SUPREME COURT
EN BANC

RIZAL CEMENT WORKERS UNION (FFW), FRANCISCO OLORES, ET AL.,
Petitioners,

-versus-

G.R. No. L-19767
April 30, 1964

MADRIGAL & COMPANY, RIZAL CEMENT COMPANY INC., CANDIDO DE LEON and JOHNNY DE LEON and COURT OF INDUSTRIAL RELATIONS,
Respondents.
x----------x

D E C I S I O N

BARRERA, *J.*:

This is a Petition for Review on *Certiorari* filed by the Rizal Cement Worker's Union (FFW), hereinafter referred to as the Union seeking for a modification of the decision and resolution of the Court of Industrial Relations in Case No. 1020-ULP, and to have the respondent Rizal Cement Co., Inc., hereinafter referred to as the Company, declared guilty of unfair labor practice and the 21 union — members involved in the case entitled to back wages from May 28, 1956.

In connection with the unfair labor practice case filed by the Union against the Company, resulting from the alleged locking out of the 21 complainants, a decision was rendered by the Court of Industrial Relations, after due trial, containing the following findings of fact:

> "The Rizal Cement Workers Union, affiliated with the Federation of Free Workers, heretofore referred to as the Union, is a legitimate labor organization. The twenty-one complainant workers are members of the Union and work at the Bodega Tangue, Paco, Manila.
>
> "The respondent Rizal Cement Co., Inc. is a corporation likewise organized under the laws of the Philippines and is engaged principally in the manufacture of cement. (Exh. '30-Rizal'). It operates a plant in Binangonan, Rizal, where it manufactures cement. The bags of cement are then sent in barges to the Bodega Tangue at Paco, where they are unloaded by workers therein and sent either directly to customers on trucks and pickups or stored in the warehouse for future deliveries.
>
> "There is also no dispute as to the fact that on May 27, 1956, the Union staged a strike at the plant of the respondent Rizal Cement Co., Inc. in Binangonan, Rizal. In the early morning of the following day, that is, on May 28, 1956. Candido de Leon, warehouseman-encargado at the Bodega Tangue, received a telephone call from one Johnny de Leon, manager of the respondent Rizal Cement Co., Inc., with the information that the Union staged a strike against the company on the previous day, May 27, 1956, in Binangonan, Rizal. De Leon further informed him that he should take precautionary measures in protecting the properties of the company stored at the Bodega Tangue because of the strikers caused damage to the factory in Binangonan and sabotage might occur. For this reason, he was advised by the manager to request the members of the Union to stay meanwhile outside the premises of the Bodega Tanque. What he did in the morning of May 28, 1956 was to station himself at the gate of the compound. When the workers arrived for work at 7:00 a.m., he did not allow the 21 complaining workers who are members of the Union to enter the gate and

allowed only those who are not members of said Union. Upon refusal of Candido de Leon to allow the complaining workers to work on that day, the Union, through Ramon L. Kabigting Vice-president of the FFW, sent a letter addressed to the Manager, Bodega Tanque, Rizal Cement Co., Inc., which, for ready reference is hereby quoted as follows:

> 'May 28, 1956
>
> The Manager
> Bodega Tanque
> Rizal Cement Co., Inc.
> Tanque, Paco, Manila
>
> Dear Sir:
>
> 'This morning our union members reported for work at your company premises. Instead of being made to work, they were told by your goodself that they will not be allowed to work anymore. This in spite of the fact that non-FFW were allowed to work.
>
> 'This is pure discrimination on your part. We are protesting vigorously against your act and are asking you to reinstate these men immediately.
>
> 'Yours truly,
>
> *(Sgd.)*
> RAMON L. KABIGTING
> *Vice President*
> Federation of Free Workers
> (Exh 'A' for Complainants and '19' for respondents)

"The Rizal Cement Co., Inc. through counsel, made a reply dated May 30, 1956, to the foregoing letter, as follows:

> 'May 30, 1956
>
> 'Federation of Free Workers

508 Jalandoni Building
Dasmariñas, Manila

'Attn: Mr. Ramon L. Kabigting
Vice President'

'Gentlemen:

'Your letter dated the 29th instant, addressed to the Manager, Bodega Tanque, of our client, Rizal Cement Co., has been by the latter referred to us.

'In reply, please be informed that as the Rizal Cement Workers Union (FFW) National Organization of Laborers and Employees (NOLE-FFW) Federation of Free Workers, of which the persons subject of your letter are members, declared a strike against the Company since two o'clock Sunday morning, May 27, 1956, said persons or "union members" referred to in your letter were requested to stay outside the Company premises, in view of the threat that they were going to commit sabotage, threats which our client had reason to believe would be carried out, considering, as you know, what actually happened in Binangonan, Rizal.

'Our said client emphatically denies your claim of "discrimination" as being illogical and preposterous.

'Very truly yours,

BAUSA & AMPIL.

By:

(Sgd.)
FELINO G. AMPIL
Attorneys for the Rizal Cement Co., Inc.

"On May 30, 1956, the complaining workers formed a picket line in front of the Madrigal Building on the Escolta, Manila,

where the offices of the respondent companies are located. The picket lasted up to April 1957.

"After the complaining workers were not allowed to work on May 28, 1956, the respondent Rizal Cement Co., Inc. hired substitutes in order that the work in the Bodega Tanque, which consists mainly in unloading and loading cement, may not be paralyzed." (Emphasis supplied).

With the foregoing facts, the Court of Industrial Relations resolved in the negative the issue presented therein, i.e., whether the Company's denial to the 21 complaining workers, of entrance to the compound and work constitutes a lockout, for the reason that the said act was resorted to forestall any possible sabotage in the warehouse. It was pointed out that although the strike was declared in and confined to the factory in Binangonan, Rizal, the activities in the Tanque warehouse in Paco, Manila, where the complainants work, complement those at the plant. Also, in the letter of the Union dated September 24, 1954, addressed to the management, and as found by the lower court, the Union made it clear that the set of demands (presented to the Company and the denial of which led to the declaration of the strike in question) covers all the employees of the Rizal Cement Co., Inc., "including those workers at the Bodega Tanque" (p. 31, decision of Dec. 14, 1961), and that in the notice of strike filed by the Union (Exhs. 125-Rizal and 125-A-Rizal), it was specifically declared that the establishment covered by the projected strike covers the "factory, quarry and warehouse", the last place obviously referring to Bodega Tanque. Thus, the court held that, under the circumstances, the lockout was resorted to as a defensive weapon or dictated by economic necessity and, consequently, did not constitute an unfair labor practice. And, as in the decision rendered in the main case (No. 14-IPA), the strikers were ordered reinstated to their former positions without back wages, which decision became final and executory on May 27, 1961 the court directed the Company in this case to reinstate the 21 complainants with back wages only from May 28, 1961. This decision was affirmed by the court en banc by resolution of January 27, 1962. Hence, the filing of the instant petition.

It is claimed by petitioner Union in this proceeding that the Company's refusal to admit the 21 complainants to work in the warehouse, simply because they belong to the same Union that staged the strike in the factory, constituted a violation of Section 4 a(4) of the Industrial Peace Act (Rep. Act 875). Consequently, it is argued, complainants should have been awarded back wages from May 28, 1956 when the discriminatory act commenced and not only from May 28, 1961 when the decision in the main case became final.

Republic Act 875, on unfair labor practices, provides:

> "SEC. 4. Unfair Labor Practices —
>
> (a) It shall be unfair labor practice for an employer:
>
> x x x
>
> "(4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act or in any other Act or statute of the Republic of the Philippines shall preclude an employer from making an agreement with a labor organization to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section twelve.
>
> x x x
> (Emphasis supplied.)

It is not herein controverted that the complainants were locked out or denied work by the respondent Company. Under Republic Act 875, however, for the discrimination by reason of union membership to be considered an unfair labor practice, the same must have been committed to encourage or discourage such membership in the union. This cannot be said of the act of the company complained of. As clearly established by the evidence, its refusal to allow

complainants to work and requirement that the latter stay out of the premises in the meantime (perhaps while the strike was still going on at the factory) was borne out of the company's justified apprehension and fear that sabotage might be committed in the warehouse where the products, machinery and spare parts were stored, as has been the case in Binangonan. It has never been shown that the act of the Company was intended to induce the complainants to renounce their union-membership or as a deterrent for non-members to affiliate therewith, nor as a retaliatory measure for activities in the union or in furtherance of the cause of the union. As the strikers were declared entitled to wages only from the finality of the decision in the main case (No. 14- IPA) or from May 28, 1961, the award of back wages to herein complainants also from said date, is justified and reasonable. It may even be stated in support thereof that on May 30, 1956, complainants actually joined the picket line formed in front of the Company's office at Escolta, Manila.

WHEREFORE, the decision and resolution appealed from are hereby affirmed, without costs. So ordered.

Bengzon, *C.J.*, Bautista Angelo, Concepcion, Reyes, Paredes, Dizon and Makalintal, *JJ.*, concur.
Padilla, Labrador and Regala, *JJ.*, took no part.