451 Phil. 514

FIRST DIVISION

[G.R. No. 119293, June 10, 2003]

SAN MIGUEL CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, SECOND DIVISION, ILAW AT BUKLOD NG MANGGAGAWA (IBM), RESPONDENTS.

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.

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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.

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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 v. 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:

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> 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 v. 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 x x x." 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 v. 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 v. 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 v. 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