic Theaters Employees Association against its employers, the Republic Theater Enterprises and the Majestic Theater, Inc., alleging among other grounds, that the latter committed a breach of the collective bargaining agreement concluded between them.

It is contended by respondents that there is no relation of employer and employee between the REMA, Incorporated and the Republic and Majestic Theaters Employees Association for the reason that the two theaters had already been sold by their original owner and the vendee had in turn leased them to REMA, Incorporated which has no contractual relation whatsoever with the members of the association. There being no employer-employee relation, they contend, there is no labor dispute and consequently the lower court had jurisdiction to entertain the case. This claim is disputed by petitioners.

There is no merit in this claim of respondents. While it is true that the employees of the petitioning association do not have an actual contract of employment with REMA, Incorporated and were actually employed by the former owner of the two theaters with whom they had concluded a collective bargaining agreement, the fact however remains that these employees do not admit, and in fact dispute, the genuineness and validity of the alleged transfer and for that reason they still consider themselves as employees of the two theaters in contemplation of law. It is their stand that the alleged transfer is fictitious and was merely resorted to by the former owner as a ruse to evade its liability under the collective bargaining agreement because of some provisions contained therein which in its opinion were detrimental to its interests although highly beneficial to the interests of the employees. There is therefore the vital issue concerning the genuineness and validity of the sale involved in the main case which in the light of the spirit of our labor legislation is deemed a labor dispute. 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.

Obergfell, et al., 121 F 2d., 46.[1] 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 No. 875]. In our opinion, considering the equities involved, the relation of petitioner to respondent comes within the purview of this definition.

The next issue that arises is: It appearing that the main case involves a labor dispute, does it come under the jurisdiction of an ordinary court of justice or should it be left entirely to the Court of Industrial Relations. This involves a little digression on the scope and extent of the jurisdiction of the Court of Industrial Relations which is now conferred upon it by the Industrial Peace Act.

It should be noted that prior to the approval of the Industrial Peace Act (Republic Act No. 875), the law that governed the jurisdiction of the Court of Industrial Relations over cases involving labor disputes is Commonwealth Act 103. This Act gave to that court broad powers of compulsory arbitration on any matter involving a labor dispute. In fact, that Act gave that court "jurisdiction over the entire Philippines, to consider, investigate, decide and settle all questions, matters, controversies, or disputes arising between, and/or affecting employers and employees or laborers, and landlords and tenants or farm-laborers, and regulate the relations between them" (section 1). In other words, that court could take cognizance "of any industrial or agricultural dispute causing or likely to cause a strike or lockout" with the only limitation that the employees, laborers or tenants that may bring the matter to court exceed thirty in number (section 4). And, commenting on these broad powers given by Commonwealth Act No. 103 to the Court of Industrial Relations, this Court said:

> "Resulta evidente de las disposiciones transcritas lo siguiente:
>
> (a) que cuando surge una disputa entre el principal y el empleado u obrero, vgr. sobre cuestion de salarios, la Corte de Relaciones Industriales tiene jurisdiccion en todo el territorio de Filipinas para considerar, investigar y resolver dicha disputa, fijando los salarios que estime justos y razonables; (b) que para los efectos de prevencion, arbitraje, decision y arreglo, el mismo

> Tribunal de Relaciones Industriales tiene igualmente jurisdiccion para conocer de cualqier disputa — industrial o agricola — resultante de cualesquier diferencias respecto de los salarios, participaciones o compensaciones, horas de trabajo, condiciones del empleo o de la aparceria entre los patrones y los empleados u obreros y entre los propietarios y los terratenientes u obreros agricolas previo el cumplimiento de ciertos requisitos y condiciones, cuando se viere que dicha disputa ocasiona o puede ocasioner una huelga; (c) que en el ejercicio de sus facultades arriba especificadas, el Tribunal de Relaciones Industriales no queda limitado, al decidir la disputa, a conceder el remedio o remedios solicitados por las partes en la controversia, sino que puede incluir en la orden o decision cualquier materia o determinacion para el proposito de arreglar la disputa o de prevenir ulteriores controversias industriales o agricolas." (The Shell Company of Philippine Islands, Limited vs. National Labor Union, G.R. No. L-1309, decided July 26, 1948).[2]

But this broad jurisdiction was somewhat curtailed upon the approval of Republic Act No. 875, the purpose being to limit it to certain specific cases, leaving the rest to the regular courts. Thus, as the law now stands, that power is confined to the following cases: (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 No. 875); (2) when the controversy refers to minimum wage under the Minimum Wage Law (Republic Act No. 602); (3) when it involves hours of employment under the Eight-Hour Labor Law (Commonwealth Act No. 444); and (4) when it involves and unfair labor practice [section 5, (a), Republic Act No. 875]. In all other cases, even if they grow out of a labor dispute, the Court of Industrial Relations does not have jurisdiction, the intendment of the law being "to prevent undue restriction of free enterprise for capital and labor and to encourage the truly democratic method of regulating the relations between the employer and employee by means of an agreement freely entered into in collective bargaining" (section 7, Republic Act No. 875). In other words, the policy of the law is to advance the settlement of disputes between the employers and the employees through collective bargaining, recognizing "that real industrial peace cannot be achieved by

compulsion of law" [See section (c), in relation to section 20, (Idem.)].

It therefore appears that with the exception of the four cases above specified the Court of Industrial Relations has no jurisdiction even if it involves a labor dispute. And as the issue involved in the instant case does not fall under, nor refer to, any of those specified cases, it follows that the lower court has jurisdiction to entertain the same.

The remaining issue is: Can the lower court grant an injunction in connection with the picketing of the premises of respondent by the members of the petitioning association? If so, has respondent judge issued the relief in accordance with law?

The pertinent provisions concerning the issuance of injunctions in labor disputes are those embodied in sections 9 and 10 of Republic Act No. 875. Analyzing the provisions of these two sections, we find that there are two groups of activities that may be reckoned with in connection with the issuance of injunction, one as to which injunction is prohibited even if they involve or grow out of a labor dispute, and another as to which injunction may be issued under certain conditions. For ready reference, we will quote the pertinent provisions of these section.

As to the first group, section 9(a) provides:

> "(a) No Court, Commission or Board of the Philippines shall have jurisdiction except as provided in section ten of this Act to issue any restraining order, temporary or permanent injunction in any case involving or growing out of labor dispute to prohibit any person or persons participating or interested in such dispute from doing, whether singly or in concert, any of the following acts:
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> (1) Ceasing or refusing to perform any work or to remain in any relation of employment;
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> (2) Becoming or remaining a member of any labor organization or of any employee organization

regardless of any undertaking or promise as is described in section eight of this Act;

(3) Paying or giving to, or withholding, from any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or moneys or things of value;

(4) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting any action or suit in any court of the Philippines;

(5) Giving publicity to the existence of, or the facts involved in any labor dispute, whether by advertising, speaking, patrolling or by any method not involving fraud or violence;

(6) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;

(7) Advising or notifying any person of an intention to do any of the acts heretofore specified;

(8) Agreeing with other persons to do or not to do any of the acts heretofore specified; and

(9) Advising, urging, or otherwise causing or inducing with out fraud or violence, the acts heretofore specified, regardless of any such understanding or promise as is described in section eight of this Act."

And as to the second group, section 9(d) and section 10 provide: SEC. 9.

"(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."

"SEC. 10. Labor Disputes in Industries Indispensable to the National Interest. — When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President to the Court of Industrial Relations, said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court, and if no other solution to the dispute is found, the Court may issue an order fixing the terms and conditions of employment."

From the above-quoted provisions it can be seen that the activities that cannot be enjoined are those enumerated in section 9, paragraph a, even if they involve or grow out of a labor dispute. To this we may add the case provided for in section 9, (b), when there is an unlawful combination or conspiracy on the part of those engaged in the labor dispute in connection with the acts above enumerated. And those that can be enjoined refer to the case certified by the President as affecting national interest and to those enumerated in section 9, paragraph d, particularly when "unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained." Note that, as to the acts that may be enjoined, section 9 (d) contains a number of conditions which the court must find to exist before an injunction can be granted and which are considered as limitations on the court's power to grant relief. This requirement was held to be jurisdictional such that, if not followed, it may result in the annulment of the proceedings.

"Section 7, declares that 'no court of the United States 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 a hearing of a described character, 'and except after findings of fact by the court, to the effect — (a) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained' and that no injunction '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 . . .' By subsections (b) to (c) it is provided that relief shall not be granted unless the court finds that substantial and irreparable injury to complainants' property will follow: that as to each item or relief granted greater injury will be inflicted upon the complainant by denying the relief than will be inflicted upon defendants by granting it; that complainant has no adequate remedy at law; and that the public officers charged with the duty to protect complainants' property are unable or unwilling to provide adequate protection. There can be no question of the power of Congress thus to define and

> limit the jurisdiction of the inferior courts of the United States. The District Court made one of the required findings save as to irreparable injury and lack of remedy at law. It follows that in issuing the injunction it exceeded its jurisdiction." (Lauf vs. E. G. Shinner & Co., Inc., Wis. 1938, 58 S. Ct. 578, 303 U. S., 323, 82 L. Ed., 872.) (Italics supplied.)

With regard to activities that may be enjoined, in order to ascertain what court has jurisdiction to issue the injunction, it is necessary to determine the nature of the controversy. When the case involves a labor dispute that affects national interest and is certified to the Court of Industrial Relations, or refers to the Minimum Wage Law or Eight-Hour Labor Law, there is no doubt that it is this court that has jurisdiction over the incident. The same thing may be said when the case involves an unfair labor practice, for under section 5 (a), Republic Act No. 875, the jurisdiction of the Court of Industrial Relations is exclusive. But the situation varies with regard to other acts where injunction is permissible because of the ambiguity in the language of the law. Note that the law refers to "no court of the Philippines", which gives the connotation that if not because of the prohibition any court may issue the injunction. It is true that the last part of section 9 (d) says "after finding of fact by the Court" and, in section 5 (a), in defining the word "court", it says: "'Court' means the Court of Industrial Relations unless another Court shall be specified"; but this definition is no authority for us to conclude that only the Court of Industrial Relations can issue injunctions in all cases mentioned in section 9 (d) for, as already adverted to, there are cases which may involve or grow out of a labor dispute which may not necessarily come under its jurisdiction. To hold otherwise would be to give to the Court of Industrial Relations jurisdiction over cases which it does not have under the law. We are therefore forced to conclude that court can only issue injunction in cases that come under its exclusive jurisdiction and in those cases that do not, the power can be exercised by regular courts. The instant case is one of those that do not come under its jurisdiction.

We believe however that in order that an injunction may be properly issued the procedure laid down in section 9 (d) of Republic Act 875 should be followed and cannot be granted ex-parte as allowed by Rule 60, section 6, of the Rules of Court. The reason is that the case,

involving as it does a labor dispute, comes under said section 9 (d) of the law. That procedure requires that there should be a hearing at which the parties should be given an opportunity to present witnesses in support of the complaint and of the opposition, if any, with opportunity for cross-examination, and that the other conditions required by said section as prerequisites for the granting of relief must be established and stated in the order of the court. Unless this procedure is followed, the proceedings would be invalid and of no effect. The court would then be acting in excess of its jurisdiction. (Lauf vs. E. G. Shinner & Co., Inc., supra.)

It appearing that in the present case such procedure was not followed, we are persuaded to conclude that the order of respondent court of May 10, 1955 granting the writ of injunction prayed for by plaintiff-respondent is invalid and should be nullified.

Petition is granted. The order of respondent court dated May 10, 1955 is set aside. Costs against REMA, Incorporated.

Bengzon, Padilla, Labrador, Endencia, and Felix, *JJ.*, concur.

Separate Opinions

MONTEMAYOR, J., concurring and dissenting:

I concur in the learned majority opinion penned by Mr. Justice Bautista Angelo in so far as it invalidates and nullifies the order of respondent Court of May 10, 1955 granting the writ, of injunction, for the reason that, in granting the writ, respondent Court did not follow the procedure provided for in Section 9 (d) and (f) of Republic Act No. 875, known as the Industrial Peace Act. I also agree that the ordinary courts of the Philippines may issue restraining orders or temporary or permanent injunctions, under the conditions outlined in Section 9 (d) and (f) of said act. However, I disagree in so far as the majority opinion holds that the Court of Industrial Relations (C. I. R.) may not issue writs of injunction in cases involving labor disputes, except when said cases fall under its exclusive jurisdiction, such as cases involving unfair labor practice and cases certified to it by the

Chief Executive under section 10 of Republic Act No. 875. The reason for this disagreement is that the phrase "no court of the Philippines" mentioned in section 9, paragraph (d), in the absence of any distinction or qualification, must include the C. I. R.; naturally, the C. I. R. may also issue writs of injunction in cases involving or growing out of a labor dispute, when warranted by section 9, paragraphs (d) and (f).

When section 9 (d) says that no court of the Philippines shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of labor dispute, except after hearing the testimony of the witnesses in open court, and except after making certain findings of fact required by this section, to me it is clear that when these conditions are complied with and fulfilled, the courts of the Philippines empowered by the Judiciary Act of 1948 to issue writs of injunction, have jurisdiction to issue said writs in cases involving labor disputes. If the purpose of the law (Republic Act No. 875) were to confine the issuance of these writs to the C. I. R., then it should have made itself clear and unequivocal; instead of using the phrase "no court of the Philippines", it should have just said "the Court of Industrial Relations shall have no jurisdiction to issue temporary or permanent injunction, except after hearing the testimony of the witnesses," etc.

I see no reason for confining the issuance of restraining orders in cases involving labor disputes to the C. I. R., because under the Industrial Peace Act, many of said cases involving labor disputes, as well pointed out in the majority opinion, will never reach the C. I. R. Unless a labor dispute involves unfair labor practice or is certified by the Chief Executive, under section 10, the C. I. R. has no jurisdiction over it. We are aware of many cases of strikes and picketing, involving no unfair labor practice but merely based on and arising from unsatisfied demands of labor for increase in wages, payment of annual bonus, vacation and sick leave with pay, shorter hours of work, etc. In these labor dispute cases involving no unfair labor practice, the parties are left to bargain or thresh out their differences even if, as a result of failure in negotiations, the employees resort to strikes and picketing. I repeat that, in these cases which never reach the C. I. R. and over which it has no jurisdiction, there is no reason for

limiting the issuance of restraining orders under section 9, paragraphs (d) and (f) to the C. I. R.

It is urged in the learned dissent of Mr. Justice J. B. L. Reyes that inasmuch as the C. I. R., because of the training and experience of its judges in handling and resolving labor and management questions, is the court best qualified to pass upon the merits of said labor dispute cases, it should have exclusive jurisdiction to issue restraining orders in labor dispute cases under section 9. I regret to disagree. In the first place, as I have already pointed out, there are many cases growing out of a labor dispute which by reason of their not involving unfair labor practice, cannot and will never reach the C. I. R. for bearing and determination, and over which the C. I. R. consequently would have no occasion to draw upon and use the special qualifications of its judges to pass upon the merits of said cases. In the second place, the cases and occasions calling for the issuance of restraining orders under section 9, paragraphs (d) and (f), almost invariably are those where unlawful acts are threatened and will be committed unless restrained, or have been actually committed and will be continued unless restrained, acts such as personal violence, coercion, destruction of property or malicious mischief, (covered by Articles 282, 286, 324, 327, Revised Penal Code) etc., sometimes committed on the occasion of a strike and picketing. These are offenses and violation of peace and order wherever committed regardless of the occasion of or reason for their commission. Affecting as they do, not only the immediate parties to the labor dispute, but the populace and public tranquility, they are cognizable and should be cognizable by the courts in the district and territory where committed and not by one single court with limited jurisdiction like the C. I. R. Furthermore, a Court of First Instance, issuing the writ of injunction does not have to pass upon the merits of the labor dispute or controversy, requiring or calling for the use of special knowledge of or experience in labor management differences and controversies. The injunction merely seeks to restrain the violation or continued violation of the criminal law, and this can and may be done by an ordinary court.

Another reason in support of the view that the ordinary courts of the Philippines have jurisdiction to issue restraining orders in cases involving a labor dispute, provided that the conditions outlined by the

law are complied with, is that, while the C. I. R. with its limited number of Judges and personnel is situated in Manila, the unlawful acts threatened and which would be committed unless restrained, or have been committed and will be continued unless restrained, may take place or may have taken place outside of Manila and far from it, like far off Aparri on the north or the distant City of Davao in the south, and it would be quite difficult, if not impossible, for the aggrieved party to come to Manila with his witnesses to apply for the restraining order from the C. I. R.; and even if despite the expense and inconvenience to witnesses it could do so, during all the interval between the commission of the unlawful acts and the actual issuance of the restraining order by the C. I. R. in Manila, and its notification to the offender or offenders in Aparri or City of Davao, irreparable injury may already have been committed, and the efforts of the aggrieved party may after all prove futile and of no avail. Truly, time is of the essence in such cases.

Section 9, paragraph (d), in part reads:

"(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:

> *"(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: Provided, however, That if a complainant shall also allege that unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to*

> *complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if not sustained, to justify the court in issuing a temporary injunction upon hearing after notice. Such a temporary restraining order shall be effective for no longer than five days and shall become void at the expiration of five days."* (Italics supplied.)

True, under the proviso found in the middle part of the third paragraph above quoted, the temporary restraining order may be issued upon an ex parte hearing based on the testimony of only the witnesses presented by the complainant, but it is equally true that such temporary restraining order is good only for five days, after which it becomes void, and thereafter the unlawful acts or threats to commit the same may be resumed without hindrance. In order to issue a temporary restraining order good for more than five days or a permanent one under the 1st and 2nd paragraphs of the legal provision above quoted, a regular hearing should be held after due and personal notice thereof to all known persons against whom the 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. To do this, the C.I.R. must hold the hearing in such province or city so as to give opportunity not only to the witnesses for the complainant, but also to the persons against whom relief is sought and to the peace officers concerned. I believe that the C. I. R. with its limited number of judges and personnel is not in a position to go to said province or city or to detail one of its judges to hold hearings and make findings of facts. We must bear in mind that the C. I. R. stationed in Manila is holding hearings daily not only in cases involving unfair labor practice of which there are many, but also in cases certified to it by the Chief Executive under section 10 of Republic Act No. 875. This, to say nothing of its heavy backlog of old cases. It will take some time for the C. I. R. with all its judges to dispatch all these accumulated cases in Manila so that it can ill afford to send one of its judges to the cities and provinces outside Manila. Moreover, strikes and picketing with their not infrequent incidents involving violations of peace and order, may take place simultaneously in different parts of the Philippines, calling for immediate hearing in said cases for the purpose of acting upon urgent

petitions for issuance of restraining orders; naturally, the C. I. R. cannot possibly cover all these urgent cases with details of its judges outside of the City of Manila. The logical courts for this purpose are, besides the C. I. R., the ordinary Courts of First Instance, holding court in Manila and in all the provinces, not only in the capitals thereof, but in the chartered cities and sometimes in different parts of each province, such as Lingayen (Capital of Pangasinan), the towns of Tayug and Alaminos of the same province, and the chartered City of Dagupan, same province. It is said that because there are policemen and constabulary soldiers supposed to keep peace and order in the provinces, and that since the law specifically limits the issuance of injunctions to those cases where those peace officers are unable or unwilling to furnish adequate protection, there are not many cases left for the C. I. R. to act upon as regards the issuance of restraining orders. This argument is plausible, but I am afraid, only in theory. It is true that those peace officers have in the past made arrests to preserve peace and order on the occasion of strikes and picketing, but those arrests were limited to cases of actual violence and personal injury, such as, where killings or physical injuries are involved. They do not cover acts of coercion, intimidation, or obstruction of the normal activities of the strike bound company, such as, where the picketers by threats and intimidation actually prevent the passing thru or crossing of the picket lines by non-striking employees and customers of the company; or where strikers and picketers stop the free movement of vehicles going in and out of the company's compound to distribute its products, or prevent motor vehicles or rail cars from entering the company's compound to deliver raw materials for processing, such as sugar cane for its sugar mills, by not only standing in the path of said vehicles, but even of lying down on the road or railway, knowing that the drivers of said vehicles would not run them down and commit mass killing. Furthermore, Republic Act No. 1167, punishing obstruction or interference with peaceful picketing during any labor controversy, imposes heavy penal sanctions, the penalty for a peace officer being a fine not exceeding P10,000 or imprisonment not exceeding five years, or both. An ordinary policeman or constabulary soldier not familiar with the intricacies of the law and its interpretation and in no position to decide on the spot whether or not a certain picketing is peaceful, would naturally try to play safe and so would act and make arrests only in actual cases of violence or killing, but not in cases of threats,

intimidation, or coercion, preferring in the latter cases to wait for a court order for his own protection. And it is well known that in many cases of picketing, the labor unions and their members engaged in such picketing object to and have denounced the presence of peace officers for they want to conduct their picketing in their own way without interference; and in some cases, these peace officers are withdrawn or are relieved.

To show that only the C. I. R. can take cognizance of cases involving labor dispute where restraining orders are sought, the learned dissent points to the phrase "the Court" found in the last line of the 1st paragraph of section 9 (d), reproduced above, — . . . "and except after finding of fact by the Court, to the effect:" in connection with the definition of the word "court" found in section 2, paragraph (a) of Republic Act No. 875, which reads:

> "SEC. 2. Definitions. — As used in this Act —
>
> > "(a) 'Court' means the Court of Industrial Relations established by Commonwealth Act Numbered One hundred and three, as amended, unless another Court shall be specified."

In other words, it is claimed that, in the absence of any specification, the Court mentioned in section 9, paragraph (d), can refer only to the C. I. R. However, I am afraid that the argument though seemingly valid, cannot be sustained. The phrase underlined "no court of the Philippines shall have jurisdiction to issue a temporary or permanent injunction" found at the beginning of said section 9 (d), in my opinion, qualifies the word "Court" found at the end of said paragraph. When the law says that no court of the Philippines shall have jurisdiction to issue temporary or permanent injunction except after hearing and after finding of said facts, the logical conclusion is that any court of the Philippines ordinarily vested with the jurisdiction to issue writs of injunction can take cognizance of those cases involving a labor dispute for the purpose of issuing restraining orders as long as it holds a hearing and thereafter makes certain findings of fact justifying the issuance of the injunction, so that the word "court" found at the end of the paragraph must necessarily refer to any court of the Philippines taking cognizance. Otherwise, the

paragraph in question would not only be confusing but contradictory in that, in one part thereof, it authorizes any court of the Philippines, such as the Courts of First Instance, to take cognizance and then as claimed, requires that the finding of fact based on the result of the hearing be made by the C. I. R.

Moreover, in the very recent case of Scoty's Department Store, et al., vs. Nena Micaller (supra, p. 762), decided by this Court on August 25, 1956, we had occasion to interpret section 25 of Republic Act No. 875, which in part reads as follows:

> "SEC. 25. Penalties. — Any person who violates the provisions of section three of this Act shall be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment of not less than one month nor more than one year, or both such fine and imprisonment, in the discretion of the Court."

The phrase "the Court" is also found at the end of the paragraph above quoted, so that following the definition of section 2, paragraph (a) of the same Act, the phrase "the Court" must refer to the C. I. R. However, in the Scoty's Department Store case above mentioned, this Tribunal in a decision with no dissent clearly and emphatically said that despite the definition of the word "Court" in section 2 (a) of Republic Act No. 875, it is not the C. I. R. but the ordinary courts that can impose the penalties provided in section 25. I quote:

> *"In conclusion, our considered opinion is that the power to impose the penalties provided for in section 25 of Republic Act No. 875 is lodged in ordinary courts, and not in the Court of Industrial Relations, notwithstanding the definition of the word "Court" contained in section 2 (a) of said Act. Hence, the decision of the industrial court in so far as it imposes a fine of P100 upon petitioners as illegal and should be nullified. (Scoty's Department Store, Et Al., vs. Nena Micaller, G.R. No. L-8116, August 25, 1956).* (Italic is mine.)

In view of the foregoing considerations, I am with the majority holding that the ordinary courts of the Philippines may take cognizance of eases involving labor disputes for the purpose of issuing

restraining orders under section 9, paragraphs (d) and (f) of Republic Act No. 875.

REYES, *J.*, with whom PARAS, *C. J.*, and CONCEPCION, *J.*, concur, concurring and dissenting:

I concur in the result, but feel constrained to dissent from the pronouncement that the Court of Industrial Relations has no jurisdiction over the issuance of injunctions in cases involving or growing out of labor disputes. I submit, on the contrary, that such jurisdiction is conferred upon the Industrial Court by the opening statement of section 9 (d) of the Industrial Peace Act (Republic Act No. 875) —

"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:

What tribunal is referred to in the expression "finding by fact by the Court" is in my opinion conclusively settled by the Act itself in its section 2:

> Sec. 2. Definitions. — As used in this Act.
>
> (a) "Court" means the Court of Industrial Relations established by Commonwealth Act Numbered One hundred and three as amended, unless another Court shall be specified."

Now, the words "specify" and "specified", in all definitions that I have met (58 C. J. 1285; 81 C. J. S. 814; 39-A Words & Phrases, 467 et seq.), mean to designate by words, expressly, distinctly, precisely, in an explicit manner, or in detail. They mean just the reverse of "imply" or "implied".

"Specify" is defined as meaning to designate by words one thing from another; to name expressly, distinctly or particularly; to mention or name in a specific or explicit manner; to mention specifically or explicitly; to particularize; to point out; to state in full and explicit terms or explicitly and in detail; to tell or state precisely or in detail.

Specified. Particularized, specially named. (81 C. J. S. 814; 58 C. J. 1285).

"The word specified has a clearly defined meaning. Transitive: to mention or name in a specific or explicit manner; to tell or state precisely or in detail; as to specify article. Intransitive, to speak precisely or in detail; to give particulars." — Duke Power Co. vs. Essex County Board of Taxation, 7 A2D 409, 410; 122 N. J. Law 589.

The word "specified" means to mention or name in a specific or explicit manner; to tell or state precisely or in detail. Aleksich vs. Industrial Accident Fund, 151 P. 2d 1016, 1021; 116 Mont. 127.

To "specify" means to mention specifically; state in full and explicit terms; name expressly or particularly; state precisely or in detail. Red Top Brewing Co. vs. Massotti, D.C.N.Y., 107 F. Supp. 921, 923.

"Specify" means to mention specifically; to state in full and explicit terms; to point out; to particularize, or to designate by words one thing from another. Independent Highway Dist. No. 2 of Ada County vs. Ada County, 134 p. 542, 545, 24 Idaho 416; Brazil vs. Dupre. Or., 250 P. 2d 89, 91.

"Specify" means to mention specifically or explicitly, to state in full and explicit terms or explicitly and in detail, name expressly, distinctly, and particularly. A. N. Dillow & Co. vs. City of Monticello, 124 N. W. 186, 189, 145 Iowa 424. (39A Words and Phrases, pp. 467, 469, 470.)

The words "by the Court" in Sec. 9 (d) of Republic Act 875 undeniably fail to specify or explicitly refer to a "Court of First Instance"; and therefore, under section 2 of the same Act, it is imperative to construe said words as meaning "by the Court of Industrial Relations", thereby necessarily conferring on that tribunal the requisite jurisdiction to act

under section 9 (d). Otherwise, we violate the express legislative mandate. And the jurisdiction so conferred must be considered exclusive in the Industrial Court, for, as we pointed out in the case of Pambujan Sur United Mine Workers vs. Samar Mining Co., 94 Phil., 932, May 12, 1954), Congress had power to confer exclusive jurisdiction upon the Industrial Court over labor-management controversies and it is convenient that such jurisdiction be exclusive, as "a unified policy and centralized administration is thereby insured, the more effectively to cope with probably explosive contingencies."

One need not range far search of cogent reasons in support of the exclusive jurisdiction herein advocated. The evolution of our labor and social legislation exhibits a decided and unmistakable tendency to entrust the solution of labor-management conflicts to specialized administrative organs: Court of Industrial Relations, Industrial Safety Bureau, National Employment Service, Labor Conciliation and Wage Administration Service, Workmen's Compensation Commission, Court of Agrarian Relations. Whether the tendency is due to the Legislative having believed that the regular Judges, trained in strict legal questions of property and contract, are ill prepared to cope with labor and tenancy disputes that demand a different perspective and a compromising temperament, aimed above all at minimizing friction and avoiding paralization of the processes of production; or because it was believed that the quick solution of social problems demanded more simplified and less protracted procedures; or because as it has been suggested, courts and lawyers are becoming obsolete, the policy of specialized offices for special problems clearly exists and should not be evaded.

With particular reference to labor injunctions, the all important issue is whether a given case involves or grows out of labor dispute. Our Judges of the Court of Industrial Relations are certainly much better qualified to determine such issue than the regular judges, experienced as the former are in the multifarious aspects that such dispute may assume. Why should we entrust this and other related questions to judges who have not handled labor disputes on any previous occasion? The very case before us is proof that to do so would be to nullify the restrictions imposed by law on labor injunctions, because of the Judges' unfamiliarity with the policies and interests involved. It was not so long ago, either, that complaints were being aired that the

regular courts are far too generous in granting ex parte preliminary injunctions, without due regard for the social aspects of the cases brought before them; and this Court has recently passed upon case where squatters on public thoroughfares came to be protected by ex parte injunctions improvidently issued that took long years to correct.

That the Court of Industrial Relations has its seat in Manila, and can not speedily intervene in labor disputes in the provinces, is a fact that must have been known to the legislators who approved Republic Act No. 875; and their failure to specify the Courts of First Instance in section 9 (d) of the Act indicates that they did not consider that objection decisive against the policy therein set. One must not lose sight of the fact that the situations in which injunctions will be sought under that section do not involve cases of actual violence or open breaches of public peace and order, because peace officers are duty bound to intervene on such occasions: the law specifically limits the injunctions to those cases where "the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection". Such cases, if any, will be necessarily rare; our police and constabulary officers have never been unwilling to protect those that deserve protection, nor have they ever been found inadequate for ordinary police action.

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[1] Our Industrial Peace Act was taken from the Norris-La Guardia Act on the subject of injunctions.

[2] This jurisdiction of the Court of Industrial Relations was declared by this Court to be exclusive. (Pambujan Sur United Mine Workers vs. Samar Mining Company, Inc., 94 Phil., 932.)