SUPREME COURT
FIRST DIVISION

SAN MIGUEL CORPORATION, ANGEL G. ROA and MELINDA MACARAIG,
***Petitioners*,**

-versus-

G.R. No. 108001
March 15, 1996

NATIONAL LABOR RELATIONS COMMISSION (Second Division), LABOR ARBITER EDUARDO J. CARPIO, ILAW AT BUKLOD NG MANGGAGAWA (IBM), ET AL.,
***Respondents*.**
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D E C I S I O N

HERMOSISIMA, JR., *J.*:

In the herein Petition for Certiorari under Rule 65, petitioners question the jurisdiction of the Labor Arbiter to hear a complaint for unfair labor practice, illegal dismissal, and damages, notwithstanding the provision for grievance and arbitration in the Collective Bargaining Agreement

Let us unfurl the facts.

Private respondents, employed by petitioner San Miguel Corporation (SMC) as mechanics, machinists, and carpenter, were and still are bona officers and members of private respondent Ilaw at Buklod ng Manggagawa.

On or about July 31, 1990, private respondent were serve a Memorandum from petitioner Angel G. Roa, Vice-President and Manager of SMC's Business Logistic Division (BLD), to the effect that they had to be separate from the service effective October 31, 1990 on the ground of "redundancy or excess personnel." Respondent union, in behalf of private respondents, opposed the intended dismissal and asked for a dialogue with management.

Accordingly, a series of dialogues were held between petitioner and private respondents. Event before the conclusion of said dialogues, the aforesaid petitioner Angel ROA issued another Memorandum on October 1, 1990 informing private respondent that they would be dismissed from work effective as of the close of business hours on November 2, 1990. Private respondents were in fact purged on the date aforesaid.

Thus, on February 25, 1991, private respondent filed a complaint against petitioner for Illegal Dismissal and Unfair Labor Practices, with a prayer for damages and attorney's fees, with the Arbitration Branch of respondents National Labor Relations Commission. The complaint[1] was assigned to Labor Arbiter Eduardo F. Carpio for hearing and proper disposition.

On April 15, 1991, petitioners filed a motion to dismiss the complaint, alleging that respondent Labor Arbiter had no jurisdiction over the subject matter of the complaint, and that respondent Labor Arbiter must defer consideration of unfair labor practice complaint until after the parties have gone though the grievance procedure provided for in the existing Collective Bargaining Agreement (CBA). Respondent Labor Arbiter denied this motion in a Resolution, dated September 23, 1991.

The petitioners appealed the denial to respondent Commission on November 8, 1991. Unimpressed by the grounds therefor, respondent Commission dismissed the appeal in its assailed Resolution, dated

August 11, 1992. Petitioner promptly filed a Motion for Reconsideration which, however, was denied through the likewise assailed Resolution, dated October 29, 1992.

Hence the instant petition for certiorari alleging the following grounds was filed by petitioner:

I

> RESPONDENT LABOR ARBITER CANNOT EXERCISE JURISDICTION OVER THE ALLEGED ILLEGAL TERMINATION AND ALLEGED ULP CASES WITHOUT PRIOR RESORT TO GRIEVANCE AND ARBITRATION PROVIDED UNDER THE CBA.

II

> THE STRONG STATE POLICY ON THE PROMOTION OF VOLUNTARY MODES OF SETTLEMENT OF LABOR DISPUTES CRAFTED IN THE SUBMISSION OF THE CBA DISPUTE TO GRIEVANCE AND ARBITRATION.[2]

Petitioners posit the basic principle that a collective bargaining agreement is a contract between management and labor that must bind and be enforced in the first instance as between the parties thereto. In this case, the CBA between the petitioner and respondent union provides, under Section 1, Article V entitled ARBITRATION, that "'wages, hours of work, condition of employment and/or employer-employee relations shall be settled by arbitration." Petitioner's thesis is that the dispute as to the termination, and not directly by the labor arbiter, following the above provision of the CBA, which ought to be treated as the law between the parties thereto.

The argument is unmeritorious. The law in point is Article 217 (a) of the Labor Code. It is elementary that this law is deemed written into the CBA. In fact, the law speaks in plain and unambiguous terms that termination disputes, together with unfair labor practices, are matter falling under the original and exclusive jurisdiction of the Labor Arbiter, to wit:

> "Article 217. Jurisdiction of Labor Arbiters and the Commission (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide the following case involving all workers, whether agricultural or non-agricultural:
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> (1) Unfair labor practice cases:
>
> (2) Termination disputes,
>
> x x x

The sole exception to the above rule can be found under Article 262 of the same Code which provides:

> "Article 262. Jurisdiction over other labor disputes — The voluntary arbitrator or panel of voluntary arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks." (As added by RA 6715)

We subjected the records of this case, particularly the CBA, to meticulous scrutiny and we find no agreement between SMC and the respondent union that would state in unequivocal language that petitioners and respondent union conform to the submission of termination disputes and unfair labor practices to voluntary arbitration .Section 1, Article V of the CBA, cited by the herein petitioners, certainly does not provide so. Hence, consistent with the general rule under Article 217 (a) of the Labor Code, the Labor Arbiter property has jurisdiction over the complaint filed by the respondent union on February 25, 1991 for illegal dismissal and unfair labor practice.

Petitioner point however to Section 2, Article III of the CBA, under the heading Job Security, to show that the dispute is a proper subject of the grievance procedure, viz:

> "The UNION, however, shall have the right to seek reconsideration of any discharge, lay-off or disciplinary action, and such requests for reconsideration shall be considered a

> dispute or grievance to be dealt with in accordance with the procedure outlined in Article IV hereof [on Grievance Machinery].[3]" (Emphasis ours)

Petitioner allege that respondent union requested management for a "reconsideration and review" of the company's decision to terminate the employment of the union members. By this act, petitioners argue, respondent union recognized that the questioned dismissal is a grievable dispute by virtue of Section 2, Article III of the CBA. This allegation was strongly denied by the respondent union. In a Memorandum filed for the public respondent NLRC, the Solicitor General support the respondent union that it did not seek reconsideration from the SMC management in regard to the dismissal of the employees.

Petitioners fail miserably to prove that, needed, the respondent union requested for a reconsideration or review of the management decision to dismiss the private respondents. A punctilious examination of the records indubitably reveals that at no time did the respondent union exercise its right to seek reconsideration of the company's move to terminate the employment of the union members, which request for reconsideration world have triggered the application of Section 2 Article III of the CBA, thus resulting in the treatment of the dispute as a grievance to be dealt with in accordance with the Grievance Machinery laid down in Article IV of the CBA. Stated differently, the filling of a request for reconsideration by the respondent union, which is the condition sine qua non to categorize the termination dispute and the ULP complaint as a grievable dispute was decidedly absent in the case at bench. Hence, the respondent union acted well within their rights in filing their complaint for illegal dismissal and ULP directly with the Labor Arbiter under Article 217(a) of the Labor Code.

Second. Petitioner insist that involved in the controversy is the interpretation and implementation of the CBA which is grievable and arbitrable by law under Article 217(C) of the Labor Code.

> "ART. 217(c). Case arising from the interpretation and implementation of collective bargaining agreements and those arising from the interpretation or enforcement of the company

> personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements. (As amended by RA 6715).

Petitioner theorize that since respondents questioned the discharges, the main question for Resolution is whether SMC had the management right or prerogative to effect the discharges on the ground of redundancy, and this necessary calls for the interpretation or implementation of Article III (Job Security) in relation to Article IV (Grievance Machinery)of the CBA.[4]

Petitioner's theory does not hold water. There is no connection whatsoever between SMC's management prerogative to effect the discharge and the interpretation or implementation of Articles III and IV of the CBA. The only relevant provision under Article III that may need interpretation or implementation is Section 2 which was cited herein. However, as patiently pointed out by this court, said provision does not come into play considering that the union never exercised its right to seek reconsideration of the discharges effected by the company. It would have been different had the union sought reconsideration. Such recourse under Section 2 would have been treated as a grievance under Article IV (Grievance Machinery) of the CBA thus calling for the possible interpretation or implementation of the case however. The union brought the termination dispute directly to the Labor Arbiter rending Articles III and IV of the CBA inapplicable for the resolution of this case.

The discharges, petitioner also contend, call for the interpretation or enforcement of company personnel policies, particularly SMC's personnel policies on lay-offs arising from redundancy, and so, they may be considered grievable and arbitrable by virtue of Article 217(c). Not necessarily so. Company personnel policies are guiding principles stated in broad, long-range terms that express the philosophy or beliefs of an organization's top authority regarding personnel matters. They deal with matters affecting efficiency and well being of employees and include, among others, the procedure in the administration of wages, benefits, promotions, transfer and other personnel movements which are usually not spelled out in the collective agreement. The usual source of grievances, however, is the

rules and regulations governing disciplinary actions.[5] Judging therefrom, the questioned discharges due to alleged redundancy can hardly be considered company personnel policies and therefore need not directly be subject to the grievance machinery nor to voluntary arbitration.

Third. Petitioner would like to persuade us that respondents' ULP claims are merely conclusory and cannot serve to vest jurisdiction to the Labor Arbiters. Petitioners argue with passion: "How was the employee discharges' (sic) right to self-organization restrained by their termination? Respondent did not show. There is no allegation of the existence of anti-union animus or of the ultimate facts showing how the discharges affected the rights to self-organization of individual respondents."[6] In short, petitioners maintain that respondents' complaint does not allege a genuine case for ULP.

The Court is not convinced.

The complaint alleges that:

> "5. Individual complainants are bona fide officer and members of complainant Ilaw at Buklod ng Mangagawa (IBM). They are active and militant in the affairs and activities of the union.
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> x x x
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> 23. The dismissal or lock-out from work of the individual complainants clearly constitutes an act of unfair labor practices in the light of the fact that the work being performed by the individual complainants are being contracted out by the respondent company, and, therefore, deprives individual complainants of their right to work and it constitutes a criminal violation of existing laws.
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> x x x
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> 25. The acts of the respondent company in economically coercing employees to accept payment of separation and/or retirement benefits, pending final resolution of the labor

> disputes between the parties constitute acts of unfair labor practice in the light of the fact that there is undue interference, restraint, and coercion of employees in the exercise of their right to self-organization and collective bargaining."[7]

Short of pre-empting the proceedings before the Labor Arbiter, the above complaint, makes out a genuine case for ULP.

In Manila Pencil Co. vs. CIR,[8] this Court had occasion to observe that even where business conditions justified a lay-off of employees, unfair labor practices were committed in the form of discriminatory dismissal where only unionists were permanently dismissed. This was despite the valid excuse given by the valid excuse given by the Manila Pencil Company that the dismissal of the employees was due to the reduction of the company's dollar allocations for importation and that both union members and non-union members were laid-off. The Court, the Justice Makalintal, rebuffed the petitioner Company and said:

> "The explanation , however, does not by any means account for the permanent dismissal of five of the unionists, where it does not appear that non-unionists were similarly dismissed.
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> x x x
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> And the discrimination shown by the Company strongly is confirmed by the fact that during the period from October 1958 to August 17, 1959 it hired from fifteen to twenty new employees and ten apprentices. It says these employees were for its new lead factory, but is (sic) not shown that the five who had been permanently dismissed were not suitable for work in that new factory."

A similar ruling was made by this Court in People's Bank and Trust Co. vs. People's Bank and Trust Co. Employees Union[9] involving the lay-off by a bank of sixty-five (65) employees who were active union members allegedly by reason of retrenchment. The Court likewise found the employer in that case have committed ULP in effecting the discharges.

This Court was more emphatic in Bataan Shipyard and Engineering Co., Inc. vs. NLRC, et al.:[10]

> "Under the circumstances obtaining in this case, We are inclined to believe that the company had indeed been discriminatory in selecting the employees who were to be retrenched. All of the retrenched employees are officer and member of the NAFLU. The record of the case is bereft of any satisfactory explanation from the Company regarding this situation. As such , the action taken by the firm becomes highly suspect. It leads Us to conclude that the firm had been discriminating against membership in the NAFLU, an act which amounts to interference in the employees' exercise of their right of self-organization. Under Art. 249 (now Art. 248)of the Labor Code of the Philippines, such interference is considered an act of unfair labor practice on the part of the Company. (Emphasis ours)

It matters not that the cause of termination in the above cited cases was retrenchment while that in the instant case was redundancy. The important fact is that in all of these cases, including the one at bar, all of the dismissed employees were officers and members of their respective unions, and their employers failed to give a satisfactory explanation as to why this group of employees was singled out.

It may be the case that employees other than union members may have been terminated also by petitioner SMC on account of its redundancy program. If that is true, the discharges may really be for a bona fide authorized cause under Article 283[11] of the Labor Code. On the other hand, it is also possible that such may only be a clever scheme of the petitioner company to camouflage its real intention of discriminating against union members particularly the private respondents. In any case, these matters will be best ventilated in a hearing before the Labor Arbiter.

It is for the above reason that we cannot hold the petitioners guilty of the ULP charge. This will be the task of the Labor Arbiter. We however find that based on the circumstances surrounding this case and settled jurisprudence on the subject, the complaint filed by the private respondents on February 25, 1991 alleges facts sufficient to

constitute a bona fide case of ULP, and therefore properly cognizable by the Labor Arbiter under Article 217(a) of the Labor Code. This is consistent with the rule that jurisdiction over the subject matter is determined by the allegations of the complaint.[12]

Finally, petitioners try to impress on this Court the strong State policy on the promotion of voluntary modes of settlement of labor disputes crafted in the Constitution and the Labor Code which dictate submission of the CBA dispute to grievance and arbitration.[13]

In this regard, the response of the Solicitor General is apt:

> "Petitioners deserve commendation for divulging and bringing to public respondents' attention the noble legislative intent behind the law mandating the inclusion of grievance and voluntary arbitration provisions in the CBA. However, in the absence of an express legal conferment thereof, jurisdiction cannot be appropriated by an official or tribunal (sic) no matter how well-intentioned it is, even in the pursuit of the clearest substantial right (Concurring Opinion of Justice Barredo, Estanislao vs. Honrado, 114 SCRA 748, 29 June 1982)."[14]
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> "In the same manner, petitioners cannot arrogate into the powers of voluntary arbitrators the original and exclusive jurisdiction of Labor Arbiters over unfair labor practices, termination disputes, and claims for damages, in the absence of an express agreement between the parties in order for Article 262[15] of the Labor Law to apply in the case at bar.[16]

WHEREFORE, the instant petition is **DISMISSED** for lack of merit and the resolution of the National Labor Relation Commission dated August 11, 1992 and October 29, 1992 are hereby **AFFIRMED**.

SO ORDERED.

Bellosillo, Vitug and Kapunan, *JJ.*, concur.
Padilla, *J.*, took no part.

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[1] Docketed as NLRC-NCR-Case No. 00-02-01210-91.

[2] Petition p. 15; Rollo, p. 237.
[3] Rollo, p. 41.
[4] Rollo, p. 241.
[5] C.A. Azucena, The Labor Code With and Case, Volume II, 1993 ed., p. 272.
[6] Petition, p. 22; Rollo, p 244.
[7] Rollo, pp 82, 86.
[8] 14 SCRA 9955 [1965].
[9] 69 SCRA 10 [1976].
[10] SCRA 271 [1988].
[11] Art. 283. Closure of establishment and reduction of personnel. — The employer may also terminate the employment of any employee due the installation of labor-saving device, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking.
[12] Regalado, Florenz D., Remedial Law Compendium, Volume One, Fifth Revised Edition, p. 8, citing Edward J. Nell & Co. vs. Cubacub, L-20843, 23 June 1965; Time, Inc. vs. Reyes, L-28882, 31 May 1971; Ganadin vs. Ramos, L-23547, 11 September 1980.
[13] Petition, p. 27; Rollo, p. 249.
[14] Memorandum of Respondent , p. 13; Rollo, p. 271
[15] Art. 262. Jurisdiction over other labor disputes. — The voluntary arbitrator or panel of voluntary arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks
[16] Rollo, p. 272.