SUPREME COURT
EN BANC

RIZAL LABOR UNION, CARLOS SANTOS, EDILBERTO REYES, TEOFENES MINGUILLAN, APRONIANO CELAJES, AUGUSTO RAYMUNDO, CELESTINO RINO, EDMUNDO GARCIA, JOSE EVANCHES, MELENCIO ENRIQUEZ, PEDRO ANTAZO, BENJAMIN ONGKIATCO, FELIX ADSUARA, GREGORIO YUNZAL and VICENTE INAMAC,
***Petitioners*,**

-versus-

G.R. No. L-19779
July 30, 1966

RIZAL CEMENT COMPANY, INC., JUAN DE LEON, RODOLFO FAUSTINO, BINANGONAN LABOR UNION LOCAL 104, FILOMENO PRUDON, NICANOR MEYCACAYAN, MACARIO CENIDOZA, APOLONIO SUMALDE, LOTARIO BATAN, FRANCISCO EVANGELISTA, DOMINGO PUBLICO, Hon. ARSENIO MARTINEZ, Judge, Court of Industrial Relations, Hon. EMILIANO TABIGNE, Judge, Court of Industrial Relations, and Hon. AMANDO BUGAYONG, Judge, Court of Industrial Relations,
***Respondents*.**
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D E C I S I O N

BARRERA, *J.*:

This is a petition filed by the Rizal Labor Union for the review of the resolution of the Court of Industrial Relations en banc (in Case No. 1615-ULP), dismissing the petition for unfair labor practice filed against the Binangonan Labor Union, Local 104 and the Rizal Cement Company.

On February 13, 1958, Carlos Santos and 14 other employees of the Rizal Cement Company, while still members of the Binangonan Labor Union, Local 104, formed and organized the Rizal Labor Union. The company was notified thereof on March 18, 1958. Prior to this date or on March 15, 1958, Carlos Santos and Teofenes Minguillan, president, and secretary, respectively, of the newly-organized Rizal Labor Union, received identical letters from the Binangonan Labor Union, requiring them to explain in 48 hours why they should not be expelled for disloyalty. Although Santos and Minguillan requested for the convocation of a general meeting of the members of the Binangonan Labor Union to explain their side, the 15 organizers of the new union were expelled from their original union on March 21, 1958. On the same day, it demanded the dismissal of the expelled members from employment, which the company did on March 22, 1958.

The dismissed employees went to the Court of Industrial Relations charging the Company and the Binangonan Labor Union with unfair labor practices. Said respondents answered the charges by referring to the alleged closed-shop proviso in the subsisting collective bargaining agreement between them. After due hearing, the trial judge rendered a decision holding that the supposed closed-shop proviso, while valid, was inadequate to justify the dismissal of complainants from employment. The company was thus ordered to reinstate them and both respondents were directed to pay, jointly and severally, the complainants their back wages. Upon respondents'

motion for reconsideration, the judgment of the trial Judge was reversed by the court en banc. The dismissal of complainants was found to be justified by the closed shop proviso of the collective bargaining agreement, although they were declared entitled to separation pay. Complainants filed the present petition for review.

The only issue presented in this case is whether the dismissal of the complaining 15 employees was justified or not. The resolution of this question hinges on the validity and adequacy of the supposed closed-shop proviso of the collective bargaining contract between respondent Company and respondent union. For, it is axiomatic that in order that the discharge of an employee pursuant to a closed-shop agreement may be considered justified, it must first be shown that the said agreement is valid. The provisions of the contract relied by respondents read as follows:

> "The EMPLOYER agrees to have in its employ and to employ only members in good standing of the UNION, in all its branches units, plants, quarries, warehouses, docks, etc. The UNION agrees to furnish at all time the laborers, employees and all technical helps that the EMPLOYER may require. EMPLOYER, however, reserves its right to accept or reject where they fail to meet its requirements." (Article I, Sec. 5.)
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> "The EMPLOYER agrees not to have in its employ nor to hire any new employee or laborer unless he is a member of good standing of the UNION, and a bonafide holder of a UNION (NWB) card, provided such new employee or laborer meets the qualifications required by the EMPLOYER." (Article VII, Sec. 5.)

The trial Judge construed the first Article I, Section 5, as applicable to those already on the job at the time the agreement was entered into in 1954,[1] while Article VII, Section 1 (d) as applicable to those getting employment thereafter. However, while the trial Judge ruled that the aforequoted pertinent provision of the collective bargaining agreement does not prescribe the period within which the employees must remain as members of good standing of the union, and therefore the dismissal of the complainants after they were expelled from the union was unjustified, the court en banc ruled that the word "employ"

as used in the proviso ("to have in its employ and to employ only members in good standing of the union") means "to retain in service," "to suffer or permit to work," "to keep at work." In short, the court en banc would read in the provision the employer's assent to retain in the service or to keep at work only those union members of good standing. We incline to uphold the stand of the trial judge.

In one case,[2] this Court ruled that a proviso in the collective bargaining contract which reads:

> "That the UNION shall have the exclusive right and privilege to supply the COMPANY with such laborers employees and workers as are necessary in the logging, mechanical, etc. and that the COMPANY agrees to employ or hire in any of its departments only such person or persons who are members of the UNION",

does not establish a "closed-shop" agreement. Thus, we held:

> "Inasmuch as Article II above quoted does not provide that employees 'must continue to remain members in good standing' of respondent union 'to keep their jobs,' the collective bargaining agreement between them does not establish a closed shop, except in a very limited sense namely, that the laborers, employees and workers engaged by the company after the signing of the agreement on January 23, 1935, must be members of respondent union. The agreement does not affect the light of the company to retain those already working therefor on or before said date, or those hired or employed subsequently thereto, while they were members of respondent union, but who, thereafter; resign or are expelled therefrom.
>
> "In order that an employer may be deemed bound, under a collective bargaining agreement, to dismiss employees for non-union membership, the stipulation to this effect must be so clear and unequivocal as to leave no room for doubt thereon. An undertaking of this nature is so harsh that it must be strictly construed, and doubts must be resolved against the existence of 'closed shop.' Referring particularly to the above-quoted Article II, we note that the same establishes the exclusive right of

> respondent union to 'supply' laborers, etc., and limits the authority of the company to 'employ or hire' them. In other words, it requires that the laborers, employees and workers hired or employed by the company be members of respondent union at the time of the commencement of the employer-employee relation. Membership in respondent union is not a condition for the continuation of said relation or for the retention of a laborer or employee engaged either before said agreement or while he was a member of said union."

There being no substantial difference between the wording of the provision involved in this case and that construed in the aforementioned case, we find no reason for the adoption of a different ruling herein.

For the foregoing reason, the resolution of the respondent Court en banc is hereby set aside. Respondents Company and union are declared guilty of unfair Labor practice as charged, and they are ordered to reinstate the complainants, and pay jointly and severally, their back wages from the date of their dismissal until they are reinstated by the respondent Company minus whatever they may have earned elsewhere during the period of their dismissal. Without costs. So ordered.

Concepcion, *C.J.*, Reyes, Dizon, Regala, Bengzon, Zaldivar and Castro, *JJ.*, concur.
Makalintal, *J.*, took no part.

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[1] This contract was allegedly automatically renewed. At any rate, this is not in issue in this case.
[2] Confederated Sons of Labor vs. Anakan Lumber Company, et al., G.R. L-12503, April 29, 1960.