

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**PHILIPPINE AIRLINES, INC.,
*Petitioner,***

-versus-

**G.R. No. 88210
January 23, 1991**

**SECRETARY OF LABOR AND
EMPLOYMENT, FRANKLIN M.
DRILON, and PHILIPPINE AIRLINES
EMPLOYEES ASSOCIATION (PALEA),
*Respondents.***

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D E C I S I O N

GRIÑO-AQUINO, J.:

In issue in this case is the authority of the Secretary of Labor to order the petitioner Philippine Airlines, Inc. to reinstate officers and members of the union who participated in an illegal strike and to desist from taking any disciplinary or retaliatory action against them.

The 1986-1989 Collective Bargaining Agreement (CBA) between the Philippine Airlines (PAL) and the Philippine Airlines Employees Association (PALEA) provided for pay increases for various categories of Employees in Section 1, Article V entitled "PAY SCALE." Besides

the pay increases, the CBA also provided for the formation of a PAL/PALEA Payscale Panel —

“(f) x x x to undertake the study, review, correction, updating, complete overhaul, re-classification or re-grouping of positions as may be required of the payscale and position classification to evolve updated payscales as soon as possible.” (p. 76, Rollo.)

and that

“(iii) x x x the Payscale Panel shall exert all reasonable efforts to complete its studies so as to evolve new updated payscale and position classification by January 01, 1988,” (p. 76, Rollo.)

As agreed by the parties, the PAL/PALEA Payscale Panel was formed in due time and went to work. By July, 1988, the Job Evaluation Committee of the panel had finished the reconciliation and initial evaluation of positions in all departments within PAL.

In November, 1988, the PALEA members of the panel proposed the amount of PHP 3,349 as the minimum salary entry level for the lowest job classification (Job Grade 1), while the PAL panel members proposed PHP 2,310 and a PHP 200 across-the-board increase for employees who could not avail of the payscale adjustments. The panel conferences continued but there was no meeting of minds. PALEA would not accept less than the amount it proposed, while the PAL panel members alleged that they had no authority to offer more.

PALEA accused PAL of bargaining in bad faith.

On December 29, 1988, PALEA filed with the National Conciliation and Mediation Board (NCMB) a notice of strike on account of: (1) bargaining deadlock; and (2) unfair labor practice by bargaining in bad faith.

On January 3, 1989, PAL filed with the NCMB a motion to dismiss PALEA's notice of strike for being premature as the issues raised were not strikeable since there still existed a PAL/PALEA CBA which

would not yet expire until September 30, 1989 or with nine (9) more months to run.

During the conciliation meeting, the following evolved as the real issues:

- “1. determination of the minimum entry rate
- “2. wage adjustment due to payscale study
- “3. retroactive pay as a consequence of the upgraded payscale or goodwill bonus.” (p. 38, Rollo.)

On January 6, 1989, Attorney Jesus C. Sebastian, NCMB-NCR Executive Conciliator/Mediator, advised PALEA president, George Pulido, that the issues raised in the notice of strike were “appropriate only for preventive mediation,” hence, not valid grounds for a lawful strike. However, when subsequently a representative of NCMB supervised the conduct of PALEA’S strike vote, PAL’s counsel was baffled for it was inconsistent with the NCMB order treating the strike notice as preventive mediation case No. PM-01-007-89. PAL’s counsel sought clarification from NCMB’s Sebastian. He assured PAL that the NCMB representatives could not certify the strike vote.

On January 12, 1989, PALEA submitted the strike vote results to the NCMB. The next day, January 13, 1989, PAL petitioned Secretary of Labor Franklin Drilon to immediately assume jurisdiction over the dispute in order to avert the impending strike. The reasons for PAL’s petition were, as stated by the Secretary himself:

“The Philippine Airlines, Inc. is a corporation where the government has substantial equity holding. It is engaged in an industry imbued with national interest. It is the flag carrier of the Republic of the Philippines. Being the sole airline that services domestic routes, a prolonged work stoppage will push back the national economic recovery program of the government and consequently result to enormous damage to the economy of the country. Hundreds of thousands of people directly and indirectly dependent on the continued operations of the firm including the huge work force of the company will

likewise be prejudiced. The viability of the firm will also be endangered. These considerations have in the past guided this Office in consistently exercising its powers under Article 263(g) of the Labor Code, as amended, in handling labor disputes in the Company. The current situation is no exception to this rule. This Office is of the view that the present work stoppage at Philippine Airlines, Inc. will adversely affect the national interest. Thus, this Office hereby assumes jurisdiction over the instant dispute." (pp. 38-39, Rollo.)

Inexplicably, the Secretary failed to act promptly on PAL's petition for his assumption of jurisdiction.

Seven (7) days passed with no reaction from Secretary Drilon. On January 20, 1989, PALEA declared a strike paralyzing PAL's entire operations the next day, January 21, 1989, and resulting in serious inconvenience to thousands of passengers who were stranded in 43 airports throughout the country, and the loss of millions of pesos in unearned revenue for PAL. Late in the day, at 7:50 P.M., Secretary Drilon issued an order assuming jurisdiction over the labor dispute which had already exploded into a full-blown strike, ordering the strikers to lift their pickets and return to work, directing management to accept all returning employees, and resolving the issues subject of the strike, by awarding the following monetary benefits to the strikers, while prohibiting the company from taking retaliatory action against them:

"x x x to resolve the impasse between the herein parties, this Office finds the following award just and reasonable:

"1. As far as the issue of minimum entry level is concerned, the company is directed to adjust the same to P2,500.00 from its present level effective January 1, 1989.

"2. The company is ordered to grant the amount of P3.3 million per month to cover across-the-board increases of covered regular employees subject to the distribution of the union as embodied in their proposed scheme but in no instance should the lowest adjustment be less than P300.00. In line with this, the scheme proposed by the

union and submitted to NCMB on January 20, 1989 is herein adopted.

“It is understood, however, that in items 1 and 2 above, the amount which is higher should be granted.

“3. A goodwill bonus in the amount of P3,000.00 to be paid in four equal pay period installments beginning February 15 and up to March 31, 1989 is hereby awarded.”
(p. 39, Rollo.)

Declaring the strike valid, the Secretary stated:

“Except for the fact that the Union’s notice of strike was treated as a preventive mediation case (at the instance of NCMB), it should be noted that the Union complied with all the requirements for a valid strike. It observed the cooling-off periods required and submitted the necessary strike vote. If ever there is any ground to discipline the Union officers for non-compliance with the law, it would be based on the ‘non-filing’ of the strike notice, which ‘non-filing’ was a consequence of the NCMB’s efforts to create the appropriate atmosphere to resolve the dispute by treating the notice of strike as a preventive mediation case. Otherwise put, the strike would have been legal in all respects had not the NCMB, in its good faith effort to settle the dispute, treated the notice of strike as a case for preventive mediation. Under these circumstances, and in the interest of industrial peace and the promotion of the concept of preventive mediation, the parties are directed to desist from committing any retaliatory act as a result of the work stoppage. The UNION, however, is hereby warned that in the future this office will not tolerate such conduct and will apply the full force of the law.” (pp. 3-4, Rollo.)

The petitioner filed a motion for reconsideration. The Secretary denied it in a minute resolution on May 8, 1989 or three months later.

In this petition for review, PAL avers that the Secretary of Labor gravely abused his discretion amounting to excess or lack of jurisdiction:

1. in ruling on the legality of the strike;
2. in directing PAL to desist from taking retaliatory action against the officers and members of the Union responsible for the illegal strike; and
3. in failing to seasonably exercise his authority to avert the illegal strike and protect the rights and interests of PAL whose business is affected with public interest.

Under Art. 263 of the Labor Code, the Labor Secretary's authority to resolve a labor dispute within 30 days from the date of assumption of jurisdiction, encompasses only the issues in the dispute, not the legality or illegality of any strike that may have been resorted to in the meantime (Binamira vs. Ogan-Occena, 148 SCRA 677, 685 [1987]). Indeed, as found by the Labor Secretary in his Order of January 21, 1989, the only issues involved in the dispute were:

1. determination of the minimum entry rate
2. wage adjustment due to payscale study
3. retroactive pay as a consequence of the upgraded payscale or goodwill bonus.

The legality or illegality of the strike was not submitted to the Secretary of Labor for resolution. The jurisdiction to decide the legality of strikes and lock-outs is vested in Labor Arbiters, not in the Secretary of Labor. Art. 217, par. a, subpar. 5 of the Labor Code provides:

“Article 217. Jurisdiction of Labor Arbiters and the Commission.

“(a) The Labor Arbiters shall have the original and exclusive jurisdiction to hear and decide within thirty (30) working days after submission of the case by the parties for decision, the following cases involving all workers, whether agricultural or non-agricultural.

x x x

“5. Cases arising from any violation of Article 265 of this code, including questions involving the legality of strikes and lockouts.” (Emphasis ours.)

In ruling on the legality of the PALEA strike, the Secretary of Labor acted without or in excess of his jurisdiction.

There is merit in PAL’s contention that the Labor Secretary erred in declaring the strike valid and in prohibiting PAL from taking retaliatory or disciplinary action against the strikers for the damages suffered by the Airline as a result of the illegal work stoppage.

PALEA’s strike on January 20, 1989 was illegal for three (3) reasons:

1. It was premature for there was an existing CBA which still had nine (9) months to run, i.e., up to September 30, 1989. The law expressly provides that neither party to a collective bargaining agreement shall terminate nor modify such agreement during its lifetime. While either party can serve a written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date (known as the “freedom period”) it shall nevertheless be the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the freedom period and/or until a new agreement is reached by them (Art. 253, Labor Code).
2. It violated the no-strike provision of the CBA, to wit:

“The Association agrees that there shall be no strikes, walk-outs, stoppage, or slowdown of work, or any other form of interference with any of the operations of the Company during the period between the signing of the Agreement up to September 30, 1989.” (Emphasis supplied, p. 118, Rollo.)

3. The NCMB had declared the notice of strike as “appropriate for preventive mediation.” The effect of that declaration (which PALEA did not ask to be reconsidered or set aside) was to drop the case from the docket of notice of strikes, as provided in Rule 41 of the NCMB Rules, as if there was no notice of strike. During the pendency of preventive mediation proceedings no strike could be legally declared. The Secretary must have thought so too, that is why he failed to act, for a period of seven (7) days, on PAL’s petition for him to assume jurisdiction over the labor dispute. The strike which the union mounted, while preventive mediation proceedings were ongoing, was aptly described by the petitioner as “an ambush” (p. 2, Rollo).

Since the strike was illegal, the company has a right to take disciplinary action against the union officers who participated in it, and against any union members who committed illegal acts during the strike, Art. 264 of the Labor Code provides:

“Art. 264. Prohibited activities. — x x x

x x x

“Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full back wages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.”
(Emphasis supplied.)

The Labor Secretary exceeded his jurisdiction when he restrained PAL from taking disciplinary action against its guilty employees, for, under Art. 263 of the Labor Code, all that the Secretary may enjoin is the holding of the strike, but not the company’s right to take action against union officers who participated in the illegal strike and

committed illegal acts. The prohibition which the Secretary issued to PAL constitutes an unlawful deprivation of property and denial of due process for it prevents PAL from seeking redress for the huge property losses that it suffered as a result of the union's illegal mass action.

The Secretary may have realized that he was partly to blame for PAL's damages because of his failure to act promptly and use his authority to avert the illegal strike under Article 263(g) of the Labor Code.

Nevertheless, the Secretary's delay does not excuse the reckless and irresponsible action of the union in declaring the illegal strike. The liability of the union for that is primary and exclusive.

WHEREFORE, the petition for certiorari is granted. The orders dated January 21, 1989 and May 8, 1989 of the Secretary of Labor in NCMB NCR Case No. PM-01-007-89 are set aside and nullified insofar as the said orders declare valid the PALEA strike of January 20-21, 1989 and restrain the petitioner from taking appropriate legal action against PALEA's officers who led the illegal strike, and any union members who may have committed illegal acts during said strike. The monetary benefits awarded to the union in the said orders are, however, affirmed. Costs against respondent PALEA.

SO ORDERED.

Narvasa, Cruz, Gancayco and Medialdea, JJ., concur.