

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**CATALINO N. SARMIENTO and 71  
other striking workers of ASIAN  
TRANSMISSION CORPORATION,  
*Petitioners,***

***-versus-***

**G.R. Nos. 75271-73  
June 27, 1988**

**THE HON. JUDGE ORLANDO R. TUICO  
of the Municipal Trial Court of  
Calamba, Laguna, ROBERTO  
PIMENTEL, NELSON C. TEJADA, and  
the COMMANDING OFFICER, 224<sup>th</sup> PC  
Company at Los Baños, Laguna,  
*Respondents.***

X-----X

**ASIAN TRANSMISSION,  
CORPORATION (ATC),  
*Petitioner,***

***-versus-***

**G.R. No. 77567  
June 27, 1988**

**THE NATIONAL LABOR RELATIONS  
COMMISSION (NLRC),  
*Respondent.***

X-----X

## DECISION

**CRUZ, J.:**

Two basic questions are presented in these cases, to wit:

1. Whether or not a return-to-work order may be validly issued by the National Labor Relations Commission pending determination of the legality of the strike; and
2. Whether or not, pending such determination the criminal prosecution of certain persons involved in the said strike may be validly restrained.

The first issue was submitted to the Court in G.R. No. 77567, to which we gave due course on July 1, 1987.<sup>[1]</sup> The case arose when on May 7, 1986, petitioner Asian Transmission Corporation terminated the services of Catalino Sarmiento, vice-president of the Bisig ng Asian Transmission Labor Union (BATU), for allegedly carrying a deadly weapon in the company premises.<sup>[2]</sup> As a result, the BATU filed a notice of strike on May 26, 1986, claiming that the ATC had committed an unfair labor practice.<sup>[3]</sup> The conciliatory conference held on June 5, 1986, failed to settle the dispute. The ATC then filed a petition asking the Ministry of Labor and Employment to assume jurisdiction over the matter or certify the same to the NLRC for compulsory arbitration.<sup>[4]</sup> Noting that the impending strike would prejudice the national interest as well as the welfare of some 350 workers and their families, the MOLE issued an order on June 3, 1986, certifying the labor dispute to the NLRC.<sup>[5]</sup> At the same time, it enjoined the management from locking out its employees and the union from declaring a strike or similar concerted action. This order was reiterated on June 13, 1986, upon the representation of the ATC that some 40 workers had declared a strike and were picketing the company premises.<sup>[6]</sup> Proceedings could not continue in the NLRC, however, because of the acceptance by President Aquino of the resignations of eight of its members, leaving only the vice-chairman

in office.<sup>[7]</sup> For this reason, the MOLE, on September 9, 1986, set aside the orders of June 9 and 13, 1986, and directly assumed jurisdiction of the dispute, at the same time enjoining the company to accept all returning workers.<sup>[8]</sup> This order was itself set aside on November 24, 1986, upon motion of both the BATU and the ATC, in view of the appointment of new commissioners in the NLRC. The MOLE then returned the case to the respondent NLRC and directed it to expeditiously resolve all issues relating to the dispute, “adding that the union and the striking workers are ordered to return to work immediately.”<sup>[9]</sup> Conformably, the NLRC issued on January 13, 1987 the following resolution, which it affirmed in its resolution of February 12, 1987, denying the motion for reconsideration:

“CERTIFIED CASE No. NCR-NS-5-214-86, entitled Asian Transmission Corporation, Petitioner versus Bisig ng Asian Transmission Labor Union (BATU), et al., Respondents. — Considering that the petitioner, despite the order dated 24 November 1986 of the Acting Minister, ‘to accept all the returning workers’ continues to defy the directive insofar as 44 of the workers are concerned, the Commission, sitting en banc, resolved to order the petitioner to accept the said workers, or, to reinstate them on payroll immediately upon receipt of the resolution.”

It is these orders of January 13 and February 12, 1987, that are challenged by the ATC in this petition for certiorari and are the subject of the temporary restraining order issued by this Court on March 23, 1987.<sup>[10]</sup>

The second issue was raised in G.R. Nos. 75271-73, which we have consolidated with the first-mentioned petition because of the identity of their factual antecedents. This issue was provoked by three criminal complaints filed against the petitioning workers in the municipal trial court of Calamba, Laguna, two by the personnel administrative officer of the ATC and the third by the Philippine Constabulary. The first two complaints, filed on July 11 and July 15, 1986, were for “Violation of Article 265, par. 1, in relation to Article 273 of the Labor Code of the Philippines.”<sup>[11]</sup> The third, filed on July 17, 1986, was for coercion.<sup>[12]</sup> In all three complaints, the defendants were charged with staging an illegal strike, barricading the gates of

the ATC plant and preventing the workers through intimidation, harassment and force from reporting for work. Acting on Criminal Case No. 15984, Judge Orlando Tuico issued a warrant of arrest against the petitioners and committed 72 of them to jail although he later ordered the release of 61 of them to the custody of the municipal mayor of Calamba, Laguna.<sup>[13]</sup> The petitioners had earlier moved for the lifting of the warrant of arrest and the referral of the coercion charge to the NLRC and, later, for the dismissal of Criminal Cases Nos. 15973 and 15981 on the ground that they came under the primary jurisdiction of the NLRC.<sup>[14]</sup> As the judge had not ruled on these motions, the petitioners came to this Court in this petition for certiorari and prohibition. On August 12, 1986, we issued a temporary restraining order to prevent Judge Tuico from enforcing the warrant of arrest and further proceeding with the case.<sup>[15]</sup> This order was reiterated on September 21, 1987, “to relieve tensions that might prevent an amicable settlement of the dispute between the parties in the compulsory arbitration proceedings now going on in the Department of Labor,” and made to apply to Judge Paterno Lustre, who had succeeded Judge Tuico.<sup>[16]</sup>

That is the background. Now to the merits.

It is contended by the ATC that the NLRC had no jurisdiction in issuing the return-to-work order and that in any case the game should be annulled for being oppressive and violative of due process.

The question of competence is easily resolved. The authority for the order is found in Article 264(g) of the Labor Code, as amended by B.P. Blg. 227, which provides as follows:

“When in his opinion there exists a labor dispute causing or likely to cause strikes or lockouts adversely affecting the national interest, such as may occur in but not limited to public utilities, companies engaged in the generation or distribution of energy, banks, hospitals, and export-oriented industries, including those within export processing zones, the Minister of Labor and Employment shall assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or

impending strike or lockout as specified in the assumption order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Minister may seek the assistance of law-enforcement agencies to ensure compliance with this provision as well as such orders as he may issue to enforce the same.”

The justification of the MOLE for such order was embodied therein, thus:

“Asian Transmission Corporation is an export-oriented enterprise and its annual export amounts to 90% of its sales generating more than twelve (12) million dollars per year. The corporation employs three hundred fifty (350) workers with a total monthly take home pay or approximately P1,300,000.00 a month.

“Any disruption of company operations will cause the delay of shipments of export finished products which have been previously committed to customers abroad, thereby seriously hampering the economic recovery program which is being pursued by the government. It will also affect gravely the livelihood of three hundred fifty (350) families who will be deprived of their incomes.

“This Office is therefore of the opinion that a strike or any disruption in the normal operation of the company will adversely affect the national interest. It is in the interest of both labor and management that the dispute be certified for compulsory arbitration to National Labor Relations Commission.

“WHEREFORE, this Office hereby certifies the labor dispute to the National Labor Relations Commission in accordance with Article 264(g) of the Labor Code, as amended. In line with this Certification, the management is enjoined from locking out its employees and the union from declaring a strike, or any

concerted action which will disrupt the harmonious labor-management relations at the company.”<sup>[17]</sup>

There can be no question that the MOLE acted correctly in certifying the labor dispute to the NLRC, given the predictable prejudice the strike might cause not only to the parties but more especially to the national interest. Affirming this fact, we conclude that the return-to-work order was equally valid as a statutory part and parcel of the certification order issued by the MOLE on November 24, 1986. The law itself provides that “such assumption or certification shall have the effect of automatically enjoining the intended or impending strike. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout.” The challenged order of the NLRC was actually only an implementation of the above provision of the Labor Code and a reiteration of the directive earlier issued by the MOLE in its own assumption order of September 9, 1986.

It must be stressed that while one purpose of the return-to-work order is to protect the workers who might otherwise be locked out by the employer for threatening or waging the strike, the more important reason is to prevent impairment of the national interest in case the operations of the company are disrupted by a refusal of the strikers to return to work as directed. In the instant case, stoppage of work in the firm will be hurtful not only to both the employer and the employees. More particularly, it is the national economy that will suffer because of the resultant reduction in our export earnings and our dollar reserves, not to mention possible cancellation of the contracts of the company with foreign importers. It was particularly for the purpose of avoiding such a development that the labor dispute was certified to the NLRC, with the return-to-work order following as a matter of course under the law.

It is also important to emphasize that the return-to-work order not so much confers a right as it imposes a duty; and while as a right it may be waived, it must be discharged as a duty even against the worker’s will. Returning to work in this situation is not a matter of option or

voluntariness but of obligation. The worker must return to his job together with his co-workers so the operations of the company can be resumed and it can continue serving the public and promoting its interest. That is the real reason such return can be compelled. So imperative is the order in fact that it is not even considered violative of the right against involuntary servitude, as this Court held in *Kaisahan ng Mga Manggagawa sa Kahoy vs. Gotamco Sawmills*.<sup>[18]</sup> The worker can of course give up his work, thus severing his ties with the company, if he does not want to obey the order; but the order must be obeyed if he wants to retain his work even if his inclination is to strike.

If the worker refuses to obey the return-to-work order, can it be said that he is just suspending the enjoyment of a right and he is entitled to assert it later as and when he sees fit? In the meantime, is the management required to keep his position open, unable to employ replacement to perform the work the reluctant striker is unwilling to resume because he is still manning the picket lines?

While the ATC has manifested its willingness to accept most of the workers, and has in fact already done so, it has balked at the demand of the remaining workers to be also allowed to return to work.<sup>[19]</sup> Its reason is that these persons, instead of complying with the return-to-work order, as most of the workers have done, insisted on staging the restrained strike and defiantly picketed the company premises to prevent the resumption of operations. By so doing, the ATC submits, these strikers have forfeited their right to be readmitted, having abandoned their positions, and so could be validly replaced.

The Court agrees.

The records show that the return-to-work order was first issued on June 3, 1986, and was reiterated on June 13, 1986. The strike was declared thereafter, if we go by the criminal complaints in G.R. Nos. 75271-73, where the alleged acts are claimed to have been done on June 9, 1986, and July 15, 1986. These dates are not denied. In fact, the petitioners argue in their pleadings that they were engaged only in peaceful picketing,<sup>[20]</sup> which would signify that they had not on those dates returned to work as required and had decided instead to ignore the said order. By their own acts, they are deemed to have abandoned

their employment and cannot now demand the right to return thereto by virtue of the very order they have defied.

One other point that must be underscored is that the return-to-work order is issued pending the determination of the legality or illegality of the strike. It is not correct to say that it may be enforced only if the strike is legal and may be disregarded if the strike is illegal, for the purpose precisely is to maintain the status quo while the determination is being made. Otherwise, the workers who contend that their strike is legal can refuse to return to their work and cause a standstill in the company operations while retaining the positions they refuse to discharge or allow the management to fill. Worse, they will also claim payment for work not done, on the ground that they are still legally employed although actually engaged in activities inimical to their employer's interest.

This is like eating one's cake and having it too, and at the expense of the management. Such an unfair situation surely was not contemplated by our labor laws and cannot be justified under the social justice policy, which is a policy of fairness to both labor and management. Neither can this unseemly arrangement be sustained under the due process clause as the order, if thus interpreted, would be plainly oppressive and arbitrary.

Accordingly, the Court holds that the return-to-work order should benefit only those workers who complied therewith and, regardless of the outcome of the compulsory arbitration proceedings, are entitled to be paid for work they have actually performed. Conversely, those workers who refused to obey the said order and instead waged the restrained strike are not entitled to be paid for work not done or to reinstatement to the positions they have abandoned by their refusal to return thereto as ordered.

Turning now to the second issue, we hold that while as a general rule the prosecution of criminal offenses is not subject to injunction, the exception must apply in the case at bar. The suspension of proceedings in the criminal complaints filed before the municipal court of Calamba, Laguna, is justified on the ground of prematurity as there is no question that the acts complained of are connected with the compulsory arbitration proceedings still pending in the NLRC.

The first two complaints, as expressly captioned, are for “violation of Art. 265, par. 2, in relation to Art. 273, of the Labor Code of the Philippines,” and the third complaint relates to the alleged acts of coercion committed by the defendants in blocking access to the premises of the ATC. Two of the criminal complaints were filed by the personnel administrative officer of the ATC although he vigorously if not convincingly insists that he was acting in his personal capacity.

In view of this, the three criminal cases should be suspended until the completion of the compulsory arbitration proceedings in the NLRC, conformably to the policy embodied in Circular No. 15, series of 1982, and Circular No. 9, series of 1986, issued by the Ministry of Justice in connection with the implementation of B.P. Blg. 227.<sup>[21]</sup> These circulars, briefly stated, require fiscals and other government prosecutors to first secure the clearance of the Ministry of Labor and/or the Office of the President “before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding informations of cases arising out of or related to a labor dispute,” including “allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation obstructing the free ingress to and egress from a factory or place of operation of the machines of such factory, or the employer’s premises.” It does not appear from the record that such clearance was obtained, conformably to the procedure laid down “to attain the industrial peace which is the primordial objectives of this law,” before the three criminal cases were filed.

The Court makes no findings on the merits of the labor dispute and the criminal cases against the workers as these are not in issue in the petitions before it. What it can only express at this point is the prayerful hope that these disagreements will be eventually resolved with justice to all parties and in that spirit of mutual accommodation that should always characterize the relations between the workers and their employer. Labor and management are indispensable partners in the common endeavor for individual dignity and national prosperity. There is no reason why they cannot pursue these goals with open hands rather than clenched fists, striving with rather than against each other, that they may together speed the dawning of a richer day for all in this amiable land of ours.

**WHEREFORE**, judgment is hereby rendered as follows:

1. In G.R. No. 77567, the petition is **DENIED** and the challenged Orders of the NLRC dated January 13, 1986, and February 12, 1986, are **AFFIRMED** as above interpreted. The temporary restraining order dated March 23, 1987, is **LIFTED**.
2. In G.R. Nos. 75271-73, the temporary restraining order of August 12, 1986, and September 21, 1986, are **CONTINUED IN FORCE** until completion of the compulsory arbitration proceedings in the NLRC.

No costs. It is so ordered.

**Narvasa, Gancayco, Griño-Aquino and Medialdea, JJ., concur.**

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- [1] Rollo, G.R. No. 77567, p. 233.
  - [2] Ibid., p. 15.
  - [3] Id., p. 12.
  - [4] Id., p. 13.
  - [5] Id.
  - [6] Id., p. 26.
  - [7] Id., p. 83.
  - [8] Id., p. 74.
  - [9] Id., pp. 81-86.
  - [10] Id., p. 98.
  - [11] Rollo, G.R. Nos. 75271-73, pp. 22-27.
  - [12] Ibid., pp. 28-29.
  - [13] Id., p. 30.
  - [14] Id., pp. 31-32.
  - [15] Id., pp. 63-64.
  - [16] Id., p. 176.
  - [17] Rollo, G.R. No. 77567, p. 13.
  - [18] 80 Phil. 521.
  - [19] Rollo, G.R. No. 77567, pp. 130-136.
  - [20] Rollo, G.R. Nos. 75271-73, pp. 10-11, 66.
  - [21] Ibid., pp. 151-153.