SUPREME COURT
EN BANC

PHILIPPINE LAND-AIR SEA LABOR UNION (PLASLU), ET AL.,
***Petitioners*,**

-versus-

G.R. No. L-20987
June 23, 1965

CEBU PORTLAND CEMENT COMPANY, ET AL.,
***Respondents*.**
x----------x

D E C I S I O N

REYES, *J.*:

Petition for Review of an order of the Court of Industrial Relations of December 8, 1962 denying a motion of petitioners Union and individual members thereof to reopen CIR Case No. 241-V (20), decided March 17, 1960.

The petitioners had originally instituted the case in the Court of Industrial Relations to secure an order directing the respondent Cebu Portland Cement Company to pay overtime compensation and differentials to the individual petitioners, for work performed as security guards on Saturdays after the enactment of the Forty Hour a Week law (Rep. Act 1880), starting from March 22, 1958, when the

Company stopped paying overtime compensation for work on Saturdays even if done in excess of the 40 weekly hours of work prescribed in said Republic Act. The Company resisted the claim, alleging that petitioners had no cause of action because they were not covered by the law invoked, as implemented by Executive Order No. 251.

At the hearing, the parties submitted a stipulation of facts; and on March 17, 1960 the Industrial Court issued an order finding that, pursuant to the opinion of the Civil Service Commissioner, dated August 23, 1957, and that of the Executive Secretary, dated October 23,1957, security guards are not within the coverage of Republic Act No. 1880 (Forty Hour a Week law), and are not entitled to overtime compensation. This order of the hearing judge was affirmed, and reconsideration thereof denied, by the court en banc on May 10, 1960.

Over two years later, on April 3,1962, petitioners herein, through new counsel, made it of record that their former attorney had not been authorized by them to enter into the so-called stipulations of facts in the case, and particularly that said counsel had not been authorized to stipulate, as he did, that the individual petitioners were required by the Company to work 56 hours a week "due to the nature of their services and in the interest of public service", which petitioners termed a stipulation of legal conclusions.

On April 5, 1962, petitioners, by their new counsel, filed a petition to reopen case No. 241-V(20), alleging that the order of March 17, 1960 was not in accordance with law; that the Stipulation of Facts therein was merely a stipulation of legal conclusions not binding on petitioners; that the order of dismissal by the court was based on administrative opinions that had been since overruled and superseded by subsequent rulings of the administrative authorities, particularly that issued on August 23, 1960, by the Executive Secretary, by authority of the President, ruling that security guards in government-owned or controlled corporations discharging proprietary functions are not excluded from the benefits of the 40-hour week law (R. A. 1880); and that the Auditor General, by memorandum Circular No. 438 of November 29, 1960, had implemented said ruling of the Executive Secretary; and that the Supreme Court, in G. R. No. L-16984, Manila Port Service vs. C. I. R.,

promulgated June 30, 1961, had ruled that under Republic Act No. 1880 and Executive Order No. 251, work on Saturday may be counted for overtime purposes if during the preceding 5 days (Monday to Friday) the laborers or employees had worked the required minimum of 40 hours, which was allegedly the case of petitioning security guards.

Upon opposition of the respondent Company, the Industrial Court, by order of July 17, 1962, denied the motion to reopen, reasoning that the order of March 7, 1960 constituted res judicata, and that under the ruling of this Supreme Court in Pepsi-Cola Bottling Co. vs. Philippine Labor Organizations, 88 Phil. 147, a proceeding may be reopened only upon grounds coming into existence after the order rendered by the C.I.R., grounds not already litigated and decided, and not available to the parties at the former proceedings.

Their motion to reconsider this last ruling having been rejected, petitioners brought the case to us for review.

In this appeal, it is insisted, on behalf of the appellant laborers, that the order of March 17, 1960 now under appeal was erroneous and unwarranted in law, and that the Industrial Court exceeded its jurisdiction when it held that the exemption from the 40- hour week law, "where the exigencies of the service so requires", applies to security guards, instead of holding that its application is limited only to workers in offices and entities performing governmental functions. Erroneous or not, the order of March 17, 1960 has long become final and executory, and is beyond our power to alter. The appellants could have secured a review of the correctness of this order by seasonable appeal, which they failed to do for reasons not apparent on the record. No reason or excuse is given why they allowed more than two years to elapse before adopting remedial steps.

The argument that former counsel for the workers had no authority to stipulate that petitioners were required to work 56 hours a week without overtime compensation "due to the nature of their work and duties and in the interest of public service, because the same is a legal conclusion, is untenable. The reasons why the petitioners- appellants were required to work are matters of fact, and within the power of counsel to stipulate without special authority (Rodriguez vs. Santos,

55 Phil. 721), not being a compromise. That the facts as agreed upon were unfavorable to the clients does not detract from the binding effect of the stipulation, and it has been repeatedly held that clients are bound by the acts, and even the mistakes, of counsel in procedural technique (Montes vs. Court of First Instance of Tayabas, 48 Phil. 640; Islas vs. Platon, 47, Phil. 162; Re Filart, 40 Phil. 205).

Appellants lay stress on the last portion of section 17 of Commonwealth Act No. 103, creating the Court of Industrial Relations, and defining its powers. Said legal precept, invoked here and in the court below, is to the effect that:

> "That at any time during the effectiveness of an award, order or decision the Court may, on application of an interested party, and after due hearing alter, modify in whole or in part, or set aside such award order or decision. or reopen any question involved therein."

The difficulty lies in reconciling this provision with the well-established rules of res judicata and the preclusive effect of final adjudications. It is clear that if we interpret it as conferring on the C. I. R. unconditional power to reopen finally adjudicated cases, its decisions and orders could never be relied upon as final; conflicts between capital and labor would be interminable; and industrial planning would become impossible.

The rulings of the Supreme Court have established the conditions for reopening under section 17 of C.A. 103; it must be upon grounds not already directly or indirectly litigated, and the grounds must not be available to the parties in the previous proceeding; and the reopening must not affect the period already elapsed at the time the order to be reopened was issued.

Thus, in Pepsi Cola Bottling Co. vs. Philippine Labor Organization, 88 Phil., 147 this Court held:

> "Petitioner invokes Section 17 of Commonwealth Act No. 103 to the effect that `at any time during the effectiveness of an award, order or decision, the Court may, on application of an interested party, and after due hearing, alter, modify in whole or in part,

> or set aside any such award, order or decision, or reopen any question involved therein'. Under this provision, a proceeding may be reopened only upon grounds coming into existence after the order or decision was rendered by the Court of Industrial Relations, but not upon grounds which had already been directly or indirectly litigated and decided by said court nor upon grounds available to the parties at the former proceedings and not availed of by any of them. To hold otherwise may give away to vicious and vexatious repetition of proceedings."

And in Nahag vs. Roldan, 94 Phil. 88, it was ruled:

> "While the above section (17) apparently authorizes the modification of an award at any time during its effectiveness, there is nothing in its wording to suggest that such modification may be authorized even after the order for execution of the award has already become final, with respect, of course, to the period that had already elapsed at the time the order was issued. To read such authority into the law would make of litigations between capital and labor an endless affair, with the Industrial Court acting like a modern Penelope, who puts of her suitors by unraveling every night what she has woven by day. Such a result could not have been contemplated by the Act creating said Court." (Nahag vs. Roldan, 94 Phil. 88, 91)

The main issue in this appeal is thus reduced to the point whether, under the rulings heretofore quoted, appellants have shown new grounds entitling them to a reopening of C I. R. Case No. 241-V(20). We are of the opinion that they have done so, and that it was error for the CIR to hold otherwise. In their motion to reopen the proceedings, as well as in the supporting memoranda, appellants specifically called attention to the ruling of the office of the President, dated August 23, 1960, extending the benefits of the Forty Hour Week law to security guards of government-owned or controlled corporations performing proprietary functions; and also to the Memorandum Circular No. 438 of the General Auditing Office calling the attention of "All Managing Heads and Auditors and or Comptrollers of government-owned or controlled corporations" to the preceding ruling. These executive rulings apparently superseded those of 1957 upon which the CIR rested its order denying appellants' right to extra compensation.

There is furthermore the decision of the Industrial Court, rendered on August 23, 1962, in Case No. 1389-V, Cenon Francisco, et al., vs. Cebu Portland Cement Co., directing the latter company to "pay all petitioners security guards their additional overtime compensation for their Saturday services from March 22, 1958", contrary to the ruling of March 17, 1960, review of which is now being sought. All these rulings came after the order of March 17, 1960, that denied overtime pay to appellants herein, and were, therefore, not available when the appellants' case was originally tried and submitted. Without in any way anticipating the weight to be accorded to these subsequent rulings, nor how they would influence the case of appellant, their incompatibility with the order of March 17, 1960, that decided appellants' rights, is apparent, and, therefore, justify a rehearing under the doctrine of the Pepsi-Cola case.

Appellee Cebu Portland Cement Company argues that it was laches for appellants to have delayed their motion to reopen, and that the facts of appellants' case differ from those of Case No. 1389-V. Whether or not delay was sufficient to constitute laches, and whether it was inexcusable or not, can not be inquired into unless appellants' case is first reopened. The same can be said about the alleged differences between their case and Case No. 1389-V.

Of course, as pointed out in Nahag vs. Roldan, supra, the new award, even if favorable to appellants, must be limited to the period subsequent to that covered by the order of March 17, 1960.

WHEREFORE, the orders of the Court of Industrial Relations denying reopening of Case No. 241-V(20) are revoked and set aside, and the records ordered remanded to the court of origin for further proceedings in conformity with this decision. Costs will be taxed against appellee Cebu Portland Cement Co.

Bengzon, *C.J.*, Bautista Angelo, Concepcion, Paredes, Dizon, Regala, Makalintal, Bengzon, J.P., and Zaldivar, *JJ.*, concur.
Barrera, *J.*, is on leave.