SUPREME COURT
EN BANC

SAN CARLOS MILLING CO., INC. and ALLIED WORKERS ASSOCIATION OF THE PHILIPPINES (AWA), SAN CARLOS CHAPTER,
***Petitioners*,**

-versus-

G.R. Nos. L-15453 & L-15723
March 29, 1962

COURT OF INDUSTRIAL RELATIONS and PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU), SINFOROSO KYAMKO and 150 OTHERS,
***Respondents*.**
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R E S O L U T I O N
(*DECISION *dated March 17, 1961)

REYES, *J.*:

Both the employer, San Carlos Milling Co., Inc., and the intervenor, Allied Workers Association of the Philippines (AWA), have petitioned for the reconsideration and reversal of our main decision that affirmed the Court of Industrial Relations' finding of unfair labor

practice and ordered the reinstatement of Sinforoso Kyamko and the PLASLU union strikers, with backpay.

It is first contended that the spirit of the union shop agreement between the employer and the AWA requires the old employees, already working when the contract was last renewed in 1955, to maintain their membership in the AWA as a condition to continued employment. We have already pointed out in our main opinion that paragraph 4 of the union shop agreement expressly prescribed that new employees should affiliate with the AWA and that upon their refusal to do so, or their expulsion from the union, the management would dismiss the employees upon the union's advice. On the other hand, paragraph 5, referring to those "presently working" at the time of the agreement, classified the latter into two groups: (a) those who had rendered 10 or more years continuous service were not compelled to join the AWA, provided they did not join other unions; while (b) those who had not rendered service for 10 years or more were only required to join and affiliate with the AWA within 30 days under penalty of dismissal. But with regard to the latter group of employees (and Kyamko was one of them), the contract did not expressly provide for their dismissal in case of subsequent expulsion from the Union; and this Court held that in the absence of such stipulation, Kyamko's subsequent expulsion from the AWA did not warrant his dismissal by the employer.

In so ruling, this Court had adhered to the doctrine laid down in Confederated Sons of Labor vs. Anakan Lumber Co., 107 Phil., 915 (reiterated in ICAWO vs. Central Pilar, L -17422, 28 Feb. 1962), that the dismissal of laborers for non-union membership must be expressly and unequivocally stipulated, because:

> "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'." (Confed. Sons of Labor vs. Anakan Lumber, supra)

With respect to employees already working at the time a bargaining contract is made, their discharge for failure to affiliate or maintain union membership always retains a coercive character inimical to the individual worker's freedom to join unions of its choice, and for this

reason, it has been viewed with disfavor, contracts providing it being restrictively interpreted (see Freeman Shirt Manufacturing Co., et al., vs. C.I.R., l-16561, 28 Jan. 1961; Talim Quarry Co., Inc. vs. Barriola, L-15768, 29 April 1961; NLU vs. Zip Venetian Blind Co., L-15827, 31 May 1961). To extend it by implication, as asked by petitioners, could easily result in perpetuation of one union's hold on the members, even after it has ceased to adequately represent their interests.

The discharge of Kyamko being patently unjustified, the supporting action by the PLASLU members can not be deemed an illegal strike; hence, participants therein could not be penalized by their discharge or by refusal to reinstate them when they applied for readmission without conditions.

Moreover, the renewal of the closed-shop agreement with AWA, on 11 December 1955, must be understood as subject to the outcome of the certification election that was subsequently won by the PLASLU against the AWA (PLASLU vs. Court of Industrial Relations, L-14656, November 29, 1960), because prior to such renewal, the PLASLU already had given formal notice of its claim to majority status on 28 November 1955, followed by a petition to the Court of Industrial Relations for a certification election on 2 December 1955. The employer was, therefore, aware, in renewing the closed-shop contract with AWA, that the latter might turn out to be the proper bargaining agency, and thereby acted at its risk in yielding to the AWA's demand for the discharge of Kyamko and of the strikers, for it knew, or ought to know, that the union shop clauses could not be enforceable if PLASLU won the right to be the proper collective bargaining agency.

The good faith of the Company, however, has been duly taken into account by us when we reduced to one half the backpay of the laborers entitled to reinstatement, thereby apportioning the prejudice equally between the employer and employees. To exempt totally the Company from the payment of backpay would place the entire burden of its error on the shoulders of the laborers improperly discharged, contrary to all justice and equity. We see no reason for so doing, specially considering that, as between the two parties, the laborers were certainly the weaker in economic power and resources, whereas the company enjoyed not only superior finances but also had access to advice of eminent counsel.

As to the possibility that payment at one time of the entire backpay ordered might inflict on the employer Company an irretrievably crippling blow, we feel that this matter should be properly addressed to the Court of Industrial Relations, and not to us. That court possesses adequate machinery to ascertain and pass upon the truth of the claim, to determine the deductions to be made by reason of earnings of the laborers during the pendency of the action, and to decide the manner in which the payment or payments should be made. If the Company's claim is correct, the laborers themselves should be interested in devising ways whereby the payment may be made without forcing the company to close its business to their own prejudice.

The Motions for Reconsideration are **DENIED**. Let the records be remanded to the court below for determination of the amount and manner of payment of the back wages conformably to this opinion.

Bengzon, *C.J.*, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon and De Leon, *JJ.*, concur.