SUPREME COURT
SECOND DIVISION

AMADA RANCE, MERCEDES LACUESTA, MELBA GUTIERREZ, ESTER FELONGCO, CATALINO ARAGONES, CONSOLACION DE LA ROSA, AMANCIA GAY, EDUARDO MENDOZA, ET AL.,
***Petitioners*,**

-versus-

G.R. No. L-68147
June 30, 1988

THE NATIONAL LABOR RELATIONS COMMISSION, POLYBAG MANUFACTURING CORPORATION, VIRGINIA MALLARI, JOHNNY LEE, ROMAS VILLAMIN, POLYBAG WORKERS UNION, PONCIANO FERNANDEZ, AND ANTONIO ANTIQUERA,
***Respondents*.**
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D E C I S I O N

PARAS, *J.*:

A review of the records shows that a Collective Bargaining Agreement was entered into on April 30, 1981 by and between respondents Polybag Manufacturing Corporation and Polybag Workers Union which provides among others:

"**ARTICLE V**
UNION SECURITY

Any employee within the bargaining unit who is a member of the union at the time of the effectivity of this agreement or becomes a member of the UNION thereafter, shall during the term thereof or any extension, continue to be a member in good standing of the UNION as a condition of continued employment in the COMPANY.

Any employee hired during the effectivity of this agreement shall, within 30 days after becoming regular join the UNION and continue to be a member in good standing thereof as a condition of continued employment in the COMPANY.

On the basis of a board resolution of the UNION, the COMPANY shall dismiss from the service any member of the UNION who loses his membership in good standing either by resignation therefrom or expulsion therefrom for any of the following causes:

1. Disloyalty to the UNION;

2. Commission of acts inimical to the interest of the UNION;

3. Failure and refusal to pay UNION dues and other assessments;

4. Conviction for any offense or crime; or

5. Organizing and/or joining another labor organization claiming jurisdiction similar to that of the UNION.

> Provided, however, that in case expulsion proceedings are instituted against any member of the UNION, pending such proceedings, the COMPANY, on the basis of a board resolution of the UNION, shall suspend the member concerned; and provided further, that the UNION, jointly and severally with the officers and members of the board voting for the dismissal or suspension, shall hold and render the COMPANY, its executive, owners, and officers free from any and all claims and liabilities." (Rollo, p. 64)

Petitioners herein were among the members of the respondent union who were expelled by the latter for disloyalty in that they allegedly joined the NAFLU — a large federation. Because of the expulsion, petitioners were dismissed by respondent Corporation. Petitioners sued for reinstatement and backwages stating their dismissal was without due process. Losing both in the decisions of the Labor Arbiter and the National Labor Relations Commission (NLRC), they elevated their cause to the Supreme Court.

Respondent Polybag Workers Union as already stated expelled 125 members on the ground of disloyalty and acts inimical to the interests of the Union (Resolution No. 84, series of 1982, Rollo, p. 16) based on the findings and recommendations of the panel of investigators. Both the Labor Arbiter and the NLRC found the Collective Bargaining Agreement and the "Union Security Clause" valid and considered the termination of the petitioners justified thereunder, for having committed an act of disloyalty to the Polybag Workers Union by having affiliated with and having joined the NAFLU, another labor union claiming jurisdiction similar to the former, while still members of respondent union (Rollo, pp. 45-46).

Among the disputed portions of the NLRC decision is its finding that it has been substantially proven that the petitioners committed acts of disloyalty to their union as a consequence of the filing by NAFLU for and in their behalf of the complaint in question (Rollo, p. 46).

Petitioners insist that their expulsion from the Union and consequent dismissal from employment have no basis whether factual or legal, because they did not in fact affiliate themselves with another Union, the NAFLU. On the contrary, they claim that there is a connivance

between respondents Company and Union in their illegal dismissal in order to avoid the payment of separation pay by respondent company.

Petitioners' contention that they did not authorize NAFLU to file NLRC-AB Case No. 6-4275-82 for them is borne out by the records which show that they did not sign the complaint, neither did they sign any document of membership application with NAFLU (Rollo, p. 323). Significantly, none of private respondents was able to present any evidence to the contrary except for one employee who admitted having authorized NAFLU to file the complaint but only for the purpose of questioning the funds of the Union (Rollo, p. 216).

Placed in proper perspective, the mere act of seeking help from the NAFLU cannot constitute disloyalty as contemplated in the Collective Bargaining Agreement. At most it was an act of self-preservation of workers who, driven to desperation found shelter in the NAFLU who took the cudgels for them.

It will be recalled that 460 employees were temporarily laid off; some were laid-off as early as March 22, 1982 although the actual official announcement and notice of the intended shutdown was made only on May 27, 1982 (Rollo, p. 151). The laid-off employees did not receive any separation pay because as alleged by respondent company their dismissal was due to serious business reverses suffered by it. The only aid offered by the company which was offered when the disgruntled employees began to discuss among themselves their plight, was a 1/2 sack of rice monthly and P50.00 weekly. Most of the employees did not avail themselves of the aid as those who did were allegedly made to sign blank papers. To aggravate matters, petitioners complained that their pleas for their union officers to fight for their right to reinstatement, fell on deaf ears. Their union leaders continued working and were not among those laid-off, which explains the lack of positive action on the part of the latter to help or even sympathize with the plight of the members. All they could offer was a statement "marunong pa kayo sa may-ari ng kumpanya" ("you know more than the company owners") (Rollo, p. 80). Under the circumstances, petitioners cannot be blamed for seeking help wherever it could be found.

In fact even assuming that petitioners did authorize NAFLU to file the action for them, it would have been pointless because NAFLU cannot file an action for members of another union. The proper remedy would be to drop the union as party to the action and place the names of the employees instead (Lakas vs. Marcelo Enterprises, 118 SCRA 422 [1982]) as what appears to have been done in this case before the Court.

Petitioners claim that the NLRC erred in ruling that the expulsion proceeding conducted by the Union was in accordance with its by-laws. Respondent Union had notified and summoned herein petitioners to appear and explain why they should not be expelled from the union for having joined and affiliated with NAFLU.

Petitioners contend that the requisites of due process were not complied with in that, there was no impartial tribunal or union body vested with authority to conduct the disciplinary proceeding under the union constitution and by-laws, and, that complainants were not furnished notice of the charge against them, nor timely notices of the hearings on the same (Rollo, p. 48).

According to the minutes of the special meeting of the Board of Directors of respondent Union held on September 14, 1982, the Chairman of the Board of Directors showed the members of the board, copies of the minutes of the investigation proceedings of each individual member, together with a consolidated list of Union members found guilty as charged and recommended for expulsion as members of the respondent Union. The Board members examined the minutes and the list (Rollo, p. 219).

It is to be noted, however, that only two (2) of the expelled petitioners appeared before the investigation panel (Rollo, pp. 203, 235). Most of the petitioners boycotted the investigation proceedings. They alleged that most of them did not receive the notice of summons from respondent Union because they were in the provinces. This fact was not disproved by private respondents who were able to present only a sample copy of proof of service, Annex "14" (Rollo, p. 215). Petitioners further claim that they had no idea that they were charged with disloyalty; those who came were not only threatened with persecution but also made to write the answers to questions as dictated to them by

the Union and company representatives. These untoward incidents prompted petitioners to request for a general investigation with all the petitioners present but their request was ignored by the panel of investigators (Rollo, pp. 280, 307). Again, these allegations were not denied by private respondents.

In any event, even if petitioners who were complainants in NLRC-AB Case No. 6-4275-82 appeared in the supposed investigation proceedings to answer the charge of disloyalty against them, it could not have altered the fact that the proceedings were violative of the elementary rule of justice and fair play. The Board of Directors of respondent union would have acted as prosecutor, investigator and judge at the same time. The proceeding would have been a farce under the circumstances (Lit Employees Association vs. Court of Industrial Relations, 116 SCRA 459 [1982] citing Kapisanan ng Mga Manggagawa sa MRR vs. Rafael Hernandez, 20 SCRA 109). The filing of the charge of disloyalty against petitioners was instigated by the Chairman of the Board of Directors and Acting Union President, Ponciano Fernandez, in the special meeting of the members of the Board of Directors as convened by the Acting Union President on August 16, 1982 (Rollo, p. 213). The Panel of Investigators created under the Board's Resolution No. 83, s. 1982 was composed of the Chairman of the Board, Ponciano Fernandez, and two (2) members of the Board, Samson Yap and Carmen Garcia (Rollo, p. 214). It is the same Board that expelled its 125 members in its Resolution No. 84, s. of 1982 (Rollo, p. 219).

All told, it is obvious, that in the absence of any full blown investigation of the expelled members of the Union by an impartial body, there is no basis for respondent Union's accusations.

It is the policy of the state to assure the right of workers to "security of tenure" (Article XIII, Sec. 3 of the New Constitution, Section 9, Article II of the 1973 Constitution). The guarantee is an act of social justice. When a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job. Article 280 of the Labor Code has construed security of tenure as meaning that "the employer shall not terminate the services of an employee except for a just cause or when authorized by" the code (Bundoc vs. People's Bank and Trust

Company, 103 SCRA 599 [1981]). Dismissal is not justified for being arbitrary where the workers were denied due process (Reyes vs. Philippine Duplicators, Inc., 109 SCRA 489 [1981] and a clear denial of due process, or constitutional right must be safeguarded against at all times, (De Leon vs. National Labor Relations Commission, 100 SCRA 691 [1980]). This is especially true in the case at bar where there were 125 workers mostly heads or sole breadwinners of their respective families.

Time and again, this Court has reminded employers that while the power to dismiss is a normal prerogative of the employer, the same is not without limitations. The employer is bound to exercise caution in terminating the services of his employees especially so when it is made upon the request of a labor union pursuant to the Collective Bargaining Agreement, as in the instant case. Dismissals must not be arbitrary and capricious. Due process must be observed in dismissing an employee because it affects not only his position but also his means of livelihood. Employers should, therefore, respect and protect the rights of their employees, which include the right to labor (Liberty Cotton Mills Workers Union vs. Liberty Cotton Mills, Inc., 90 SCRA 393 [1979], Resolution).

In the case at bar, the scandalous haste with which respondent corporation dismissed 125 employees lends credence to the claim that there was connivance between respondent corporation and respondent Union. It is evident that private respondents were in bad faith in dismissing petitioners. They, the private respondents, are guilty of unfair labor practice.

PREMISES CONSIDERED, (1) the decision of respondent National Labor Relations Commission in NLRC-NCR-11-6881-82 dated April 26, 1984 is **REVERSED** and **SET ASIDE**; and (2) respondent corporation is ordered: (1) to reinstate petitioners to their former positions without reduction in rank, seniority and salary; (b) to pay petitioners three-year backwages, without any reduction or qualification, jointly and solidarily with respondent Union; and (c) to pay petitioners exemplary damages of P500.00 each. Where reinstatement is no longer feasible, respondent corporation and respondent union are solidarily ordered to pay, considering their

length of service their corresponding separation pay and other benefits to which they are entitled under the law.

SO ORDERED.

Yap, *C.J.*, Melencio-Herrera, Padilla and Sarmiento, *JJ.*, concur.