SUPREME COURT
SECOND DIVISION

SAN MIGUEL CORPORATION EMPLOYEES UNION-PTGWO, DANIEL S.L. BORBON II, HERMINIA REYES, MARCELA PURIFICACION, ET AL.,
***Petitioners*,**

-versus-

G.R. No. 87700
June 13, 1990

HON. JESUS G. BERSAMIRA, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 166, RTC, PASIG, and SAN MIGUEL CORPORATION,
***Respondents*.**
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D E C I S I O N

MELENCIO-HERRERA, *J.*:

Respondent Judge of the Regional Trial Court of Pasig, Branch 166, is taken to task by petitioners in this special civil action for Certiorari and Prohibition for having issued the challenged Writ of Preliminary Injunction on 29 March 1989 in Civil Case No. 57055 of his Court entitled "San Miguel Corporation vs. SMCEU-PTGWO, et al."

Petitioners' plea is that said Writ was issued without or in excess of jurisdiction and with grave abuse of discretion, a labor dispute being involved. Private respondent San Miguel Corporation (SanMig. for short), for its part, defends the Writ on the ground of absence of any employer-employee relationship between it and the contractual workers employed by the companies Lipercon Services, Inc. (Lipercon) and D'Rite Service Enterprises (D'Rite), besides the fact that the Union is bereft of personality to represent said workers for purposes of collective bargaining. The Solicitor General agrees with the position of SanMig.

The antecedents of the controversy reveal that:

Sometime in 1983 and 1984, SanMig entered into contracts for merchandising services with Lipercon and D'Rite (Annexes K and I, SanMig's Comment, respectively). These companies are independent contractors duly licensed by the Department of Labor and Employment (DOLE). SanMig entered into those contracts to maintain its competitive position and in keeping with the imperatives of efficiency, business expansion and diversity of its operation. In said contracts, it was expressly understood and agreed that the workers employed by the contractors were to be paid by the latter and that none of them were to be deemed employees or agents of SanMig. There was to be no employer-employee relation between the contractors and/or its workers, on the one hand, and SanMig on the other.

Petitioner San Miguel Corporation Employees Union-PTWGO (the Union, for brevity) is the duly authorized representative of the monthly paid rank-and-file employees of SanMig with whom the latter executed a Collective Bargaining Agreement (CBA) effective 1 July 1986 to 30 June 1989 (Annex A, SanMig's Comment). Section 1 of their CBA specifically provides that "temporary, probationary, or contract employees and workers are excluded from the bargaining unit and, therefore, outside the scope of this Agreement."

In a letter, dated 20 November 1988 (Annex C, Petition), the Union advised SanMig that some Lipercon and D'Rite workers had signed up for union membership and sought the regularization of their employment with SMC. The Union alleged that this group of

employees, while appearing to be contractual workers of supposedly independent contractors, have been continuously working for SanMig for a period ranging from six (6) months to fifteen (15) years and that their work is neither casual nor seasonal as they are performing work or activities necessary or desirable in the usual business or trade of SanMig. Thus, it was contended that there exists a "labor-only" contracting situation. It was then demanded that the employment status of these workers be regularized.

On 12 January 1989 On the ground that it had failed to receive any favorable response from SanMig, the Union filed a notice of strike for unfair labor practice, CBA violations, and union busting (Annex D, Petition).

On 30 January 1989, the Union again filed a second notice of strike for unfair labor practice (Annex F, Petition).

As in the first notice of strike. Conciliatory meetings were held on the second notice. Subsequently, the two (2) notices of strike were consolidated and several conciliation conferences were held to settle the dispute before the National Conciliation and Mediation Board (NCMB) of DOLE (Annex G, Petition).

Beginning 14 February 1989 until 2 March 1989, series of pickets were staged by Lipercon and D'Rite workers in various SMC plants and offices.

On 6 March 1989, SMC filed a verified Complaint for Injunction and Damages before respondent Court to enjoin the Union from:

a. representing and or acting for and in behalf of the employees of LIPERCON and or D'RITE for the purposes of collective bargaining;

b. calling for and holding a strike vote to compel plaintiff to hire the employees or workers of LIPERCON and D'RITE;

c. inciting, instigating and/or inducing the employees or workers of LIPERCON and D'RITE to demonstrate and or

picket at the plants and offices of plaintiff within the bargaining unit referred to in the CBA;

d. staging a strike to compel plaintiff to hire the employees or workers of LIPERCON and D'RITE;

e. using the employees or workers of LIPERCON AND D'RITE to man the strike area and/or picket lines and/or barricades which the defendants may set up at the plants and offices of plaintiff within the bargaining unit referred to in the CBA;

f. intimidating, threatening with bodily harm and or molesting the other employees and/or contract workers of plaintiff, as well as those persons lawfully transacting business with plaintiff at the work places within the bargaining unit referred to in the CBA, to compel plaintiff to hire the employees or workers of LIPERCON and D'RITE;

g. blocking, preventing, prohibiting, obstructing and/or impeding the free ingress to, and egress from, the work places within the bargaining unit referred to in the CBA, to compel plaintiff to hire the employees or workers of LIPERCON and D'RITE;

h. preventing and/or disrupting the peaceful and normal operation of plaintiff at the work places within the bargaining unit referred to in the CBA, Annex "C" hereof, to compel plaintiff to hire the employees or workers of LIPERCON and D'RITE. (Annex H, Petition).

Respondent Court found the Complaint sufficient in form and substance and issued a Temporary Restraining Order for the purpose of maintaining the status quo, and set the application for Injunction for hearing.

In the meantime, on 13 March 1989, the Union filed a Motion to Dismiss SanMig's Complaint on the ground of lack of jurisdiction over the case/nature of the action, which motion was opposed by SanMig. That Motion was denied by respondent Judge in an Order dated 11 April 1989.

After several hearings on SanMig's application for injunctive relief, where the parties presented both testimonial and documentary evidence on 25 March 1989, respondent Court issued the questioned Order (Annex A, Petition) granting the application and enjoining the Union from Committing the acts complained of, supra. Accordingly, on 29 March 1989, respondent Court issued the corresponding Writ of Preliminary Injunction after SanMig had posted the required bond of P100,000.00 to answer for whatever damages petitioners may sustain by reason thereof.

In issuing the Injunction, respondent Court rationalized:

> The absence of employer-employee relationship negates the existence of labor dispute. Verily, this court has jurisdiction to take cognizance of plaintiff's grievance.
>
> The evidence so far presented indicates that plaintiff has contracts for services with Lipercon and D'Rite. The application and contract for employment of the defendants' witnesses are either with Lipercon or D'Rite. What could be discerned is that there is no employer-employee relationship between plaintiff and the contractual workers employed by Lipercon and D'Rite. This, however, does not mean that a final determination regarding the question of the existence of employer-employee relationship has already been made. To finally resolve this dispute, the court must extensively consider and delve into the manner of selection and engagement of the putative employee; the mode of payment of wages; the presence or absence of a power of dismissal; and the presence or absence of a power to control the putative employee's conduct This necessitates a full-blown trial. If the acts complained of are not restrained, plaintiff would, undoubtedly, suffer irreparable damages. Upon the other hand, a writ of injunction does not necessarily expose defendants to irreparable damages.
>
> Evidently, plaintiff has established its right to the relief demanded. (p. 21, Rollo).

Anchored on grave abuse of discretion, petitioners are now before us seeking nullification of the challenged Writ. On 24 April 1989, we issued a Temporary Restraining Order adjoining the implementation of the Injunction issued by respondent Court. The Union construed this to mean that "we can now strike," which it superimposed on the Order and widely circulated to entice the Union membership to go on strike. Upon being apprised thereof, in a Resolution of 24 May 1989, we required the parties to "RESTORE the status quo ante declaration of strike" (p. 262 Rollo).

In the meantime, however, or on 2 May 1989, the Union went on strike. Apparently, some of the contractual workers of Lipercon and D'Rite had been laid off. The strike adversely affected thirteen (13) of the latter's plants and offices.

On 3 May 1989, the National Conciliation and Mediation Board (NCMB) called the parties to conciliation. The Union stated that it would lift the strike if the thirty (30) Lipercon and D'Rite employees were recalled, and discussion on their other demands, such as wage distortion and appointment of coordinators, were made. Effected eventually was a Memorandum of Agreement between SanMig and the Union that "without prejudice to the outcome of G.R. No. 87700 (this case) and Civil Case No. 57055(the case below),the laid-off individuals shall be recalled effective 8 May 1989 to their former jobs or equivalent positions under the same terms and conditions prior to lay-off ' (Annex 15, SanMig Comment). In turn, the Union would immediately lift the pickets and return to work.

After an exchange of pleadings, this Court, on 12 October 1989, gave due course to the Petition and required the parties to submit their memoranda simultaneously, the last of which was filed on 9 January 1990.

The focal issue for determination is whether or not respondent Court correctly assumed jurisdiction over the present controversy and properly issued the Writ of Preliminary Injunction. Crucial to the resolution of that question, is the matter of whether or not the case at bar involves, or is in connection with, or relates to a labor dispute. An affirmative answer would bring the case within the original and

exclusive jurisdiction of labor tribunals to the exclusion of the regular Courts.

Petitioners take the position that "it is beyond dispute that the controversy in the court a quo involves or arose out of a labor dispute and is directly connected or interwoven with the cases pending with the NCMB-DOLE, and is thus beyond the ambit of the public respondent's jurisdiction. That the acts complained of (i.e., the mass concerted action of picketing and the reliefs prayed for by the private respondent) are within the competence of labor tribunals, is beyond question" (pp. 6-7, Petitioners' Memo).

On the other hand, SanMig denies the existence of any employer-employee relationship and consequently of any labor dispute between itself and the Union. SanMig submits, in particular, that "respondent Court is vested with jurisdiction and judicial competence to enjoin the specific type of strike staged by petitioner union and its officers herein complained of," for the reasons that:

A. The exclusive bargaining representative of an employer unit cannot strike to compel the employer to hire and thereby create en employment relationship with contractual workers, especially were the contractual workers were recognized by the union, under the governing collective bargaining agreement, as excluded from, and therefore strangers to, the bargaining unit.

B. A strike is a coercive economic weapon granted the bargaining representative only in the event of a deadlock in a labor dispute over 'wages, hours of work and all other terms and conditions of the employment' of the employees in the unit. The union leaders cannot instigate a strike to compel the employer, especially on the eve of certification elections, to hire strangers or workers outside the unit, in the hope the latter will help re-elect them.

C. Civil courts have the jurisdiction to enjoin the above strike because this specie of strike does not arise out of a labor dispute, is an abuse of right, and violates the employer's

> constitutional liberty to hire or not to hire. (SanMig's Memorandum, pp. 475-476, Rollo).

We find the Petition of a meritorious character.

A "labor dispute" as defined in Article 212 (1) of the Labor Code includes "any controversy or matter concerning terms and conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing, or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee."

While it is SanMig's submission that no employer-employee relationship exists between itself, on the one hand, and the contractual workers of Lipercon and D'Rite on the other, a labor dispute can nevertheless exist "regardless of whether the disputants stand in the proximate relationship of employer and employee" (Article 212 [1], Labor Code, supra) provided the controversy concerns, among others, the terms and conditions of employment or a "change" or "arrangement" thereof (ibid). Put differently, and as defined by law, the existence of a labor dispute is not negatived by the fact that the plaintiffs and defendants do not stand in the proximate relation of employer and employee.

That a labor dispute, as defined by the law, does exist herein is evident. At bottom, what the Union seeks is to regularize the status of the employees contracted by Lipercon and D'Rite and, in effect, that they be absorbed into the working unit of SanMig. This matter definitely dwells on the working relationship between said employees vis-a-vis SanMig. Terms, tenure and conditions of their employment and the arrangement of those terms are thus involved bringing the matter within the purview of a labor dispute. Further, the Union also seeks to represent those workers, who have signed up for Union membership, for the purpose of collective bargaining. SanMig, for its part, resists that Union demand on the ground that there is no employer-employee relationship between it and those workers and because the demand violates the terms of their CBA. Obvious then is that representation and association, for the purpose of negotiating the conditions of employment are also involved. In fact, the injunction sought by SanMig was precisely also to prevent such representation.

Again, the matter of representation falls within the scope of a labor dispute. Neither can it be denied that the controversy below is directly connected with the labor dispute already taken cognizance of by the NCMB-DOLE (NCMB-NCR-NS-O1-021-89; NCMB NCR NS-01-093-83).

Whether or not the Union demands are valid; whether or not SanMig's contracts with Lipercon and D'Rite constitute "labor-only" contracting and, therefore, a regular employer-employee relationship may, in fact, be said to exist; whether or not the Union can lawfully represent the workers of Lipercon and D'Rite in their demands against SanMig in the light of the existing CBA; whether or not the notice of strike was valid and the strike itself legal when it was allegedly instigated to compel the employer to hire strangers outside the working unit; — those are issues the resolution of which call for the application of labor laws, and SanMig's cause/s of action in the Court below are inextricably linked with those issues.

The precedent in Layno vs. de la Cruz (G.R. No. L-29636, 30 April 1965, 13 SCRA 738) relied upon by SanMig is not controlling as in that case there was no controversy over terms, tenure or conditions, of employment or the representation of employees that called for the application of labor laws. In that case, what the petitioning union demanded was not a change in working terms and conditions, or the representation of the employees, but that its members be hired as stevedores in the place of the members of a rival union, which petitioners wanted discharged notwithstanding the existing contract of the arrastre company with the latter union. Hence, the ruling therein, on the basis of those facts unique to that case, that such a demand could hardly be considered a labor dispute.

As the case is indisputably linked with a labor dispute, jurisdiction belongs to the labor tribunals. As explicitly provided for in Article 217 of the Labor Code, prior to its amendment by R.A. No. 6715 on 21 March 1989, since the suit below was instituted on 6 March 1989, Labor Arbiters have original and exclusive jurisdiction to hear and decide the following cases involving all workers including "1. unfair labor practice cases; 2. those that workers may file involving wages, hours of work and other terms and conditions of employment; . . . and 5. cases arising from any violation of Article 265 of this Code,

including questions involving the legality of striker and lockouts." Article 217 lays down the plain command of the law.

The claim of SanMig that the action below is for damages under Articles 19, 20 and 21 of the Civil Code would not suffice to keep the case within the jurisdictional boundaries of regular Courts. That claim for damages is interwoven with a labor dispute existing between the parties and would have to be ventilated before the administrative machinery established for the expeditious settlement of those disputes. To allow the action filed below to prosper would bring about "split jurisdiction" which is obnoxious to the orderly administration of justice (Philippine Communications, Electronics and Electricity Workers Federation vs. Hon. Nolasco, L-24984, 29 July 1968, 24 SCRA 321).

We recognize the proprietary right of SanMig to exercise an inherent management prerogative and its best business judgment to determine whether it should contract out the performance of some of its work to independent contractors. However, the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law (Section 3, Article XIII, 1987 Constitution) equally call for recognition and protection. Those contending interests must be placed in proper perspective and equilibrium.

WHEREFORE, the Writ of Certiorari is **GRANTED** and the Orders of respondent Judge of 25 March 1989 and 29 March 1989 are SET ASIDE. The Writ of Prohibition is **GRANTED** and respondent Judge is enjoined from taking any further action in Civil Case No. 57055 except for the purpose of dismissing it. The status quo ante declaration of strike ordered by the Court on 24 May 1989 shall be observed pending the proceedings in the National Conciliation Mediation Board - Department of Labor and Employment, docketed as NCMB-NCR-NS-01-021-89 and NCMB-NCR-NS-01-093-83. No costs.

SO ORDERED.

Paras and Regalado, *JJ.*, concur.

Padilla, *J., (Because of substantial interests in San Miguel Corporation)* took no part.
Sarmiento, *J.*, took no part *(I was a former Director and Legal Consultant).*
