

## SECOND DIVISION

[ G.R. No. 125561, March 06, 1998 ]

**NATIONAL UNION OF WORKERS IN HOTELS, RESTAURANTS AND ALLIED INDUSTRIES (NUWHRAIN) – THE PENINSULA MANILA CHAPTER (INTERIM UNION JUNTA), MELVIN COWAN, SERAFIN TRIA, JR., PORFERIO YAPE, LINDA GALVEZ, BENJAMIN ESTEVES, LUTHER ADIGUE AND RAYMUNDO VANCE, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND THE PENINSULA MANILA, RESPONDENTS.**

### D E C I S I O N

**REGALADO, J.,:**

This is a special civil action for *certiorari* seeking to set aside the decision of public respondent National Labor Relations Commission (NLRC), dated February 7, 1996,<sup>[1]</sup> which affirmed the November 4, 1993 order of the med-arbiter<sup>[2]</sup> holding that the strike held by petitioners on October 13 and 14, 1993 was illegal and declaring the 15 officers who knowingly participated in the strike to have lost their employment status. It likewise seeks to set aside the resolution of the NLRC, dated March 28, 1996,<sup>[3]</sup> denying the motion for reconsideration filed by petitioners.

The principal parties involved in this labor dispute are petitioner National Union of Workers in Hotels, Restaurants and Allied Industries (NUWHRAIN)- The Peninsula Manila Chapter (the Junta, for brevity); the NUWHRAIN - The Peninsula Manila Rank and File Chapter (the Union, for short); and private respondent, The Peninsula Manila (hereafter, the Hotel).

The rank and file employees union, representing approximately 800 employees of the Hotel, was the herein Union which entered into a collective bargaining agreement (CBA) with the Hotel on December 15, 1991.<sup>[4]</sup> Petitioners claim that the signing of that CBA by the Union officers, headed by one Rudolpho Genato, and representatives of the Hotel was tainted with irregularities, prompting the Union to file a notice of strike on the ground of a CBA deadlock. It was further asserted that instead of proceeding with said strike, the Union officers and the officers of its national office thereafter mysteriously signed the CBA without consulting the general membership of the local chapter.<sup>[5]</sup> These anomalies created anxiety in the Union which continued to prevail in the following years.

On February, 1993, some of the union members submitted a letter-petition which was to be the first of a series of demands for the resignation of the incumbent union officers on the ground that the latter were purportedly abusive and neglectful of their duties.<sup>[6]</sup> Because the demands went unheeded, a faction of the Union conducted what was ostensibly an impeachment proceeding, causing the removal from office of the incumbent officers headed by Genato.<sup>[7]</sup> The faction proclaimed itself as the Interim Union Junta, now the petitioners in this case.

Subsequent to the supposed impeachment of Genato and his group, the Junta requested from the Hotel to conduct of a special election of officers. The Hotel referred the request to the NUWHRAIN-LMC-IUF, the Union's national office. The latter disallowed the holding of the election on the ground that it did not recognize the Junta because it was allegedly constituted illegally.<sup>[8]</sup>

The Junta nonetheless conducted the election resulting in the choice of a set of officers led by petitioner Melvin Cowan, but which the supposedly impeached employees, the Union's national office, and the Hotel refused to recognize.<sup>[9]</sup>

On August 10, 1993, a notice of strike was filed by the Junta before the National Conciliation and Mediation Board (NCMB) based on alleged acts of the Hotel constituting unfair labor practice (ULP), particularly, discrimination, undue interference in the exercise of the right to self-organization, and bias in favor of the impeached officers.<sup>[10]</sup> The NCMB dismissed said notice on the ground that the imputed ULP acts were mere conflicts between two sets of union officers or intra-union disputes, and being categorized under the nomenclature of "non-strikeable acts," fall under the jurisdiction of the appropriate office of the Department of Labor and Employment (DOLE). The NCMB likewise ordered that the notice of strike be reduced to a preventive mediation case to be subjected to conciliation and mediation proceedings.<sup>[11]</sup>

Meanwhile, the Union, headed by Genato, filed a petition for injunction in the DOLE to enjoin the Junta from usurping the functions of the rightful officers. On the other hand, the Hotel filed a petition for interpleader and declaratory relief so that it may be properly guided on which of the two sets of officers, the Genato group or the Cowan group, it should recognize and deal with in matters pertaining to the CBA.<sup>[12]</sup>

Despite the dismissal of the first notice of strike and the pendency of the aforesaid conciliation proceedings and cases, the Junta filed a second notice of strike on September 9, 1993.<sup>[13]</sup> Additional grounds were set forth therein, including the suspension of an alleged Junta officer, one Sammie Coronel, which the Junta claimed constituted an unfair labor practice. This notice of strike was likewise dismissed by the NCMB as the grounds were found to be mere amplifications of those alleged in the preceding notice,<sup>[14]</sup> hence, likewise non-strikeable.

Coronel was eventually dismissed from employment and allegedly because the Junta believed that said dismissal was a ULP act,<sup>[15]</sup> it staged a wildcat strike on October 13 and 14, 1993, notwithstanding the prohibition to strike issued by the NCMB, thereby disrupting the operations of the Hotel.<sup>[16]</sup> The 15 officers of the Junta and 153 of its members were involved in the strike.

The DOLE Secretary certified the labor dispute to the NLRC for compulsory arbitration.<sup>[17]</sup> In the meantime, an order was issued by the med-arbiter in the interpleader and injunction cases declaring illegal the formation of the Junta, the impeachment of the union officers led by Genato, and the subsequent election of officers led by Cowan. It acknowledged the incumbency of the Genato group as officers and ordered the Hotel to recognize them as representatives of the rank and file employees.<sup>[18]</sup> Said order of the med-arbiter was appealed by the Junta to the DOLE Secretary who, as earlier noted, affirmed the same in a resolution dated December 22, 1994.

On December 29, 1993, the Hotel filed in the NLRC a petition to declare the wildcat strike illegal and to dismiss the employees who went on strike.<sup>[19]</sup> On January 13, 1994, the 15 officers of the Junta involved in the strike were dismissed for alleged acts of union disloyalty. Said employees and the Junta then filed a case for illegal dismissal before the NLRC.<sup>[20]</sup>

The NLRC consolidated the foregoing cases and, in a decision dated February 7, 1996, its Second Division declared the strike held on October 13 and 14, 1993 illegal as it was not based on valid grounds pursuant to the ruling of the NCMB when the latter dismissed the two notices of strike filed by the Junta. The NLRC held that the issue involving the suspension and termination from employment of Coronel did not *per se* constitute ULP which justifies a strike, as the matter involved purely an exercise of management prerogative which petitioners should have questioned by filing the proper complaint and not by staging a strike.<sup>[21]</sup>

Consequently, the dismissal of the 15 officers of the Junta was declared to be valid. With respect to the 153 members whose illegal acts in the strike were in issue and whose dismissal was likewise sought by the Hotel, the NLRC ordered the remand of the case to the labor arbiter for further proceedings.<sup>[22]</sup>

In a dissent from the decision of the majority, the opinion was advanced that the strike was legal because it was premised on a valid ground, particularly, the belief of the workers in good faith that there existed ULP acts constituting a cause to strike.<sup>[23]</sup>

A motion for reconsideration was filed by the Junta but it was denied,<sup>[24]</sup> thus the instant petition to set aside the abovementioned NLRC decision and denial resolution.

The petitioners contend that public respondent NLRC acted with grave abuse of discretion in declaring the October 13 and 14, 1993 strike illegal and in remanding to the labor arbiter the matter of the alleged illegal acts of the 153 Junta members for further proceedings.<sup>[25]</sup>

This Court has carefully reviewed the records of this case and finds the petition at bar to be unmeritorious.

Generally, a strike based on a “non-strikeable” ground is an illegal strike; corollarily, a strike grounded on ULP is illegal if no such acts actually exist. As an exception, even if no ULP acts are committed by the employer, if the employees believe in good faith that ULP acts exist so as to constitute a valid ground to strike, then the strike held pursuant to such belief may be legal.<sup>[26]</sup> As a general rule, therefore, where the union believed that the employer committed ULP and the circumstances warranted such belief in good faith, the resulting strike may be considered legal although, subsequently, such allegations of unfair labor practices were found to be groundless.<sup>[27]</sup>

An established caveat, however, is that a mere claim of good faith would not justify the holding of a strike under the aforesaid exception as, in addition thereto, *the circumstances must have warranted such belief*. It is therefore, not enough that the union believed that the employer committed acts of ULP when the circumstances clearly negate even a *prima facie* showing to sustain such belief.<sup>[28]</sup>

The Court finds that the NLRC did not commit grave abuse of discretion in ruling that the subject strike was illegal, and accordingly holds that the circumstances prevailing in