SUPREME COURT
EN BANC

FRANCISCO SALUNGA,
***Petitioner*,**

-versus-

G.R. No. L-22456
September 27, 1967

COURT OF INDUSTRIAL RELATIONS, SAN MIGUEL BREWERY, INC., & MIGUEL NOEL, NATIONAL BREWERY, & ALLIED INDUSTRIES LABOR UNION OF THE PHILIPPINES (NABAILUP-PAFLU), JOHN DE CASTILLO and CIPRIANO CID,
***Respondents*.**
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D E C I S I O N

CONCEPCION, *C.J.*:

Appeal by petitioner Francisco Salunga from a Resolution of the Court of Industrial Relations, sitting en banc, dismissing unfair labor practice charges against the]e National Brewery and Allied Industries Labor Union of the Philippines (PAFLU) — hereinafter referred to as the Union — John de Castillo, Cipriano Cid, San Miguel Brewery, Inc. — hereinafter referred to as the Company — and Miguel Noel.

Petitioner had, since 1948, been an employee of the company, which, on October 2, 1959, entered with the Union, of which respondent John de Castillo is the president, into a collective bargaining agreement, effective up to June 30, 1962. Section 3 thereof reads:

> "The company agrees to require as a condition of employment of those workers covered by this agreement who either are members of the UNION on the date of the signing of this agreement, or may join the UNION during the effectivity of this agreement, that they shall not voluntarily resign from the UNION earlier than thirty (30) days before the expiry date of this agreement as provided in Article XIII hereof; provided, however, that nothing herein contained shall be construed to require the company to enforce any sanction whatsoever against any employee or worker who fails to retain his membership in the UNION as herein-before stated, for any cause other than voluntary resignation or non-payment of regular union dues on the part of said employee or worker." (Exh. 4-A - Union.)

Petitioner was a member of the Union since 1953. For reasons later to be stated, on August 18, 1961, he tendered his resignation from the Union, which accepted it on August 26, 1961, and transmitted it to the Company on August 29, 1961, with a request for the immediate implementation of said Section 3. The Company having informed him that his aforementioned resignation would result in the termination of his employment, in view of said Section, petitioner wrote to the Union, on August 31, 1961, a letter withdrawing or revoking his resignation and advising the Union to continue deducting his monthly union dues. He, moreover, furnished a copy of this communication to the Company. The latter, in turn, notified the Union of the receipt of said copy and that "in view thereof, we shall not take any action on this case and shall consider Mr. Francisco Salunga still a member of your union and continue deducting his

union due." On September 8, 1961, the Union told the Company that petitioner's membership could not be reinstated and insisted on his separation from the service, conformably with the stipulation above-quoted. The Company replied, on September 12, 1961, stating:

> "We asked Mr. Salunga if he realized that by resigning from the Union he would in effect be forfeiting his position in the company. When he answered in the negative, we showed him a copy of our Collective Bargaining Agreement end called his attention to Sec. 3, Art. II thereof. He then told us that he did not realize that he would be losing his job if he were to resign from the Union. We did not at any time ask or urge him to withdraw his resignation; neither are we now asking or insisting that you readmit him into your membership. We thought that informing him of the consequences of his resignation from the Union, was the only humane thing to do under the circumstances.
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> "Nevertheless, if notwithstanding our foregoing clarification you still consider him as having actually resigned from your organization, and you insist that we dismiss him from the service in accordance with Sec. 3, Article II of our agreement, we will have no alternative but to do so." (Exh. E)

In a letter to the Company, dated September 20, 1961, the Union reiterated its request for implementation of said Section 3, for which reason, on September 22, 1961, the Company notified petitioner that, in view of said letter and the aforementioned Section, "we regret we have to terminate your employment for cause. You are, therefore, hereby notified of your dismissal from the service effective as of the close of business hours, September 30, 1961."

Meanwhile, petitioner had sought the intention of PAFLU's National President, respondent Cipriano Cid, to which the Union was affiliated, for a review of the latter's action. The PAFLU gave due course to petitioner's request for review and asked the Company, on September 29, 1961, to defer his dismissal, for at least two (2) weeks, so that its (PAFLU's Executive Board could act on his appeal. On October 6, 1961, respondent Cid advised petitioner that the PAFLU, had found no ground to review the action taken by the Union and

that, on the expiration of the 15-day grace granted to him by the Company, the decision thereof to terminate his services would take effect.

Thereupon, or on October 11, 1961, petitioner notified the PAFLU that he was appealing to its supreme authority — the PAFLU National Convention — and requested that action on his case be deferred until such time as the Convention shall have acted on his appeal. A letter of the same date and tenor was sent, also, by the petitioner to the Union. Furthermore, he asked the Company to maintain the status quo, in the meantime. This notwithstanding, at the close of the business hours, on October 15, 1961, petitioner was discharged from the employment of the Company, through its assistant-secretary and vice- president herein respondent Miguel Noel.

At petitioner's behest, on or about December 7, 1961, a prosecutor of the Court of Industrial Relations commenced, therefore, the present proceedings, for unfair labor practice, against the Union, its president, respondent John de Castillo, respondent Cipriano Cid, as PAFLU president, the Company, and its aforementioned Vice-President, Miguel Noel. In due course, thereafter, the trial Judge rendered a decision the positive part of which reads:

> "IN VIEW OF ALL THE FOREGOING, the San Miguel Brewery, Inc., and Miguel Noel and National Brewery & Allied Industries Labor Union of the Philippines (PAFLU), John de Castillo, and Cipriano Cid, are hereby declared guilty of unfair labor practices as charged, and ordered to cease and desist from further committing such unfair labor practice acts complained off; and as affirmative reliefs:
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> > "(a) The National Brewery & Allied Industries Labor Union of the Philippines (PAFLU), John de Castillo and Cipriano Cid, their officers and agents, are hereby directed to readmit and to continue the membership of Francisco Salunga in the membership rolls of the union after paying all union dues, with all the rights and privileges being enjoyed by bonafide members;

"(b) he San Miguel Brewery, Inc., and Miguel Noel, their officers and agents are hereby directed to immediately reinstate Francisco Salunga to his former or substantially equivalent position with one-half back wages, without prejudice, however, to his seniority and/or other rights and privileges; and

"(c) Respondents Union and Company, their respective officers and agents, are likewise directed to post two copies of this decision in conspicuous places in their respective offices or plants for a period of one month, furnishing this Court with certificate of compliance after the expiration of said period."

On motion for reconsideration of the respondents, this decision was reversed by the Court of Industrial Relations sitting en banc with two (2) judges concurring in the result and the trial judge dissenting — which dismissed the case. Hence, this appeal by the petitioner.

The appeal is well taken, for, although petitioner had resigned from the Union and the latter had accepted the resignation, the former had, soon later—upon learning that his withdrawal from the Union would result in his separation from the Company, owing to the closed-shop provision above referred to — revoked or withdrawn said resignation, and the Union refused to consent thereto without any just cause therefor. The Union had not only acted arbitrarily in not allowing petitioner to continue his membership. The trial Judge found said refusal of the Union officers to be due to his critical attitude towards certain measures taken or sanctioned by them. As set forth in the decision of the trial Judge:

> "Prior to August, 1961, he had been criticizing and objecting to what he believed were illegal or irregular disbursements of union funds, i.e., allowing Florencio Tirad, a union official, to receive six months advanced salaries when Tirad went to the United States, which objection he openly manifested in a meeting of the board of directors and stewards, but instead of receiving favorable response, he (Salunga) was twitted and felt insulted by the laughter of those present after Mr. Torio of the Glass Factory remarked that he would be the next man to be

sent to America; second, granting Ricardo Garcia, union secretary, two months advance salaries when preparing for the bar examinations, which objection he broached to union officer Efren Meneses; third, the union's additional monthly expense for the salary of a counsel when the PAFLU, their mother union, is well staffed with a number of lawyers who could attend, and handle their cases and other legal matters, and to which mother union the NABAILUP has been paying a monthly assessment of more than P1,000.00; and fourth, giving salary to Charles Mitschek who was dismissed by the company but denying the same privilege to other similarly situated member-employees. Salunga was later removed by the union from his position as steward without his knowledge. It also appears that the power of attorney executed in his favor by co-worker Alejandro Miranda for the collection of Miranda's indebtedness of P60.00 to him (the latter has certain amount in possession of the Union) was not honored by the union.

x x x

"The record is clear that feeling dejected by the inaction of the union officials on his grievances and objections to what he believed were illegal disbursements of union funds, coupled with the fact that he was later removed from his position as a union steward without his knowledge, as well as the fact that the union did not honor the power of attorney executed in his favor by Alejandro Miranda, a co-worker, for the collection of Miranda's indebtedness of P60.00 to him, he submitted his letter of resignation from the union on August 18, 1961. It must be stated here that no evidence was adduced by the respondent union to overcome complainant's testimonies about his objections to the disbursements of union funds but only tried to elicit from him, on cross examination, that the funds of the union are only disbursed upon authority of the Executive Board of the union."

It should be noted that the Court of Industrial Relations en banc did not reverse these findings or fact of even question, the accuracy thereof. What is more, the officers of the Union have, in effect, confirmed the fact that their refusal to allow the withdrawal of

petitioner's resignation had been due to his aforementioned criticisms. Indeed said officers tried to justify themselves by characterizing said criticisms as acts of disloyalty to the Union, which, of course, is not true, not only because the criticism assailed, not the Union, but certain acts of its officers, and, indirectly, the officers themselves, but, also, because, the constitution and by-laws of the Union explicitly recognize the right of its members to give their views on "all transactions made by the Union." As a consequence, the resolution appealed from cannot be affirmed without, in effect, nullifying said right which, independently of the constitution and by-laws of the Union, is part and parcel of the freedom of speech guaranteed in the Constitution of our Republic, as a condition sine qua non to the sound growth and development of labor organizations and democratic institutions.

Although, generally, a state may not compel ordinary voluntary associations to admit thereto any given individual, because membership therein may be accorded or withheld as a matter of privilege,[1] the rule is qualified in respect of labor unions holding a monopoly in the supply of labor, either in a given locality, or as regards a particular employer with which it has a closed-shop agreement.[2] The reason is that:

> "The closed shop and the union shop cause the admission requirements of trade unions to become affected with the public interest. Likewise, a closed shop, a union shop, or maintenance of membership clauses cause the administration of discipline by unions to be affected with the public interest."[3]

Consequently, it is well settled that such unions are not entitled to arbitrarily exclude qualified applicants for membership, and closed-shop provision would not justify the employer in discharging, or a union in insisting upon the discharge of, an employee whom the union thus refuses to admit to membership, without any reasonable ground therefor[4] Needless to say, if said unions may be compelled to admit new members, who have the requisite qualifications, with more reason may the law and the courts exercise the coercive power when the employee involved is a long standing union member, who, owing to provocations of union officers, was impelled to tender his resignation, which he forthwith withdrew or revoked. Surely, he may,

at least, invoke the rights of those who seek admission for the first time, and can not arbitrarily be denied readmission.

We cannot agree, however, with the finding of the trial Judge to the effect that the Company was guilty of unfair labor practice. The Company was reluctant — if not unwilling to discharge the petitioner. When the Union first informed the Company of petitioner's resignation and urged implementation of Section 3 of the bargaining contract, the Company advised petitioner of the provisions thereof, thereby intimating that he had to withdraw his resignation in order to keep his employment. Besides, the Company notified the Union that it (the Company) would not take any action on the case and would consider the petitioner "still a member" of the Union. When the latter, thereafter, insisted on petitioner's discharge, the Company still demurred and explained it was not taking sides and that its stand was prompted merely by "humane" considerations, springing from the belief that petitioner had resigned from the Union without realizing its effect upon his employment. And, as the Union reiterated its demand, the Company notified petitioner that it had no other alternative but to terminate his employment and dismissed him from the service, although with "regret".

Under these circumstances, the Company was not "unfair" to the petitioner. On the contrary, it did not merely show a commendable understanding of and sympathy for his plight. It even tried to help him, although to such extent only as was consistent with its obligation to refrain from interfering in purely internal affairs of the Union. At the same time, the Company could not safely inquire into the motives of the Union officers, in refusing to allow the petitioner to withdraw his resignation. Inasmuch as the true motives were not manifest, without such inquiry, and petitioner had concededly tendered his resignation of his own free will, the arbitrary nature of the decision of said officers was not such as to be apparent and to justify the company in regarding said decision unreasonable. Upon the other hand, the Company can not be blamed for assuming the contrary, for petitioner had appealed to the National Officers of the PAFLU and the latter had sustained the Union. The Company was justified in presuming that the PAFLU had inquired into all relevant circumstances, including the motives of the Union Officers.

In finding, this notwithstanding, that the Company is guilty of unfair labor practice, the trial Judge seemed to have been unduly influenced by the fact that the former had dismissed the petitioner despite his announced intention to appeal from the decision of the Union and that of the officers of the PAFLU to its "supreme authority", namely, the PAFLU's "National Convention." In other words, said Judge felt that the Company should have waited for the action of the national convention before issuing the notice of dismissal.

There is no evidence, however, that petitioner had really brought this matter to said "Convention". Much less is there any proof that the latter had sustained him and reversed the PAFLU officers and the Union. Thus, the record does not show that petitioner was prejudiced by the Company's failure to maintain the status quo, after the Union had been sustained by said officers. In fact, petitioner did not even try to establish that he had submitted to the Company — as he has not introduced in the lower court — satisfactory proof that an appeal had really been taken by him to the aforementioned Convention. In short, it was error to hold the Company guilty of unfair labor practice.

Just the same, having been denied readmission into the Union and having been dismissed from the service owing to an unfair labor practice on the part of the Union, petitioner is entitled to reinstatement as member of the Union and to his former or substantially equivalent position in the Company, without prejudice to his seniority and/or rights and privileges, and with back pay, which back pay shall be borne exclusively by the Union. In the exercise of its sound judgment and discretion, the lower court may, however, take such measures as it may deem best, including the power to authorize the Company to make deductions, for petitioner's benefit, from the sums due to the Union, by way of check off or otherwise, with a view to executing this decision, and, at the same time, effectuating the purposes of the Industrial Peace Act.

With this modification, the aforementioned decision of trial Judge is hereby affirmed in all other respects, and the appealed resolution of the Court of Industrial Relations en banc is reversed, with costs against respondents, except the Company.

Reyes, Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, *JJ.*, concur.
Bengzon, *J.*, on leave, did not take part.

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[1] 4 Am. Jur. 462; 31 Am. Jur. 426.
[2] 31 Am. Jur. 432.
[3] Italics ours. Labor Law Cases and Materials, Archibal Cox, pp. 1009-1011. See also, Williams vs. International Brotherhood of Boiler- Makers, 27 Cal. 2d 586, 165 P 2d 903; James vs. Marineship Corp., 25 Cal. 2d 721, 155 P 2d 329.
[4] See 31 Am. Jur. 432.
