SUPREME COURT
FIRST DIVISION

CECILE DE OCAMPO, WILFREDO SAN PEDRO, REYNALDO DOVICAR, BIEN MEDINA, CESAR ABRIOL, ARTEMIO CASTRO, LARRY ALCANTARA, MICHAEL NOCUM, JESUS DEO JR., PUBLEO DARAG, EDUARDO BINO, EDUARDO VELES, ERVIN DAVID, PROSTACIO PEREZ, NOEL VICTOR, ELENO DACATIMBAN, ANTONIO BERNARDO, CARLITO VICTORIA, TIMOTEO MIJARES, ALEX RAMOS, REYNALDO CRUZ, MODESTO MAMESIA, DOMINGO SILARDE, RENATO PUERTAS, RENE VILLANUEVA, MARCELO DELA CRUZ and HERNANDO LEGASPI,
***Petitioners*,**

-versus-

G.R. No. 101539
September 4, 1992

NATIONAL LABOR RELATIONS COMMISSION and BALIWAG MAHOGANY CORPORATION,
***Respondents*.**
x----------x

D E C I S I O N

MEDIALDEA, *J.*:

This Petition for *Certiorari* seeks to annul and set aside the Resolution issued by the respondent National Labor Relations Commission on July 8, 1991, in Certified Case No. 0548 entitled "In Re: Labor Dispute at Baliwag Mahogany Corporation," affirming with modification its previous decision dated October 23, 1990, declaring the union officers and/or members who participated in the illegal strike staged on February 6, 1990 to have lost their status of employment, and directing private respondent Baliwag Mahogany Corporation to pay separation pay to certain employees and to reinstate without backwages all union members not found to have committed prohibited acts.

The antecedent facts are as follows:

Petitioners Cecile de Ocampo, Wilfredo San Pedro, Reynaldo Dovicar. Bien Medina, Cesar Abriol, Artemio Castro, Larry Alcantara, Michael Nocum, Jesus Deo, Jr., Publeo Darag, Eduardo Bino, Eduardo Veles, Ervin David, Prostacio Perez, Noel Victor, Eleno Dacatimban, Antonio Bernardo, Carlito Victoria, Timoteo Mijares, Alex Ramos, Reynaldo Cruz, Modesto Mamesia, Domingo Silarde, Renato Puertas, Rene Villanueva, Marcelo dela Cruz and Hernando Legaspi are employees of private respondent Baliwag Mahogany Corporation. They are either officers or members of the Baliwag Mahogany Corporation Union-CFW, the existing collective bargaining agent of the rank and file employees in the company. Private respondent Baliwag Mahogany Corporation is an enterprise engaged in the production of wooden doors and furniture and has a total workforce of about 900 employees.

In 1988, private respondent Baliwag Mahogany Corporation (company) and Baliwag Mahogany Corporation Union-CFW (union) entered into a collective bargaining agreement containing, among other things, provisions on conversion into cash of unused vacation and sick leaves: grievance machinery procedure; and the right of the company to schedule work on Sundays and holidays.

In November, 1989, the union made several requests from the company, one of which was the cash conversion of unused vacation and sick leaves for 1987-1988 and 1988-1989.

Acting on the matter, the company ruled to allow payment of unused vacation and sick leaves for the period of 1987-1988 but disallowed cash conversion of the 1988-1989 unused leaves.

On January 3, 1990, the company issued suspension orders affecting twenty (20) employees for failure to render overtime work on December 30, 1989. The suspension was for a period of three (3) days effective January 3, 1990 to January 5, 1990.

On the same day, the union filed a notice of strike on the grounds of unfair labor practice particularly the violation of the CBA provisions on non-payment of unused leaves and illegal dismissal of seven (7) employees in November, 1989.

On January 13, 1990, the company issued a notice of termination to three (3) employees or union members, namely, Cecile de Ocampo, Rene Villanueva and Marcelo dela Cruz, of the machinery department, allegedly to effect cost reduction and redundancy.

The members of the union conducted a picket at the main gate of the company on January 18, 1990.

On the same day, the company filed a petition to declare the strike illegal with prayer for injunction against the union, Cecile de Ocampo, Wilfredo San Pedro and Rene Aguilar.

An election of officers was conducted by the union on January 19, 1990. Consequently, Cecile de Ocampo was elected as president.

During the conciliation meeting held at National Conciliation and Mediation Board (NCMB) on January 22, 1990 relative to the notice of strike filed by the union on January 3, 1990, the issue pertaining to the legality of the termination of three (3) union members was raised by the union. However, both parties agreed to discuss it separately.

Subsequently, in a letter dated January 28, 1990, the union requested for the presence of a NCMB representative during a strike vote held by the union. The strike vote resulted to 388 votes out of 415 total votes in favor of the strike.

Consequently, the union staged a strike on February 6, 1990.

On February 7, 1990, the company filed a petition to assume jurisdiction with the Department of Labor and Employment.

On February 16, 1990, the company filed an amended petition, praying among other things, that the strike staged by the union on February 6, 1990 be declared illegal, there being no genuine strikeable issue and the violation of the no-strike clause of the existing CBA between the parties.

The Secretary of Labor in an order dated February 15, 1990, certified the entire labor dispute to the respondent Commission for compulsory arbitration and directed all striking workers including the dismissed employees to return to work and the management to accept them back.

The company filed an urgent motion for assignment of a sheriff to enforce the order of the Secretary.

In an order dated February 22, 1990, the Secretary of Labor directed Sheriff Alfredo Antonio, Jr., to implement the order.

On February 23, 1990, the sheriff, with the assistance of the PC/INP of San Rafael, removed the barricades and opened the main gate of the company.

Criminal complaints for illegal assembly, grave threats, and grave coercion were filed against Cecile de Ocampo, Timoteo Mijares, Modesto Mamesia and Domingo Silarde by the local police authorities on February 24, 1990.

On February 25, 1990, the company caused the publication of the return to work order in two (2) newspapers, namely NGAYON and ABANTE.

In its letter dated February 27, 1990, the union, through its President Cecile de Ocampo, requested the Regional Director of DOLE, Region III to intervene in the existing dispute with management.

Meanwhile, the company extended the February 26, 1990 deadline for the workers to return to work until March 15, 1990.

The respondent Commission rendered a decision on October 23, 1990, declaring the strikes staged on January 18, 1990 and February 6, 1990 illegal, the dispositive portion of which provides as follows, to wit:

> "WHEREFORE, judgment is hereby rendered as follows:
>
> "1. The strike staged on January 18, 1990 is hereby declared illegal and all employees who participated therein are reprimanded therefor and further warned that future similar acts shall be dealt more severely;
>
> "2. The strike staged on February 6, 1990 is hereby declared illegal and the Union officers/members are deemed suspended from March 15, 1990 the last deadline of the company for them to report to the date of promulgation of this Decision. In short, the Union officers/members are ordered reinstated to their positions but without backwages;
>
> "3. Baliwag Mahogany Corporation is hereby directed to immediately reinstate Cecile de Ocampo, Rene Villanueva and Marcelo dela Cruz to their former positions without loss of seniority rights to pay them full backwages for the period from January 17, 1990 to March 15, 1990 only;
>
> "4. The Baliwag Mahogany Corporation is hereby directed to immediately reinstate Alex Ramos, Ronaldo Cruz, Fernando Hernandez, Renato Puertas, Hernando Legaspi to their former positions and to

pay them backwages from date of dismissal to March 15, 1990 only;

"5. The Baliwag Mahogany Corporation is hereby exonerated of the charge of unfair labor practice;

"6. The Baliwag Mahogany Corporation is directed to pay its employees the cash equivalent of unused sick leaves for year 1989;

"7. The Baliwag Mahogany Corporation is directed to remit to the Union the dues for the month of January 1990.

"SO ORDERED." (Rollo, pp. 68-69)

Such decision prompted the company to file a motion for reconsideration substantially on the ground that public respondent seriously erred in not dismissing the employees particularly the union officers, who participated in the illegal strike.

In its supplemental motion for reconsideration, the company contended that as a result of the strike, it failed to meet the purchase orders for the quarter valued at fifteen million pesos.

Petitioners filed an opposition to the company's motion for reconsideration and subsequently, a supplemental comment/opposition to motion for reconsideration.

On December 13, 1990, the respondent Commission directed the Labor Arbiter to receive evidence on the issues raised in the motion for reconsideration and additional evidence on the issues already passed upon, and to submit a report thereon.

On July 8, 1991, the respondent Commission rendered a resolution affirming with modification the decision dated October 23, 1990, the dispositive portion of which provides as follows:

"WHEREFORE, premises considered, the Decision of October 23, 1990 is hereby MODIFIED, to wit:

"1. The strike staged on February 6, 1990 is hereby declared illegal and the Union officers/members who participated in said strike committed prohibited acts are deemed to have lost their status of employment, to wit:

1. Cecile de Ocampo
2. Wilfredo San Pedro
3. Reynaldo Aguilar
4. Bren Medina (Bien Medina)
5. Cesar Abriol
6. Artemio Castro
7. Larry Alcantara
8. Melie Nocum (Michael Nocum)
9. Jesus Deo, Jr.
10. Publeo Darag
11. Eduardo Bino
12. Eduardo Vices (Eduardo Veles)
13. Abroin David (Ervin David)
14. Protacio Perez (Prostacio Perez)
15. Celso Sarmiento
16. Noel Vicbon (Noel Victor)
17. Alano Dacatimban (Eleno Dacatimban)
18. Antonio Bernardo
19. Carlito Victoria
20. Timoteo Mijares
21. Alex Ramos
22. Reynaldo Cruz
23. Modesto Manesia
24. Domingo Silarde
25. Renato Puertas
26. Hernando Legaspi.

"2. The Baliwag Mahogany Corporation is directed to pay Cecile de Ocampo, Rene Villanueva and Marcelo Cruz separation pay computed at one month per year of service in addition to one month pay as indemnification pay for lack of notice (Art. 283. Labor Code).

"3. The Baliwag Mahogany Corporation is directed to pay Alex Ramos. Reynaldo Cruz, Renato Puertas, Hernando Legaspi separation pay computed at one (1) month per year of service in addition to backwages limited to six (6) months.

"4. The Baliwag Mahogany Corporation is directed to reinstate but without backwages all Union members not found herein to have committed prohibited acts nor found to have accepted settlement from it nor have voluntarily left the Company for reasons of their own.

"5. All other findings in the questioned Decision are affirmed.

"SO ORDERED." (Rollo, pp. 45-47)

Hence, this present petition raising three (3) issues, to wit:

"1. Whether or not there is legal basis for declaring the loss of employment status by petitioners on account of the strike in respondent Company.

"2. Whether or not the dismissals of petitioners Cecile de Ocampo, Rene Villanueva, and Marcelo dela Cruz from their positions by the company on the ground of redundancy was done in good faith.

"3. Whether or not respondent NLRC acted correctly in allowing respondent company to submit additional evidence in support of its Motion for Reconsideration and in giving credence to the said evidence despite the fact that the same were not newly-discovered evidence as defined under the Rules of Court." (Rollo, p. 11)

After a careful review of the records of this case, the Court finds the petition devoid of merit.

Petitioners insist that there is no specific finding by the respondent Commission regarding the particular participation of the individual petitioners in the supposed acts of violence or commission of prohibited acts during the strike such as denial of free ingress to the premises of the company and egress therefrom as well as illegal acts of coercion during the February, 1990 strike.

The Solicitor General disagrees and claims that it is undisputed that the union resorted to illegal acts during the strike arguing that private respondent's personnel manager specifically identified the union officers and members who committed the prohibited acts and actively participated therein.

Moreover, the Solicitor General maintains that the illegality of the strike likewise stems from the failure of the petitioners to honor the certification order and heed the return-to-work order issued by the Secretary of Labor.

Answering this contention, the petitioners argued that their failure to immediately return to work was not impelled by any malicious or malevolent motive but rather, by their apprehension regarding their physical safety due to the presence of military men in the factory who might cause them harm.

The law on the matter is Article 264 (a) of the Labor Code, to wit:

> "Article 264 (a) Prohibited activities. — (a)
>
> "No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.
>
> "Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his

> employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike."

The clear mandate of the aforequoted article was stressed in the case of Union of Filipro Employees vs. Nestle Philippines, Inc. (G.R. Nos. 88710-13, December 19, 1990, 192 SCRA 396, 411) where it was held that a strike that is undertaken despite the issuance by the Secretary of Labor of an assumption or certification order becomes a prohibited activity and thus illegal, pursuant to the second paragraph of Art. 264 of the Labor Code as amended and the Union officers and members, as a result, are deemed to have lost their employment status for having knowingly participated in an illegal act.

Unrebutted evidence shows that the individual petitioners defied the return-to-work order of the Secretary of Labor issued on February 15, 1990. As a matter of fact, it was only on February 23, 1990 when the barricades were removed and the main gate of the company was opened. Hence, the termination of the services of the individual petitioners is justified on this ground alone.

Anent the contention that the respondent Commission gravely abused its discretion when it allowed the presentation of additional evidence to prove the loss suffered by the company despite the fact that they were mere afterthoughts and just concocted by the company, time and again, We emphasize that "technical rules of evidence are not binding in labor cases. Labor officials should use every and reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process" (Philippine Telegraph and Telephone Corporation vs. National Labor Relations Commission, G.R. No. 80600, March 21, 1990, 183 SCRA 451, 457).

Turning to the legality of the termination of three (3) of the individual petitioners, petitioners contend that the company acted in bad faith when it terminated the services of the three mechanics because the positions held by them were not at all abolished but merely given to Gemac Machineries.

On the contrary, the company stresses that when it contracted the services of Gemac Machineries for the maintenance and repair of its industrial machinery, it only adopted a cost-saving and cost-consciousness program in order to improve production efficiency.

We sustain respondent Commission's finding that petitioners' dismissal was justified by redundancy due to superfluity and hence legal.

We believe that redundancy, for purposes of our Labor Code, exists where the services of an employee are in excess of what is reasonably demanded by the actual requirement of the enterprise. Succinctly put, a position is redundant where it is superfluous, and superfluity of a position or positions may be the outcome of a number of factors, such as overhiring of workers, decreased volume of business, or dropping of a particular product line or service activity previously manufactured or undertaken by the enterprise. The employer has no legal obligation to keep in its payroll more employees than are necessary for the operation of its business (Wiltshire File Co., Inc. vs. National Labor Relations Commission, G.R. No. 82249, February 7, 1991, 193 SCRA 665, 672).

The reduction of the number of workers in a company made necessary by the introduction of the services of Gemac Machineries in the maintenance and repair of its industrial machinery is justified. There can be no question as to the right of the company to contract the services of Gemac Machineries to replace the services rendered by the terminated mechanics with a view to effecting more economic and efficient methods of production.

In the same case, We ruled that "(t)he characterization of (petitioners') services as no longer necessary or sustainable, and therefore properly terminable, was an exercise of business judgment on the part of (private respondent) company. The wisdom or soundness of such characterization or decision was not subject to discretionary review on the part of the Labor Arbiter nor of the NLRC so long, of course, as violation of law or merely arbitrary and malicious action is not shown" (Ibid, p. 673).

In contracting the services of Gemac Machineries, as part of the company's cost-saving program, the services rendered by the mechanics became redundant and superfluous, and therefore properly terminable. The company merely exercised its business judgment or management prerogative. And in the absence of any proof that the management abused its discretion or acted in a malicious or arbitrary manner, the court will not interfere with the exercise of such prerogative.

Well-settled is the rule that the factual findings of administrative bodies are entitled to great weight and these findings are accorded not only respect but even finality when supported by substantial evidence (Family Planning Organization of the Philippines, Inc. vs. National Labor Relations Commission, G.R. No. 75907, March 23, 1992, p. 7 citing Asian Construction and Development Corporation vs. National Labor Relations Commission, G.R. No. 85866, July 24, 1990, 187 SCRA 784, 787). Hence, the truth or the falsehood of alleged facts is not for this Court now to re-examine.

In the light of the foregoing considerations, it if clear that the assailed resolution of the respondent Commission is not tainted with arbitrariness nor grave abuse of discretion.

ACCORDINGLY, the Petition is **DISMISSED** for lack of merit and the Resolution of the respondent Commission dated July 8, 1991 is hereby **AFFIRMED.**

SO ORDERED.

Cruz, Griño-Aquino and Bellosillo, *JJ.*, concur.