

## THIRD DIVISION

[ G.R. No. 115180, November 16, 1999 ]

**FILIPINO PIPE AND FOUNDRY CORPORATION, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, NATIONAL LABOR UNION - TUCP, AND EULOGIO LERUM, RESPONDENTS.**

### DECISION

**PURISIMA, J.:**

At bar is a Petition for Certiorari under Rule 65 of the Revised Rules of Court seeking to annul and set aside the Decision<sup>[1]</sup> of the National Labor Relations Commission, <sup>[2]</sup> dated September 29, 1993, in NLRC NCR CA No. 003806-92, which reversed the Decision<sup>[3]</sup> of the Labor Arbiter,<sup>[4]</sup> dated August 31, 1992, in NLRC Case No. 4-1309-86, disposing thus:

*'WHEREFORE, premises considered, the appeal of complainant corporation is hereby dismissed for lack of merit; the appeal of Atty. Lerum and NLU is hereby granted, and the Decision dated August 31, 1992 is hereby annulled and set side, and a new judgment is hereby entered declaring the complaint below dismissed for lack of merit insofar as respondent NLU and Atty. Lerum are concerned.*

*SO ORDERED.*"<sup>[5]</sup>

The antecedent facts can be culled as follows:

On February 10, 1986, respondent National Labor Union-Trade Union Congress of the Philippines (NLU-TUCP), a national federation of labor unions, filed with the then Ministry of Labor and Employment, in behalf of its local chapter, the Filipino Pipe Workers Union-National Labor Union (FPWU-NLU, hereinafter referred to as Union), a notice of strike signed by its national president, Atty. Eulogio R. Lerum, against the petitioner, Filipino Pipe and Foundry Corporation, alleging as grounds therefor union busting and non-implementation of the Collective Bargaining Agreement.<sup>[6]</sup>

The initial conciliation conference was set on February 24, 1986 but due to lack of notice thereof to petitioner company, as well as the failure of FPWU-NLU to furnish the latter a copy of the notice of strike, the initial conciliation conference was re-set to March 3, 1986.

In the early morning of March 3, 1986, however, without waiting for the outcome of the conciliation conference scheduled on said date, the FPWU-NLU staged the strike in question which lasted until June 13, 1986, when a return to work agreement was reached by the union and petitioner company.<sup>[7]</sup>

On April 8, 1986, petitioner company interposed before the Arbitration Branch of the

then Ministry of Labor and Employment, a petition to declare the strike illegal with prayer for damages against FPWU-NLU, NLU-TUCP and its national president, Atty. Eulogio Lerum.

On December 23, 1988, petitioner company moved for the partial dismissal of the Complaint against forty-three (43) officers and members of FPWU-NLU, but maintained the action against the NLU-TUCP and Atty. Eulogio Lerum.<sup>[8]</sup>

On August 31, 1992, the Labor Arbiter came out with a decision for petitioner company, ruling as follows:

*"WHEREFORE, judgment is hereby rendered declaring that the strike staged by respondents from March 3, 1986 to June 13, 1986 was ILLEGAL. Accordingly and in conformity with the Return-to-Work Agreement, respondent National Labor Union-TUCP is hereby directed to pay the complainant company the following:*

*a) Actual damages in the form of loss of revenue during the duration of the strike which lasted for 100 days or in the amount of ONE MILLION PESOS (P1,000,000.00);*

*b) Damages to the good business standing and commercial credit of the company in the amount of THREE HUNDRED FIFTY THOUSAND PESOS (P350,000.00); and*

*c) Exemplary damages to deter others similarly inclined from committing similar acts and to serve as an example for the public good, in the amount of TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00).*

*Further, respondent NLU is hereby directed to pay the attorney's fees equivalent to 10% of the actual damages, or the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00).*

*For lack of showing that respondent Lerum acted in his personal capacity, he is hereby ABSOLVED from any liability.*

*Pursuant to the Agreement, the complaint against all the other individual respondents are hereby DISMISSED.*

*SO ORDERED."*<sup>[9]</sup>

Therefrom, both parties appealed to the NLRC which on September 29, 1993, rendered the assailed decision. Dissatisfied therewith, the petitioner company found its way to this Court *via* the present petition; theorizing that:

I

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ERRED IN LAW, CAPRICIOUSLY AND WHIMSICALLY DISREGARDED THE EVIDENCE SUBMITTED IN THE CASE AND GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN IT HELD THAT PRIVATE RESPONDENTS NATIONAL LABOR UNION

(NLU)-TUCP AND ATTY. EULOGIO LERUM ARE NOT PRIMARILY RESPONSIBLE AND, THEREFORE, NOT LIABLE FOR DAMAGES SUFFERED BY PETITIONER ON ACCOUNT OF THE ILLEGAL STRIKE THEY HAD DIRECTLY AIDED, ASSISTED, ABETTED AND PARTICIPATED IN.

## II

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION AND ACTED CAPRICIOUSLY AND WHIMSICALLY IN TOTAL DISREGARD OF THE EVIDENCE PRESENTED IN THE CASE WHEN IT HELD THAT PRIVATE RESPONDENTS MERELY ASSISTED THE LOCAL CHAPTER AND ITS MEMBERS IN STAGING A STRIKE AGAINST PETITIONER AND THAT SUCH ASSISTANCE WAS NOT THE CAUSE NOR WAS IT AN INDESPENSABLE ELEMENT OF THE STRIKE.

## III

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION GRAVELY ERRED IN LAW AND GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION WHEN IT CONCLUDED THAT PETITIONER LOST ITS CAUSE OF ACTION AGAINST PRIVATE RESPONDENTS AFTER THE LOCAL UNION HIRED A NEW COUNSEL AND PETITIONER MOVED FOR PARTIAL DISMISSAL OF ITS COMPLAINT AGAINST THE STRIKING WORKERS INASMUCH AS PRIVATE RESPONDENTS ARE MERE THIRD PARTIES.<sup>[10]</sup>

Rule XXII, Book V, of the Rules Implementing the Labor Code, provides:

**"Section 1. Grounds for strike and lockout.** - A strike or lockout may be declared in cases of bargaining deadlocks and unfair labor practices. Violations of collective bargaining agreements, except flagrant and/or malicious refusal to comply with its economic provisions, shall not be considered unfair labor practice and shall not be strikeable. No strike or lockout may be declared on grounds involving inter-union and intra-union disputes or on issues brought to voluntary or compulsory arbitration."

xxx xxx xxx

**"Section 3. - Notice of strike or lockout.**- In cases of bargaining deadlocks, a notice of strike or lockout shall be filed with the regional branch of the Board at least thirty (30) days before the intended date thereof, a copy of said notice having been served on the other party concerned. x x x"

xxx xxx xxx

**"Section 6. Conciliation.** - *Upon receipt of the notice, the regional branch of the Board shall exert all efforts at mediation and conciliation to enable the parties to settle the dispute amicably. The regional branch of the Board may, upon consultation, recommend to the parties to submit the dispute to voluntary arbitration.*

*During the proceedings, the parties shall not do any act which may disrupt or impede the early settlement of the dispute. They are obliged as part of the duty to bargain collectively in good faith, to participate fully and promptly in the conciliation meetings called by the regional branch of the board. The regional branch of the Board shall have the power to issue subpoenas requiring the attendance of the parties to the meetings. xxx"*

Applying the aforesaid provision of law in point to the case under consideration, the Court is of the finding and conclusion that the strike staged by FPWU-NLU was illegal for want of any legal basis. Contrary to the grounds advanced by the union in the notice of strike, it turned out during the March 3, 1986 conciliation conference that the purpose of the strike was to pressure the petitioner company to:

1) include in the salary of the strikers the P3.00 wage increase<sup>[11]</sup> effective March 1, 1986.

2) compute their backwages covering the period from December 1, 1980 to February 28, 1986, including vacation leave and sick leave.

A thorough sifting of the pertinent records discloses that the alleged union busting was not substantiated and the supposed non-implementation of the collective bargaining agreement was groundless because the demands of FPWU-NLU, at the time the notice of strike was filed and at the time the union actually struck, were the subject of a pending application for a writ of execution filed by the union in Case No. AB-7933-80 (NCR-CA-8-674-80), which application was granted on April 4, 1986 by the Labor Arbiter.<sup>[12]</sup> Verily, the strike staged by FPWU-NLU was baseless since it was still pre-mature then for the union to insist on the implementation of the adverted provision of the collective bargaining agreement, which was the subject of a pending writ of execution.

Then too, the failure of the union to serve petitioner company a copy of the notice of strike is a clear violation of Section 3 of the aforesaid Rules. The constitutional precepts of due process mandate that the other party be notified of the adverse action of the opposing party. So also, the same Section provides for a mandatory thirty (30) day cooling-off period which the union ignored when it struck on March 3, 1986, before the 30th day from the time the notice of strike was filed on February 10, 1986.

What is more, the same strike blatantly disregarded the prohibition on the doing of any act which may impede or disrupt the conciliation proceedings, when the union staged the strike in the early morning of March 3, 1986, the very same day the conciliation conference was scheduled by the former Ministry of Labor.

In light of the foregoing, it is beyond cavil that subject strike staged by the union was illegal.

Anent the responsibility for the damages allegedly sustained by petitioner company on account of the illegal strike, the latter theorized that the liability therefor should be borne by NLU-TUCP and its national president, Atty. Eulogio Lerum, for having directly participated in aiding and abetting the illegal strike. It is argued that FPWU-NLU is a mere agent of respondent NLU-TUCP, because FPWU-NLU, which was