

## SECOND DIVISION

**[ G.R. No. 178229, October 23, 2009 ]**

**MIGUEL A. PILAPIL, EDUARDO GODEN, GAUDENCIO C. BAURA, ISMAEL ESPANOLA, JEREMIAS B. CUBIAN, JR., NELSON A. CAL, RAMON G. GILLO, MARIO ENEGENTE, MARLON C. ERONICO, JULIAN C. RODADO, JR., ROMAN LANIA, ERNESTO P. NARVASA, RICKY PROCHINA, VICTORINO ARGOMIDO, JR., CLEMENTE D. BUTAD, RAMON S. OLE, JOSEPH Y. BUENO, GEORGE B. DAGAAS, ROGER C. ABAYATA, ARTEMIO A. MENDEZ, ROGELIO VILLA, RODULFO SARANDONA, BONIFACIO L. MINOZA, ROGILDO M. LANGUAY, ALBERTO O. CAIBIGAN, ALBERTO P. ZARCO, MANUEL W. ABECIA, REYNO D. BATOMALAUQUE, LEO DEMETRIO, ELPIDIO N. MUNEZ, MAXIMO EDQUILANG, CLEMENTE M. SURBAN, ARTURO G. BEDUYA, ERNESTO M. ABADINES, CELSO S. ALABAT, SR., DOMINARDOR LAGUNZAD, ANTONIO P. CABALO, DARIO Y. AXALAN, NERIO A. BAGOLOR, SR., NOMERTO M. AYSO, RODOLFO A. BALA, LORETO BUENO, DAMIANO E. SAJOL, CONRADO A. MA, GUILLERMO S. BABAO, FERNANDITO MONTOYA, FEDERICO S. GETIGAN, SR., ARMANDO P. MACAPAZ, ALBERTO T. RESULA, JR., GABRIEL Q. LOPEZ, RICARDO E. SAJOL, EDILBERTO L. ERABON, JR., LINO L. BARONG, RODRIGO P. JUMILLA, FELICIANO S. ANG SIO, JESUS S. ANDRADE, JOEL U. ROBILLO, RUSTICO Y. CUYNO, ARSENIO P. MANEGO, JULIUS R. TAYABAS, BIENVENIDO C. MACADINE, EDGARDO M. PEROMINGAN, GRACIANO M. JALBUNA, JOVEN BAILLO, TEODORO S. MAGPUSAO, ARIEL Q. AGRAVANTE, FELIX P. BALBUTIN, ANDREO C. ARGOMIDO, BIENVENIDO A. SAYSON, ARTEMIO T. CALES, MARCELINO E. TAMPOS, JORGE BETO, PEREGRINO CAHARIAN, SANTOS E. LUNGAY, PORFERIO ROBLES, PAULITO G. SERATO, CARLITO FERNANDEZ, NESTOR B. BUNCALAN, CEFERINO P. DOMINGO, ERNESTO T. PANTILLO, LEONARDO B. QUIZO, ALFREDO M. FULGUERINAS, EDGARDO C. LAGUNA, LAUREANO C. MOSQUITE, JR., ALEJANDRO C. SALAMANES, CARLITO B. MAGLACION, MARIO L. LAVESORES, ALEX D. MAMACANG, DIONES BATERBONIA, JOSE A. NAVARRO, ALBERTO T. LEBANTE, AGUSTIN B. VENENOSO, LEO TILOS, EDGARDO C. LOBO, ALBERTO E. ESPERA, TEODORO SOCOBOS, ROGELIO P. DANAS, DIOMEDES G. AYOP, MANSUETO S. GAMIL, EDGARDO CAMPOSO, CIRILO S. LADICA, LEONARDO J. BANGGOS, ORLANDO A. LACERONA, REYNALDO S. ROCHA, LENILO O. HUIISO, ARTEMIO B. TAGA AMO, NICANOR T. TORREFIEL, SEVERINO T. SANIEL, BARTOLOME D. DELFINO, DOMINGO P. HUEVOS, JR., REYNALDO CALUPAS, SONNY M. INTIA, MODESTO G. COMANDA, SANTIAGO S. LINGO, SIMON V. MARTINETE, NAZARIO B. AGUSTINO, VICENTE MONTEHERMOSO, DANIEL N. ALBARICO, PEDRO T. TORREON, ANTONIO AMIMITA, CONCORDIO PELIGRO (DECEASED), ALFREDO T. TORRALBA,**

**SAMUEL CABREROS, WILFREDO M. PUWEBLO, ROSENDO BULLANDAY, RAMON PANDAY, MEDARDO P. ARCELO, ROGELIO S. LINGO, FRANCISCO G. MALABAD, SOTERO M. BACALSO, FRANCISCO O. SUCAYRE, RAMIR B. ORDANIEL, LUCIANO A. GARCIA, SATURNINO COJANO, NICANOR S. ESTOQUE, JR., SAMUEL D. OCULAR, JUAN S. SARDOMA, CARLITO L. PANGANORON, SR., ADRIANO B. ABABA, FELIPE HILLA, ELMER S. LLANTO, RECAREDO E. AMESONA, JOSE P. TOQUIB, ROLANDO C. ARCENO, JULIUS BUCAO, SR., SAMUEL BODIONGAN, PEPTIO TARCELO, LEO O. EROY, JR., GENESITO A. SIGUE, LEO LUNA, HENRY T. PONTEMAYOR, ALBERTO TINAMBACAN, RODRIGO MANALO, SEGUNDINO I. GESALAN, WILFREDO A. GURREA, VICENTE MUNOZ, FRANCISCO YANGKEE, ANTONIO BALUNTANG, ROMIE BASINDAHAN, RENALDO TAPIA, GEROSIMO LICARDO, ARMANDO S. LEE, MANUEL L. PELENIO, ELIEZER B. ALCALDE, WILFREDO G. MERQUITA, SEVERINO P. REGIDOR, ALBERTO B. JABAGAT, DANIEL B. GALACE, ARSENIO A. OROZCO, EDGARDO A. PILAPIL, BARTOLOME P. SALANGO, BUENAVENTURA ANINON, ROLANDO C. PEREZ, RODOLFO L. ALONZO, ROBERTO S. LULU, APOLINARIO NEGRIDO, GIOVANIE H. CANATOY, DEOMEDES G. ORIAS, ROMEO A. TAYAPAN, SR., ENRIQUE L. LUMAPAS, JR., ALBERTO S. MACALOLOT, ISABELO LEJARE, JOSE E. DUERME, EMILIO PATOLA, RODRIGO ABIERA, TEODORO A. BAO, MARCELINO A. ABARCA, WILLIAM G. YUSON, and REYNALDO C. MARANON, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC), FIFTH DIVISION; AND C. ALCANTARA & SONS, INC., EDITHA ALCANTARA, PRESIDENT, AND NELIA CLAUDIO, VICE-PRESIDENT FOR FINANCE & ADMINISTRATION, RESPONDENTS.**

## **D E C I S I O N**

### **CARPIO MORALES, J.:**

Petitioners, 188 in all, were employees of C. Alcantara and Sons, Inc. (CASI) and members of the *Nagkahiusang Mamumuo sa Alsons*, Southern Philippines Federation of Labor (NAMAAL-SPFL or the union). NAMAAL-SPFL and CASI forged a collective bargaining agreement (CBA) effective January 10, 1995 up to December 31, 1999.

On the proposal of NAMAAL-SPFL, negotiation for the modification of the CBA was commenced but ended in a deadlock.

On July 8 1998, NAMAAL-SPFL filed a Notice of Strike before the National Conciliation and Mediation Board (NCMB) on the ground of "deadlock in collective bargaining."

As conciliation efforts failed, a vote was conducted in which majority of the employees voted for the holding of a strike. NAMAAL-SPFL, led by its president Felixberto Irag, thereupon staged a strike at 11:00 P.M. of August 23, 1998. With makeshift structures, huge streamers and banners, the strikers barricaded the main private road leading to, and prevented ingress to and egress from, the CASI compound, thereby paralyzing CASI's operations.

On August 26, 1998, CASI, amid received reports that the strikers harassed and intimidated its managerial and supervisory employees entering the compound, filed a petition to declare the strike illegal before the National Labor Relations Commission (NLRC), RAB No. XI, Davao City, docketed as NLRC Case No. RAB-11-08-010664-98, against the officers and members of the union, excluding petitioners, who were alleged to be responsible for some of the prohibited and illegal activities during the strike.

CASI alleged that the striker-respondents conducted illegal activities and violated the "no-strike-no-lock-out clause" of the CBA. It prayed for the issuance of a writ of preliminary injunction with a prayer for the issuance of a temporary restraining order (TRO) ex-parte and writ of preliminary injunction.

The NLRC issued a TRO but the strikers defied it. The NLRC later issued a Writ of Preliminary Injunction ordering the striking union officers and their agents and sympathizers to lift their barricades and remove all obstructions to the CASI premises.<sup>[1]</sup> The attempt to enforce the writ on two occasions was foiled by the strikers. The third attempt to enforce was met with violent confrontation during which at least 23 non-striking workers were injured. After still several attempts, with the assistance of the city officials of Davao and some church representatives, the writ was finally enforced on October 28, 1998.

CASI thereupon resumed operations. On November 7, 1998, it sent letters directing petitioners to return to work within two (2) days from receipt thereof, with the caveat that if they don't, it would take necessary measures for the protection of its interest.<sup>[2]</sup>

Petitioners ignored CASI's directive.

By Decision dated June 29, 1999, Labor Arbiter (LA) Antonio M. Villanueva declared the strike illegal. On appeal, the NLRC affirmed the LA's decision with modification, prompting NAMAAL-SPFL to file a petition for certiorari before the Court of Appeals.

In the meantime, or on October 21, 2001, 61 of the present petitioners wrote CASI stating:

Until now we have not found any job equal to the positions we held in Alsons. We understand that many of the strikers had returned to work, including some of those who were convicted of illegal strike. Thus, the picketing had been lifted.

We awaited for [sic] the outcome of the strike since August 23, 1998, and only recently we were informed that we were not among those included in the case filed by the Company against the Nagkahiusang Mamumu-o sa Alsons (NMAAL)-SPFL.

For these reasons, we are therefore voluntarily offering to return to work.

<sup>[3]</sup> (Underscoring supplied)