SUPREME COURT
THIRD DIVISION

SY CHIE JUNK SHOP and SY CHIE SENG,
***Petitioners*,**

-versus-

G.R. No. L-30964
May 9, 1988

FEDERACION OBRERA DE LA INDUSTRIA Y OTROS TRABAJADORES DE FILIPINAS (FOITAF), ISMAEL CASIDSID, BIENVENIDO JAVIER, JOSE OBADO, JOSE MACATANGAY, RODOLFO RUBIO and THE COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
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D E C I S I O N

GUTIERREZ, JR., *J.*:

This is a Petition to Review by way of *Certiorari* the Decision of the public respondent and its subsequent resolution in a case filed by private respondents charging petitioner Sy Chie Seng (also known as Chua Chit) with unfair labor practices under Republic Act No. 875, otherwise known as the Industrial Peace Act, as amended.

The pertinent facts of the case are as follows:

Petitioner Sy Chie Seng is the owner and proprietor of Sy Chie Junk Shop engaged in buying second-hand goods such as used empty bottles, copper, cast iron and the like, using for his business the leased premises owned by one Alejandro Garcia at 275 Jaboneros Street, Binondo, Manila.

The respondent-employees worked for the petitioner in his junk shop business until they were allegedly dismissed from their jobs because of their affiliation with the respondent union.

In their unfair labor practices case docketed as Case No. 5029-ULP before the Court of Industrial Relations in Manila, the private respondents claimed, among others, that the petitioner interfered with their right to self-organization; that petitioner Sy refused to bargain in good faith with their union; and that they were indiscriminately terminated without due notice.

The petitioner shop and its owner, by way of answer, denied having committed any of the unfair labor practice acts charged. They counter-alleged that the separation of the private respondents from their work was with due notice and for a justifiable cause which was the closure of the business establishment in view of the repeated demands of the owner of the leased business premises to vacate the site.

After due hearing, the Court of Industrial Relations decided in favor of the private respondents in the following tenor:

> "Conformably with the foregoing facts and conclusions arrived at, the Court finds respondents guilty of unfair labor practices as charged. Accordingly, respondent Chua Chit alias Sy Chie Seng is directed to cease and desist from further committing such unfair labor practices; to bargain in good faith with the union; to reinstate complaining workers Ismael Casidsid, Bienvenido Javier, Jose Obado, Rodolfo Rubio and Jose Macatangay to their former positions with full backwages from the date of their dismissals on March 31, 1967, up to their actual

reinstatement, with all the rights and privileges appertaining thereto." (p. 73, Rollo)

The petitioners' motion for reconsideration was denied by the public respondent sitting en banc. Hence, the present petition was filed assigning as errors the following:

I

"THE COURT OF INDUSTRIAL RELATIONS ERRED IN FINDING THAT PETITIONERS ARE GUILTY OF UNFAIR LABOR PRACTICE.

II

"THE INDUSTRIAL COURT ERRED IN ORDERING PETITIONERS TO CEASE AND DESIST FROM FURTHER COMMITTING UNFAIR LABOR PRACTICES; TO BARGAIN WITH THE UNION IN GOOD FAITH; AND TO REINSTATE THE COMPLAINING WORKERS WITH BACKWAGES FROM THEIR DISMISSALS UP TO THEIR REINSTATEMENT.

III

"THE DECISION OF THE COURT OF INDUSTRIAL RELATIONS IS NULL AND VOID FOR BEING CONTRARY TO LAW AND THE EVIDENCE AND IMPOSSIBLE OF EXECUTION." (pp. 1-2, Brief for Petitioners)

The bone of contention in this case is whether or not the closure of petitioner junk shop leading to the cessation of its operations as a business enterprise was for a valid and just cause, hence, not discriminatory.

We have two irreconcilable factual allegations before us. The petitioners argue that the closure of their business establishment was for a valid cause considering that the owner of the leased premises which served as their business site repeatedly demanded that they vacate the place. According to them, they could not transfer nor resume their business elsewhere in view of the prohibition under

Republic Act No. 1180 "An Act to Regulate the Retail Business," more popularly known as the Nationalization of Retail Trade Act applicable to aliens.

The private respondents, on the other hand, contend that the petitioners' invocation of the Nationalization of Retail Trade Act to justify the closure of their business was a mere afterthought. They point out that the records of the case in the court below show that the only reason given for the closure were the repeated demands to vacate made by the owner of the leased business premises. Moreover, the private respondents maintain that the closure of the petitioners' business was, in effect, discriminatory in the sense that it occurred at a time when the former had just handed their union proposals and sometime after the latter urged the complaining workers to disaffiliate from the union or else said workers would lose their jobs.

We sustain the factual findings of the respondent court.

The Court of Industrial Relations stated that:

> "There is even nothing in the record to establish that respondents had replied to complainant union's proposals and/or labor demands and inform it of the impossibility of bargaining in view of the projected closure of the business occasioned by the demands to vacate the leased premises, since the union's labor demands were undisputedly sent after the letters to vacate were received by respondent Chua Chit and long before the date of the actual closure of the business establishment. The first letter of the union to respondent is dated February 2, 1967 (Exhibit "A"), and sent by registered mail on February 3, 1967 (Exhibit "B-1"); while the alleged notice of closure commenced sometime between February 26, 1967 to March 4, 1967. The declaration, however, of Chua Chit attests to the fact that the actual notifications to complaining workers about their forthcoming lay-off were done on the date of the signing of said notices and receipt of weekly wages on March 4, 1967 (t.s.n., p. 30, November 13, 1968). This will clearly disclose that when respondent Chua Chit decided to cease operation of his business, he was already aware of the existence of the union in his establishment. While it may be true

> that the letters to vacate the leased premises were dated November 15, 1966 and January 15, 1967, yet the aforementioned decision came about in the latter part of February, 1967, as can be discerned from the very testimonies of respondent Chua Chit and witness Manuel L. Pitco (t.s.n. pp. 30 and 43, November 13, 1968). In the light of the above facts and circumstances, the inescapable conclusion is that the decision to close shop came only after the receipt of the union's labor demands and the refusal of the individual complainants to heed respondent Chua Chit's urgings for them to disaffiliate from the union. There is indeed a clear motivation on the part of respondents to get rid of complaining workers by reason of their union affiliation and/or activities." (pp. 23-25, Rollo)

Republic Act No. 875, otherwise known as the Industrial Peace Act, as amended, provides in explicit terms that:

> "Sec. 6. Unfair Labor Practice Cases — Appeals. —The findings of the Court (i.e., the Court of Industrial Relations) with respect to questions of fact if supported by substantial evidence on the record shall be conclusive."

It is clear from the aforequoted provision of law that the factual findings of the public respondent especially when arrived at en banc as in the instant case are conclusive and binding upon us in the absence of a showing that said findings have no support in the evidence of record. This is in line with the time-honoured principle that:

> "The Court of Industrial Relations is governed by the rule of substantial evidence rather than by the role of preponderance of evidence as in ordinary civil cases." (Sanchez vs. Court of Industrial Relations, 8 SCRA 654 citing Iloilo Chinese Commercial School vs. Fabrigar, et al., 3 SCRA 712; see also Almoite vs. Pacific Architects and Engineers, Inc., et al., 142 SCRA 623; Philippine Sugar Institute vs. Court of Industrial Relations, et al., 19 SCRA' 471; Industrial, Commercial Agricultural Workers Organization (ICAWO) vs. Bautista, et al., 7 SCRA 907).

Hence, in this appeal by certiorari, we do not look into the correctness of the findings of fact made by the public respondent (see G.P.T.C. Employees Union vs. Court of Industrial Relations, et al., 102 Phil. 538).

We simply ascertain whether there is substantial evidence to support them. We find that there is such evidence.

Our remaining task is to determine whether or not the closure of the petitioners' business establishment constituted a just cause for terminating the private respondents.

The fourth paragraph of Section 1 of Republic Act No. 1052, as amended by Republic Act No. 1787 (also known as the Termination Pay Law) partly reads:

> "The following are just causes for terminating an employment without a definite period:
>
> "1. By the employer -
>
> "a. The closing or cessation of operation of the establishment or enterprise, unless the closing is for the purpose of defeating the intention of this law;"
>
> x x x

The findings of the respondent court disclose that the closure of the petitioners' business came as a handy excuse to put an end to the private respondents' union activities. There is no showing that the petitioners made any effort to allow the private respondents' attempts to exercise their right to self-organization and collective bargaining. The respondents were even threatened by petitioner Sy Chie Seng that they would lose their jobs if they did not cease affiliation with the respondent union. In the case of TUPAS Local Chapter No. 979 vs. The National Labor Relations Commission, (139 SCRA 478), we held that:

> "The employer's nefarious objective of busting the workers' union before it could even be born and see the light of day and justice would thus be a fait accompli, in gross violation of the constitutional guarantee of the workers' right 'to self-organization and collective bargaining for just and humane conditions of work."

The petitioners' endeavor to justify the cessation of their operation as a junk shop by invoking the Nationalization of Retail Trade Law cannot be entertained since it is a new matter being raised for the first time in this appeal. Nevertheless, granting arguendo that the petitioners are covered by the aforecited law they cannot validly claim that it prohibited them from transferring their place of business because what the law disallows is the putting up of an entirely new or additional business site, not the physical movement of an existing one. (see Section 1 of Republic Act No. 1180, as amended; Dialdas vs. Perdices, 101 Phil. 756).

The public respondent's order for the private respondents' reinstatement to their former positions is no longer possible under the circumstances. An award equivalent to three years backwages plus separation pay to compensate for their illegal separation is thus proper. (see Bautista vs. Inciong, et al., G.R. No. 52824, March 16, 1988; Hope Christian High School vs. National Labor Relations Commission, 135 SCRA 251; Divine Word High School vs. National Labor Relations Commission, 143 SCRA 346; Akay Printing Press vs. Minister of Labor and Employment, et al., 140 SCRA 381; Panay Railways, Inc. vs. National Labor Relations Commission, 137 SCRA 480; Lepanto Consolidated Mining Co. vs. Encarnacion, 136 SCRA 256; Medical Doctors, Inc. (Makati Medical Center) vs. National Labor Relations Commission, 136 SCRA 1; City Service Corporation Workers Union vs. City Service Corporation, 135 SCRA 564; Insular Life Assurance Co., Ltd. vs. National Labor Relations Commission, 135 SCRA 697).

WHEREFORE, the petition is hereby **DISMISSED**. The questioned decision is **AFFIRMED** with the modification that the petitioners are ordered to pay the private respondents an amount corresponding to THREE YEARS backwages and separation pay as

determined under Republic Act No. 1052, as amended by Republic Act No. 1787 in lieu of reinstatement with full backwages.

SO ORDERED.

Fernan, Feliciano, Bidin and Cortes, *JJ.*, concur.