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**SUPREME COURT
SECOND DIVISION**

**PHILIPPINE AIR LINES EMPLOYEES'
ASSOCIATION (PALEA) and
FORTUNATO F. BIANGCO, for himself
and in his capacity as President of
PALEA,**

Petitioners,

-versus-

**G.R. No. L-28266
September 4, 1981**

**JUDGE FRANCISCO DE LA ROSA of the
Court of First Instance of Rizal, Branch
VII, Pasay City; SHERIFF of Pasay City;
and PHILIPPINE AIR LINES, INC.,**

Respondents.

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DECISION

FERNANDO, C.J.:

This Special Proceeding for Certiorari, Prohibition and Mandamus was given due course notwithstanding the questions raised being primarily procedural in view of the allegations that the grant of a preliminary mandatory injunction by then respondent Judge Francisco de la Rosa, now deceased, amounted to a judicial interference with a labor dispute, the petitioners being the Philippine

Air Lines Employees' Association and Fortunato F. Biangco, then the incumbent President of such labor organization. The answer submitted denied that the grant of such preliminary mandatory injunction could be characterized as a grave abuse of discretion and denied further that it was a result of bias or prejudice against petitioner Biangco, who, in the elections of officers in such labor organization, won over a reelectionist candidate. Thereafter, memoranda of both sides were filed. In the reply memorandum for private respondent Philippine Air Lines, Inc., after a recital of the facts by its then counsel, the late Crispin D. Baizas, there was a summary of the relevant facts justifying the issuance of the writ of preliminary mandatory injunction and the absence of any taint of inflicting damage or prejudice to any labor organization. Thus: “ 1. Petitioner Fortunato Biangco was elected PALEA president somewhere in April, 1967. 2. He succeeded as president of the petitioner PALEA, Vicente Balajadia who in turn succeeded Emilio F. Saño. 3. Petitioner PALEA under the presidency of Vicente Balajadia, did not hold office at the premises in question. Vicente Balajadia removed their offices when this respondent advised them to vacate the premises. When petitioner Fortunato Biangco then assumed the presidency, the offices of petitioner PALEA were not in the premises in question. 4. When the petitioners' offices were transferred by Vicente Balajadia from the premises in question, Saño remained, for which reason ejectment proceedings were taken against him. 5. Petitioners filed an urgent motion for a reconsideration of the order of the court dated September 1, 1967 and to stay the execution of the alias writ of preliminary mandatory injunction which was heard by the respondent Judge. 6. After the said urgent motion was heard and submitted for resolution, petitioners by way of a second thought filed the instant petition on grounds not sanctioned by the Rules of Court. 7. That petitioners have a remedy in the lower court but to use their own words — ‘it was improper for petitioners to intervene in the case at that stage, for it was already on appeal from the inferior court and to do the same would be able to raise issues not raised on or in the inferior court — this matter not allowed by the Rules of Court.’ The petitioners, however, forgot that the appeal to the Court of First Instance would involve a trial de novo of the case.”^[1]

It is clear from the petition itself that this action is intertwined with Civil Case No. 2742^[2] for ejectment against the aforesaid Emilio F.

Saño. It was as an incident of such action that the assailed preliminary mandatory injunction was issued. What the petition failed to state was that such a case was then on appeal before respondent Judge. Thereafter, defendant-appellant Saño filed a motion to dismiss appeal which was granted not by the late respondent Judge but by the Judge then presiding, Judge Enrique A. Agana, Sr. There is, therefore, ample support for the view advanced by private respondent that no right of a labor organization or of petitioner Biangco as the then President was violated by the issuance of the preliminary mandatory injunction. It is equally far-fetched, although a semblance of plausibility was sought to be imparted to the petition, to impute to the late respondent Judge failure to manifest fidelity to the protection that the Constitution accords to labor,^[3] as interpreted by a host of decisions of this Tribunal notable for their unfailing sympathy with its objective.

WHEREFORE, the petition is dismissed. No costs.

**Concepcion Jr., Abad Santos and De Castro, JJ., concur.
Aquino, J., in the result.
Barredo, J., is on leave.**

[1] Reply Memorandum for Respondent Philippine Air Lines, Inc., 6-7.

[2] Philippine Air Lines, Inc. vs. Emilio F. Saño.

[3] According to Article II, Section 9 of the Constitution: “The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration.” Under the 1935 Constitution, Article XIV, Section 6, the provision reads: “The State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowner and tenant, and between labor and capital in industry and in agriculture. The State may provide for compulsory arbitration.”