SUPREME COURT
EN BANC

PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU),
***Petitioner*,**

-versus-

G.R. No. L-25878
March 28, 1969

JUDGE GAUDENCIO CLORIBEL OF THE COURT OF FIRST INSTANCE OF MANILA; WELLINGTON INVESTMENT & MANUFACTURING CORPORATION; and METROPOLITAN BANK & TRUST COMPANY,
***Respondents*.**
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D E C I S I O N

REYES, *J.*:

Petition for Certiorari with Preliminary Injunction to Annul, and in the meantime check, enforcement of two identical orders issued ex parte by former Judge Gaudencio Cloribel of the Court of First Instance of Manila directing the Philippine Association of Free Labor Unions, otherwise known as PAFLU, and its members to cease and desist, among other acts, from demonstrating or picketing in front or along the common passageway of the six-storey Wellington Building in Plaza Calderon, Binondo, Manila, owned by the Wellington

Investment and Manufacturing Corporation, hereinafter referred to as Wellington, and tenanted by different persons and business firms.

Picketed by PAFLU was Metropolitan Bank and Trust Company, METBANK for short, located at the ground floor of the Wellington Building. Wellington complained, however, that the picketers were annoyingly blocking the common passageway of the building, the only ingress and egress being used by the occupants of the second to the sixth floors thereof as well as by their respective employees, clients and customers; that besides giving the disconcerting impression that a strike had been declared against it or any of the aforementioned occupants of the second to the sixth floors of the building, the picketing of the passageway in question placed it in an embarrasing position as the same occupants, mostly affected business firms, demanded protection of their peaceful enjoyment of, and free access to and from, the premises respectively leased by them; and that by reason of the picket it sustained damages in the amount of P15,000.00, plus P2,000.00 attorney's fees, and would continue to sustain damages unless the picketers were restrained from carrying on their harassing acts. Thus this litigation started with Wellington charging in court the picketing PAFLU and some twenty-four named individuals and twenty- five John Does, who were employees of neither the corporation nor any of its tenants occupying the second to the sixth floors of the building, of undue interference not only with its enjoyment of its property and business of leasing and administering the same but also with the businesses of said neutral tenants.

And as prayed for by Wellington, then Vice Executive Judge Cloribel of the Court of First Instance of Manila issued ex parte the following order:[1]

> "This is a complaint for injunction with a prayer for the issuance of a writ of preliminary injunction filed by plaintiff against the defendants.
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> "Pending the assignment of this case to the corresponding branch of this Court in accordance with the New Rules of Court which may take some time and, in order to prevent further injury or damage to the plaintiff and/or its tenants, defendants, their agents, representatives and others acting for them and/or

> their behalf, are directed to cease and desist from perpetrating their nuisance activities, from demonstrating and/or picketing in front of and/or along that passageway known as '624 Plaza Calderon, Binondo, Manila' and/or from resorting to disorderly conduct in and about plaintiff's premises and from leaving their signs and placards unattended along the side of plaintiff's premises.
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> "This order shall be without prejudice to whatever action or disposition the Presiding Judge of the branch to which this case may be assigned and may take on the matter.
>
> "SO ORDERED."

Immediately thereafter, PAFLU filed the present petition in the Supreme Court, alleging that respondent Judge Cloribel acted without jurisdiction and with grave abuse of discretion in issuing the foregoing order, in violation of the strict jurisdictional requirements of Section 9 (d) on labor injunctions of Republic Act No. 875, also known as the Industrial Peace Act, as well as of Section 9 (a) of the same Act. Nowhere in the complaint, PAFLU pointed out, were there allegations of, much less testimony proving, the matters prescribed by subsections 1 to 5 of said Section 9 (d). Neither was there an allegation nor a showing by testimony under oath of the unavoidable, substantial, and irreparable injury to complainant Wellington's property as would justify the issuance of the temporary restraining order without notice. And neither was there a bond filed by Wellington sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of the same order. Such omissions, coupled with the grave injustice occasioned by said restraining order allegedly prohibiting, in effect, the union's right to picket METBANK's premises, place of work of its members who were striking employees of said bank against which, incidentally, a case for unfair labor practice had already been filed in the Court of Industrial Relations, purportedly divested respondent Judge of his jurisdiction. Hence, PAFLU's claim to a right to the writ of certiorari with preliminary injunction previously intimated, there being, it further avouched, no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.

In a resolution dated 30 March 1966, the Supreme Court granted the temporary restraining order but limited its effectivity until 12 April 1966.

In compliance with the same resolution, Judge Cloribel's co-respondents Wellington and METBANK filed their answers to the petition, separately but actually advancing the same defenses, to wit: That since Civil Case No. 64831 of the Court of First Instance of Manila did not involve nor arise out of a labor dispute between the parties thereto, namely, Wellington, alone as plaintiff, and PAFLU, et al., as defendants, conformance with the provisions of Section 9 of Republic Act No. 875 was not necessary; that since the same case was primarily for an injunction with damages, as shown by the averments in Wellington's complaint, said lower court had the jurisdiction; that the mere inclusion of METBANK as one of the present respondents, although it was not an original party below, did not convert the case into a labor injunction suit; and that for the foregoing reasons, in addition to the failure of PAFLU to first seek reconsideration of the order in question, the petition should be dismissed and respondent judge's injunction made permanent or, at least, according to METBANK, it should be dropped as a respondent for having been improperly included as such.[2]

In another resolution dated 11 April 1966, the Supreme Court extended "until further notice" the time limit of its restraining order. This time, however, it restricted the operation thereof to only such extent as respondent judge's injunction prohibited the demonstration or the picketing in front of the common passageway identified as "624 Plaza Calderon, Binondo, Manila." In all other respects, said respondent judge's injunction remained unaffected.

Subsequently, PAFLU filed a supplemental petition for certiorari in the Supreme Court protesting the issuance on 31 March 1966, in a different case[3] but by the same respondent judge, of another injunction couched in exactly the same words as the first. Allegedly requested by PAFLU to withhold enforcement thereof, Judge Cloribel issued instead, on 1 April 1966, an order clarifying that said injunction covered only the common passageway and did not in any manner seek to restrain picketing or similar activities outside of its area. PAFLU thus prayed for a second restraining order believing that

it had a right to picket even said passageway to give publicity and enlist sympathy to its strike and that said injunction was similarly issued not only without jurisdiction and with grave abuse of discretion but also in defiance of the first order of the Supreme Court.

On 25 April 1966, the Supreme Court issued its third resolution admitting the supplemental petition. PAFLU's prayer for issuance of a writ of preliminary injunction was, however, denied.

Answering the supplemental petition, Emmanuel T. Galang, the person in whose favor the second injunction was issued, interposed defenses not different from those of Wellington and METBANK. He warded off PAFLU's accusation that the second injunction transgressed the Supreme Court's restraining order of 30 March 1966 by arguing that the same was no longer effective, it having been superseded by said Court's resolutions dated 11 and 25 April 1966; and that, assuming that said restraining order was still effective, it would not bar respondent judge from issuing in Civil Case No. 64909 his orders dated 30 March and 1 April 1966, subject matter of the supplemental petition, as said restraining order was issued in connection with Civil Case No. 64831, a different and separate case. He also contended that neutral employers or persons not involved in a labor dispute should not be made to suffer the adverse effects of a picket directed against another.

The first question that strikes us to be of determinative significance to this controversy is whether the two cases below involve, or grow out of, a labor dispute. If they do, then, certainly, Section 9 of Republic Act No. 875 applies, otherwise, the converse is true.[4]

A cursory examination of the record before us reveals that there exists no labor dispute between petitioner PAFLU and either of the two complainants in the court a quo, namely, Wellington in Civil Case No. 64831 and Galang in Civil Case No. 64909. It is an admitted fact that the strike and the picket are directed against METBANK, an entirely different and separate entity without connection whatsoever with Wellington and Galang other than the incidental fact that they are the bank's landlord and co-lessee in the Wellington Building, respectively. Their relationship is so remote that we fail to discern any indicium of said complainants' interests in the labor dispute between

the union and METBANK as to make the two cases below fall within the purview of Section 2 of Republic Act No. 975 which provides that a labor dispute exist "regardless of whether the disputants stand in the proximate relation of employer and employee." In the case of Associated Watchmen and Security Union (PTWO), et al., vs. United States Lines, et al. (supra), for example, we found a "labor dispute" between the striking watchmen and the steamship agency although the former (who were assigned to guard the latter's ships) were contracted for by a watchmen agency because, in the last analysis, their services were availed of and their compensation paid by the steamship agency. We find no analogous nexus between the parties in the instant case. And the convenient inclusion of METBANK as one of the present respondents does not, to our mind, provide the necessary link between said parties as to transform this into a labor dispute case.

The applicable law, therefore, is Rule 58 of the Rules of Court on injunction.[5] Section 4 thereof reads:

> "SECTION 4. Verified complaint and bond for preliminary injunction. — A preliminary injunction may be granted only when:
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> "(a) The complaint in the action is verified, and shows facts entitling the plaintiff to the relief demanded; and
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> "(b) The plaintiff files with the clerk or judge of the court in which the action is pending a bond executed to the party enjoined, in an amount to be fixed by the court, to the effect that the plaintiff will pay to such party all damages which he may sustain by the reason of the injunction if the court should finally decide that the plaintiff was not entitled thereto." (Emphasis supplied.)

We have also examined the complaints filed in the lower court and found the same as both verified and showing facts that entitled plaintiffs to the relief demanded.

The right to picket as a means of communicating the facts of a labor dispute is a phase of the freedom of speech guaranteed by the constitution.[6] If peacefully carried out, it can not be curtailed even in the absence of employer-employee relationship.[7]

The right is, however, not an absolute one. While peaceful picketing is entitled to protection as an exercise of free speech, we believe that courts are not without power to confine or localize the sphere of communication or the demonstration to the parties to the labor dispute, including those with related interest, and to insulate establishments or persons with no industrial connection or having interest totally foreign to the context of the dispute.[8] Thus the right may be regulated at the instance of third parties or "innocent bystanders" if it appears that the inevitable result of its exercise is to create an impression that a labor dispute with which they have no connection or interest exists between them and the picketing union[9] or constitute an invasion of their rights.[10] In one case[11] decided by this Court, we upheld a trial court's injunction prohibiting the union from blocking the entrance to a feed mill located within the compound of a flour mill with which the union had a dispute. Although sustained on a different ground, no connection was found between the two mills owned by two different corporations other than their being situated in the same premises. It is to be noted that in the instances cited, peaceful picketing has not been totally banned but merely regulated. And in one American case,[12] a picket by a labor union in front of a motion picture theater with which the union had a labor dispute was enjoined by the court from being extended in front of the main entrance of the building housing the theater wherein other stores operated by third persons were located.

The present case squarely fits into the foregoing legal setting. Wellington and Galang are mere "innocent bystanders." They are entitled to seek protection of their rights from the courts and the courts may, accordingly, legally extend the same. Moreover, PAFLU's right to peacefully picket METBANK is not curtailed by the injunctions issued by respondent judge. The picket is merely regulated to protect the rights of third parties. And the reason for this is not farfetched. If the law fails to afford said protection, men will endeavor to safeguard their rights by their own might, take the law in their own hands, and commit acts which lead to breaches of peace,

bloodshed, and ultimately the final subversion of the law. This should not be allowed to happen.

In Thornhill vs. Alabama, 36 L. Ed. 1143, the United States Supreme Court had occasion to rule on this question:

> "'It is true that by peaceful picketing workingmen communicate their grievances. As a means of communicating the facts of a labor dispute may be a phase of the constitutional right of free utterance. But recognition of peaceful picketing as an exercise of free speech does not imply that the states must be without power to confine the sphere of communication to that directly related to the dispute. Restriction of picketing to the area of the industry within which a labor dispute arises leaves open to the disputants other traditional modes of communication. To deny to the states the power to draw the line is to write into the constitution the notion that every instance of peaceful picketing — anywhere and under any circumstances — is necessarily a phase of the controversy which provoked the picketing. Such a view of the due process clause would compel the states to allow the disputants in a particular industrial episode to conscript neutrals having no relation to either the dispute or the industry in which it arose.
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> "'In forbidding such conscription of neutrals in the circumstances of the case before us, Texas represents the prevailing, and probably the unanimous policy of the states.[13] We hold that the constitution does not forbid Texas to draw the line which has been drawn here. To hold otherwise would transmute vital constitutional liberties into doctrinal dogma. We must be mindful that 'the rights of employers and employees to conduct their economic affairs and to compete with others for a share in the products of industry are subject to modification or qualification in the interests of the society in which they exist. This is but an instance of the power of the State to set the limits of permissible contest open to industrial combatants.' Thornill vs. Alabama, 310 U.S. 88, 103, 84 L. ed. 1093, 1102, 1103, 60 S. Ct. 736. [315 U.S. 722, at 727-728, 86 L. ed. 1143, at 1147-1148, (1942)] (Emphasis supplied)'"

While we concede, however, that Wellington and Galang are entitled to injunctions, we are constrained to annul the same. There is no question that the Court of First Instance of Manila has jurisdiction over Civil Cases Nos. 64831 and 64909 because they are purely injunction suits and outside the scope of Republic Act No. 875. But the issuance of the injunctions is attended by irregularity and, as far as the second injunction is concerned, by violation of our restraining order dated 30 March 1966.

There is a failure on the part of respondent judge to require Wellington and Galang to file the necessary bonds before issuing the two preliminary injunctions. The filing of said bonds is a mandatory requirement.[14] This is evident in Section 4 of Rule 58 elsewhere quoted. It provides that "(a) preliminary injunction may be granted only when: (a) The complaint is verified, and shows facts entitling the plaintiff to the relief demanded; and (b) the plaintiff files a bond executed to the party enjoined." Such failure, being a disregard of plain legal mandate, amounts to a grave abuse of discretion.

IN VIEW OF THE FOREGOING, certiorari is hereby granted annulling the two preliminary injunctions issued below, without prejudice to the right of respondents Wellington and Galang to secure other ones after filing the necessary bonds. Costs against respondents. So ordered.

Concepcion, *C.J.*, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, *JJ.*, concur.

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[1] Dated 25 March 1966, Civil Case No. 64831, entitled "Wellington Investment and Manufacturing Corporation, plaintiff vs. Philippine Association of Free Labor Unions (PAFLU), et al., defendants."

[2] Reiterated in METBANK's separate motion to dismiss the petition, filed on October 1966, insofar as the bank was cited as one of the respondents. The motion was, however, denied as per the Supreme Court's resolution of 10 October 1966.

[3] Civil Case No. 64909, entitled "Emmanuel T. Galang, plaintiff, vs. Philippine Association of Free Labor Unions (PAFLU), et al., defendants." Plaintiff, a lawyer and one of the tenants occupying the upper floors of the Wellington Building, claimed to have been prejudiced by the picket as his clients were

allegedly prevented from going to his office. His complaint filed in lower court was practically a rehash of that of Wellington.

[4] Philippine Association of Free Labor Unions (PAFLU), et al. vs. Tan, et al. 99 Phil. 854; Philippine Association of Free Labor Unions (PAFLU), et al. vs. Barot, et al., 99 Phil. 1008; Associated Watchmen and Security Union (PTWO), et al. vs. United States Lines, et al., 101 Phil. 895; Republic Flour Mills Workers Association, et al. vs. Reyes, et al., G.R. No. L-21378, 28 November 1966, 18 SCRA 796.

[5] See cases cited under footnote No. 4.

[6] De Leon. et al. vs. National Labor Union (NLU), et al., 100 Phil. 789; Philippine Association of Free Labor Unions (PAFLU), et al. vs. Barot, et al., supra. Cruz vs. Cinema, State and Radio Entertainment Free Workers (FFW), 101 Phil. 1259. See also Thornhill vs. Alabama, 310 U.S. 88, 60 S. Ct. 736, 84 L. Ed. 1093.

[7] Ibid.

[8] Carpenters and Joiners Union of America, Local No. 213 vs. Ritters Cafe, 315 U.S. 722, 62 S. Ct. 807, 86 L. Ed. 1143.

[9] 15 A.L.R. 2d. 1396.

[10] Jensen vs. Cooks and Waiters union, 39 Wash. 531, 81 P. 1069, 4 L. R. A. N.S. 302.

[11] Republic Flour Mills Workers Association, et al. vs. Reyes, et al., supra, 18 SCRA 796, 799.

[12] Motion Picture Machine Operators Local No. 407 vs. Zaragoza Amusement Company, et al., 225 S. W. 2d. 636, 15 A. L. R., 2d 1391.

[13] The authorities are collected in Teller, Labor Disputes and Collective Bargaining (1940), Sec. 123; Hellerstein, Secondary Boycotts in Labor Disputes, 47 Yale L. J. 341; Frey, Cases on Labor Law (1941), pages 239-273; cf. Galenson & Spector, The New York Labor Injunction Statute and the Courts, 42 Columbia L. Rev. 51, 68-71. Rev. 51, 68-71.

[14] Siva, et al. vs. Reyes, et al., 83 Phil. 416; Villarosa, et al vs. Teodoro, 100 Phil. 24.