SUPREME COURT
FIRST DIVISION

SAN MIGUEL CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 119293
June 10, 2003

NATIONAL LABOR RELATIONS COMMISSION, Second Division, ILAW AT BUKLOD NG MANGGAGAWA (IBM),
***Respondents*.**
x----------x

D E C I S I O N

AZCUNA, *J.*:

Before us is a Petition for Certiorari and Prohibition seeking to set aside the Decision of the Second Division of the National Labor Relations Commission (NLRC) in Injunction Case No. 00468-94 dated November 29, 1994,[1] and its resolution dated February 1, 1995[2] denying petitioner's motion for reconsideration.

Petitioner San Miguel Corporation (SMC) and respondent Ilaw at Buklod ng Manggagawa (IBM), exclusive bargaining agent of petitioner's daily-paid rank and file employees, executed a Collective Bargaining Agreement (CBA) under which they agreed to submit all disputes to grievance and arbitration proceedings. The CBA also

included a mutually enforceable no-strike no-lockout agreement. The pertinent provisions of the said CBA are quoted hereunder:

ARTICLE IV
GRIEVANCE MACHINERY

Section 1. The parties hereto agree on the principle that all disputes between labor and management may be solved through friendly negotiation; that an open conflict in any form involves losses to the parties, and that, therefore, every effort shall be exerted to avoid such an open conflict. In furtherance of the foregoing principle, the parties hereto have agreed to establish a procedure for the adjustment of grievances so as to (1) provide an opportunity for discussion of any request or complaint and (2) establish procedure for the processing and settlement of grievances.

x x x

ARTICLE V
ARBITRATION

Section 1. Any and all disputes, disagreements and controversies of any kind between the COMPANY and the UNION and/or the workers involving or relating to wages, hours of work, conditions of employment and/or employer-employee relations arising during the effectivity of this Agreement or any renewal thereof, shall be settled by arbitration through a Committee in accordance with the procedure established in this Article. No dispute, disagreement or controversy which may be submitted to the grievance procedure in Article IV shall be presented for arbitration until all the steps of the grievance procedure are exhausted.

x x x

ARTICLE VI
STRIKES AND WORK STOPPAGES

> Section 1. The UNION agrees that there shall be no strikes, walkouts, stoppage or slowdown of work, boycotts, secondary boycotts, refusal to handle any merchandise, picketing, sit-down strikes of any kind, sympathetic or general strikes, or any other interference with any of the operations of the COMPANY during the term of this Agreement.
>
> Section 2. The COMPANY agrees that there shall be no lockout during the term of this Agreement so long as the procedure outlined in Article IV hereof is followed by the UNION.[3]

On April 11, 1994, IBM, through its vice-president Alfredo Colomeda, filed with the National Conciliation and Mediation Board (NCMB) a notice of strike, docketed as NCMB-NCR-NS-04-180-94, against petitioner for allegedly committing: (1) illegal dismissal of union members, (2) illegal transfer, (3) violation of CBA, (4) contracting out of jobs being performed by union members, (5) labor-only contracting, (6) harassment of union officers and members, (7) non-recognition of duly-elected union officers, and (8) other acts of unfair labor practice.[4]

The next day, IBM filed another notice of strike, this time through its president Edilberto Galvez, raising similar grounds: (1) illegal transfer, (2) labor-only contracting, (3) violation of CBA, (4) dismissal of union officers and members, and (5) other acts of unfair labor practice. This was docketed as NCMB-NCR-NS-04-182-94.[5]

The Galvez group subsequently requested the NCMB to consolidate its notice of strike with that of the Colomeda group,[6] to which the latter opposed, alleging Galvez's lack of authority in filing the same.[7]

Petitioner thereafter filed a Motion for Severance of Notices of Strike with Motion to Dismiss, on the grounds that the notices raised non-strikeable issues and that they affected four corporations which are separate and distinct from each other.[8]

After several conciliation meetings, NCMB Director Reynaldo Ubaldo found that the real issues involved are non-strikeable. Hence on May 2, 1994, he issued separate letter-orders to both union groups, converting their notices of strike into preventive mediation. The said letter-orders, in part, read:

> During the conciliation meetings, it was clearly established that the real issues involved are illegal dismissal, labor only contracting and internal union disputes, which affect not only the interest of the San Miguel Corporation but also the interests of the MAGNOLIA-NESTLE CORPORATION, the SAN MIGUEL FOODS, INC., and the SAN MIGUEL JUICES, INC.
>
> Considering that San Miguel Corporation is the only impleaded employer-respondent, and considering further that the aforesaid companies are separate and distinct corporate entities, we deemed it wise to reduce and treat your Notice of Strike as Preventive Mediation case for the four (4) different companies in order to evolve voluntary settlement of the disputes.[9] (Emphasis supplied)

On May 16, 1994, while separate preventive mediation conferences were ongoing, the Colomeda group filed with the NCMB a notice of holding a strike vote. Petitioner opposed by filing a Manifestation and Motion to Declare Notice of Strike Vote Illegal,[10] invoking the case of PAL vs. Drilon,[11] which held that no strike could be legally declared during the pendency of preventive mediation. NCMB Director Ubaldo in response issued another letter to the Colomeda Group reiterating the conversion of the notice of strike into a case of preventive mediation and emphasizing the findings that the grounds raised center only on an intra-union conflict, which is not strikeable, thus:

x x x

> A perusal of the records of the case clearly shows that the basic point to be resolved entails the question of as to who between the two (2) groups shall represent the workers for collective bargaining purposes, which has been the

> subject of a Petition for Interpleader case pending resolution before the Office of the Secretary of Labor and Employment. Similarly, the other issues raised which have been discussed by the parties at the plant level, are ancillary issues to the main question, that is, the union leadership.[12] (Emphasis supplied)

Meanwhile, on May 23, 1994, the Galvez group filed its second notice of strike against petitioner, docketed as NCMB-NCR-NS-05-263-94. Additional grounds were set forth therein, including discrimination, coercion of employees, illegal lockout and illegal closure.[13] The NCMB however found these grounds to be mere amplifications of those alleged in the first notice that the group filed. It therefore ordered the consolidation of the second notice with the preceding one that was earlier reduced to preventive mediation.[14] On the same date, the group likewise notified the NCMB of its intention to hold a strike vote on May 27, 1994.

On May 27, 1994, the Colomeda group notified the NCMB of the results of their strike vote, which favored the holding of a strike.[15] In reply, NCMB issued a letter again advising them that by virtue of the PAL vs. Drilon ruling, their notice of strike is deemed not to have been filed, consequently invalidating any subsequent strike for lack of compliance with the notice requirement.[16] Despite this and the pendency of the preventive mediation proceedings, on June 4, 1994, IBM went on strike. The strike paralyzed the operations of petitioner, causing it losses allegedly worth P29.98 million in daily lost production.[17]

Two days after the declaration of strike, or on June 6, 1994, petitioner filed with public respondent NLRC an amended Petition for Injunction with Prayer for the Issuance of Temporary Restraining Order, Free Ingress and Egress Order and Deputization Order.[18] After due hearing and ocular inspection, the NLRC on June 13, 1994 resolved to issue a temporary restraining order (TRO) directing free ingress to and egress from petitioner's plants, without prejudice to the union's right to peaceful picketing and continuous hearings on the injunction case.[19]

To minimize further damage to itself, petitioner on June 16, 1994, entered into a Memorandum of Agreement (MOA) with the respondent-union, calling for a lifting of the picket lines and resumption of work in exchange of "good faith talks" between the management and the labor management committees. The MOA, signed in the presence of Department of Labor and Employment (DOLE) officials, expressly stated that cases filed in relation to their dispute will continue and will not be affected in any manner whatsoever by the agreement.[20] The picket lines ended and work was then resumed.

Respondent thereafter moved to reconsider the issuance of the TRO, and sought to dismiss the injunction case in view of the cessation of its picketing activities as a result of the signed MOA. It argued that the case had become moot and academic there being no more prohibited activities to restrain, be they actual or threatened.[21] Petitioner, however, opposed and submitted copies of flyers being circulated by IBM, as proof of the union's alleged threat to revive the strike.[22] The NLRC did not rule on the opposition to the TRO and allowed it to lapse.

On November 29, 1994, the NLRC issued the challenged decision, denying the petition for injunction for lack of factual basis. It found that the circumstances at the time did not constitute or no longer constituted an actual or threatened commission of unlawful acts.[23] It likewise denied petitioner's motion for reconsideration in its resolution dated February 1, 1995.[24]

Hence, this petition.

Aggrieved by public respondent's denial of a permanent injunction, petitioner contends that:

A.

THE NLRC GRAVELY ABUSED ITS DISCRETION WHEN IT FAILED TO ENFORCE, BY INJUNCTION, THE PARTIES' RECIPROCAL OBLIGATIONS TO SUBMIT TO ARBITRATION AND NOT TO STRIKE.

B.

THE NLRC GRAVELY ABUSED ITS DISCRETION IN WITHHOLDING INJUNCTION WHICH IS THE ONLY IMMEDIATE AND EFFECTIVE SUBSTITUTE FOR THE DISASTROUS ECONOMIC WARFARE THAT ARBITRATION IS DESIGNED TO AVOID.

C.

THE NLRC GRAVELY ABUSED ITS DISCRETION IN ALLOWING THE TRO TO LAPSE WITHOUT RESOLVING THE PRAYER FOR INJUNCTION, DENYING INJUNCTION WITHOUT EXPRESSING THE FACTS AND THE LAW ON WHICH IT IS BASED AND ISSUING ITS DENIAL FIVE MONTHS AFTER THE LAPSE OF THE TRO.[25]

We find for the petitioner.

Article 254 of the Labor Code provides that no temporary or permanent injunction or restraining order in any case involving or growing out of labor disputes shall be issued by any court or other entity except as otherwise provided in Articles 218 and 264 of the Labor Code. Under the first exception, Article 218 (e) of the Labor Code expressly confers upon the NLRC the power to "enjoin or restrain actual and threatened commission of any or all prohibited or unlawful acts, or to require the performance of a particular act in any labor dispute which, if not restrained or performed forthwith, may cause grave or irreparable damage to any party or render ineffectual any decision in favor of such party." The second exception, on the other hand, is when the labor organization or the employer engages in any of the "prohibited activities" enumerated in Article 264.

Pursuant to Article 218 (e), the coercive measure of injunction may also be used to restrain an actual or threatened unlawful strike. In the case of San Miguel Corporation vs. NLRC[26] where the same issue of NLRC's duty to enjoin an unlawful strike was raised, we ruled that the NLRC committed grave abuse of discretion when it denied the petition for injunction to restrain the union from declaring a strike based on non-strikeable grounds. Further, in IBM vs. NLRC,[27] we

held that it is the "legal duty and obligation" of the NLRC to enjoin a partial strike staged in violation of the law. Failure promptly to issue an injunction by the public respondent was likewise held therein to be an abuse of discretion.

In the case at bar, petitioner sought a permanent injunction to enjoin the respondent's strike. A strike is considered as the most effective weapon in protecting the rights of the employees to improve the terms and conditions of their employment. However, to be valid, a strike must be pursued within legal bounds.[28] One of the procedural requisites that Article 263 of the Labor Code and its Implementing Rules prescribe is the filing of a valid notice of strike with the NCMB. Imposed for the purpose of encouraging the voluntary settlement of disputes,[29] this requirement has been held to be mandatory, the lack of which shall render a strike illegal.[30]

In the present case, NCMB converted IBM's notices into preventive mediation as it found that the real issues raised are non-strikeable. Such order is in pursuance of the NCMB's duty to exert "all efforts at mediation and conciliation to enable the parties to settle the dispute amicably,"[31] and in line with the state policy of favoring voluntary modes of settling labor disputes.[32] In accordance with the Implementing Rules of the Labor Code, the said conversion has the effect of dismissing the notices of strike filed by respondent.[33] A case in point is PAL vs. Drilon,[34] where we declared a strike illegal for lack of a valid notice of strike, in view of the NCMB's conversion of the notice therein into a preventive mediation case. We ruled, thus:

> The NCMB had declared the notice of strike as "appropriate for preventive mediation." The effect of that declaration (which PALEA did not ask to be reconsidered or set aside) was to drop the case from the docket of notice of strikes, as provided in Rule 41 of the NCMB Rules, as if there was no notice of strike. During the pendency of preventive mediation proceedings no strike could be legally declared. The strike which the union mounted, while preventive mediation proceedings were ongoing, was aptly described by the petitioner as "an ambush."(Emphasis supplied)

Clearly, therefore, applying the aforecited ruling to the case at bar, when the NCMB ordered the preventive mediation on May 2, 1994, respondent had thereupon lost the notices of strike it had filed. Subsequently, however, it still defiantly proceeded with the strike while mediation was ongoing, and notwithstanding the letter-advisories of NCMB warning it of its lack of notice of strike. In the case of NUWHRAIN vs. NLRC,[35] where the petitioner-union therein similarly defied a prohibition by the NCMB, we said:

> Petitioners should have complied with the prohibition to strike ordered by the NCMB when the latter dismissed the notices of strike after finding that the alleged acts of discrimination of the hotel were not ULP, hence not "strikeable." The refusal of the petitioners to heed said proscription of the NCMB is reflective of bad faith.
>
> Such disregard of the mediation proceedings was a blatant violation of the Implementing Rules, which explicitly oblige the parties to bargain collectively in good faith and prohibit them from impeding or disrupting the proceedings.[36]

The NCMB having no coercive powers of injunction, petitioner sought recourse from the public respondent. The NLRC issued a TRO only for free ingress to and egress from petitioner's plants, but did not enjoin the unlawful strike itself. It ignored the fatal lack of notice of strike, and five months after came out with a decision summarily rejecting petitioner's cited jurisprudence in this wise:

> Complainant's scholarly and impressive arguments, formidably supported by a long line of jurisprudence cannot however be appropriately considered in the favorable resolution of the instant case for the complainant. The cited jurisprudence do not squarely cover and apply in this case, as they are not similarly situated and the remedy sought for were different.[37]

Unfortunately, the NLRC decision stated no reason to substantiate the above conclusion.

Public respondent, in its decision, moreover ruled that there was a lack of factual basis in issuing the injunction. Contrary to the NLRC's

finding, we find that at the time the injunction was being sought, there existed a threat to revive the unlawful strike as evidenced by the flyers then being circulated by the IBM-NCR Council which led the union. These flyers categorically declared: "Ipaalala n'yo sa management na hindi iniaatras ang ating Notice of Strike (NOS) at anumang oras ay pwede nating muling itirik ang picket line."[38] These flyers were not denied by respondent, and were dated June 19, 1994, just a day after the union's manifestation with the NLRC that there existed no threat of commission of prohibited activities.

Moreover, it bears stressing that Article 264(a) of the Labor Code[39] explicitly states that a declaration of strike without first having filed the required notice is a prohibited activity, which may be prevented through an injunction in accordance with Article 254. Clearly, public respondent should have granted the injunctive relief to prevent the grave damage brought about by the unlawful strike.

Also noteworthy is public respondent's disregard of petitioner's argument pointing out the union's failure to observe the CBA provisions on grievance and arbitration. In the case of San Miguel Corp. vs. NLRC[40] we ruled that the union therein violated the mandatory provisions of the CBA when it filed a notice of strike without availing of the remedies prescribed therein. Thus we held:

> For failing to exhaust all steps in the grievance machinery and arbitration proceedings provided in the Collective Bargaining Agreement, the notice of strike should have been dismissed by the NLRC and private respondent union ordered to proceed with the grievance and arbitration proceedings. In the case of Liberal Labor Union vs. Phil. Can Co., the court declared as illegal the strike staged by the union for not complying with the grievance procedure provided in the collective bargaining agreement. (Citations omitted)

As in the abovecited case, petitioner herein evinced its willingness to negotiate with the union by seeking for an order from the NLRC to compel observance of the grievance and arbitration proceedings. Respondent however resorted to force without exhausting all available means within its reach. Such infringement of the aforecited CBA provisions constitutes further justification for the issuance of an

injunction against the strike. As we said long ago: "Strikes held in violation of the terms contained in a collective bargaining agreement are illegal especially when they provide for conclusive arbitration clauses. These agreements must be strictly adhered to and respected if their ends have to be achieved."[41]

As to petitioner's allegation of violation of the no-strike provision in the CBA, jurisprudence has enunciated that such clauses only bar strikes which are economic in nature, but not strikes grounded on unfair labor practices.[42] The notices filed in the case at bar alleged unfair labor practices, the initial determination of which would entail fact-finding that is best left for the labor arbiters. Nevertheless, our finding herein of the invalidity of the notices of strike dispenses with the need to discuss this issue.

We cannot sanction the respondent-union's brazen disregard of legal requirements imposed purposely to carry out the state policy of promoting voluntary modes of settling disputes. The state's commitment to enforce mutual compliance therewith to foster industrial peace is affirmed by no less than our Constitution.[43] Trade unionism and strikes are legitimate weapons of labor granted by our statutes. But misuse of these instruments can be the subject of judicial intervention to forestall grave injury to a business enterprise.[44]

WHEREFORE, the instant petition is hereby **GRANTED**. The decision and resolution of the NLRC in Injunction Case No. 00468-94 are **REVERSED** and **SET ASIDE**. Petitioner and private respondent are hereby directed to submit the issues raised in the dismissed notices of strike to grievance procedure and proceed with arbitration proceedings as prescribed in their CBA, if necessary. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., *C.J.*, Vitug, Ynares-Santiago and Carpio, *JJ.*, concur.

[1] Entitled: “San Miguel Corp. vs. Ilaw at Buklod ng Manggagawa, et al., “ rollo, pp. 27–36.
[2] Rollo, p. 37.
[3] Rollo, pp. 38–48.
[4] Rollo, pp. 59–61.
[5] Rollo, pp. 63–65.
[6] Rollo, p. 66.
[7] Rollo, pp. 67–72.
[8] Rollo, pp. 82–89.
[9] Rollo, pp. 90–93.
[10] Rollo, pp. 123–127.
[11] 193 SCRA 223 (1991).
[12] Rollo, pp. 128–129.
[13] Rollo, p. 130.
[14] Rollo, p. 137.
[15] Rollo, p. 138.
[16] Rollo, p. 139.
[17] Rollo, p. 10.
[18] Rollo, pp. 152–168.
[19] Rollo, p. 169.
[20] Rollo, pp. 169–170.
[21] Rollo, pp. 171–197.
[22] Rollo, pp. 225–227.
[23] Supra, note 1.
[24] Supra, note 2.
[25] Rollo, p. 12.
[26] 304 SCRA 1 (1999).
[27] 198 SCRA 586 (1991).
[28] AIUP, et al. vs. NLRC, et al., 305 SCRA 219 (1999).
[29] NFSW vs. Ovejera et al., 114 SCRA 354 (1982).
[30] NFL, et al. vs. NLRC, et al., 283 SCRA 275 (1997), First City Interlink Transportation Co. vs. Confesor, 272 SCRA 124 (1997), Lapanday Workers Union vs. NLRC, 248 SCRA 95 (1995).
[31] Rules to Implement the Labor Code, Book V, Rule XXII, Sec. 6.
[32] LABOR CODE, art. 211 (a).
[33] Rules to Implement the Labor Code, Book V, Rule XXII,
Sec. 1. Grounds for strike and lockout — A strike or lockout may be declared in cases of bargaining deadlocks and unfair labor practice. Violations of collective bargaining agreements, except flagrant and/or malicious refusal to comply with its economic provisions, shall not be considered unfair labor practice and shall not be strikeable. No strike or lockout may be declared on grounds involving inter-union and intra-union disputes or on issues brought to voluntary or compulsory arbitration.

x x x

Sec. 3. Notice of Strike or Lockout — Any notice which does not conform with the requirements of this and the foregoing sections shall be deemed as

not having been filed and the party concerned shall be so informed by the regional branch of the Board.

[34] Supra, note 11.
[35] 287 SCRA 192 (1998).
[36] Rules to Implement the Labor Code, Book V, Rule XXII, Sec. 6.
[37] Rollo, p. 35.
[38] Rollo, p. 228.
[39] Art. 264 PROHIBITED ACTIVITIES — (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry. (Emphasis supplied.)
[40] Supra, note 26.
[41] Insurefco Paper Pulp & Project Workers' Union vs. Insular Sugar Refining Corp., 95 Phil. 761 (1954).
[42] MSMG-UWP vs. Ramos, et al., 326 SCRA 428 (2000), citing Master Iron Labor Union, et al. vs. NLRC, et al., 219 SCRA 47 (1993).
[43] CONSTITUTION, art. XIII, sec. 3.
[44] Bulletin Publishing Corporation vs. Sanchez, 144 SCRA 628 (1986).