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SECOND DIVISION

(G. R. No. L-45498. November 22, 1985)

ELIZALDE SPECIAL POLICE UNION, *petitioner, vs.* **OFFICE OF THE PRESIDENT, acting through its Presidential Assistant on Legal Affairs, Hon. RONALDO B. ZAMORA, and ELIZALDE & CO., INC.,** *respondents.*

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; ***CERTIORARI*****; DISMISSAL OF CASE IN ORDER.**— Despite the dismissal for lack of merit of a previous petition involving the same issue, the Union filed the present petition, docketed as G.R. No. L-45498, assailing the very same decision of Presidential Assistant Zamora. Clearly, the petition must be dismissed. The Zamora decision had already been passed upon by this Court in the petition filed by the respondent company in G.R. No. 45450. The petitioner Union, as private respondent therein, had been duly heard by the Court.

RESOLUTION

ESCOLIN, *J.*:

The Solicitor General seeks the outright dismissal of the instant petition. The prefatory statement of his comment to the petition explains the reason:

"At the outset, attention is respectfully invited to the fact that this is the fourth (4th) time that the case at bar has been elevated to this Honorable Court. Furthermore, this is the second occasion that the decision of respondent Presidential Assistant for Legal Affairs dated October 20, 1976, in NLRC Case No. 2860, entitled "*Elizalde Special Police Union v. Elizalde and Co., Inc.*," is sought to be reviewed.[1]

The facts of this case support the Solicitor General's view: On February 28, 1974, respondent Elizalde Co., Inc. dismissed

[1] p. 43, *Rollo*.

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from its employ 180 of its security employees pursuant to an inter-office memorandum dated February 21, 1974 announcing the closure of its security department. Petitioner union forth with instituted the complaint for illegal dismissal, entitled "*Elizalde Special Police Union v. Elizalde & Co., Inc.*," docketed as NLRC Case No. LR-2860. On April 17, 1974, the NLRC issued a resolution ordering the reinstatement of all dismissed union members with backwages on the ground that the dismissal was in violation of PD No. 21.[2]

On appeal, the Secretary of Labor affirmed the resolution.[3] The respondent company brought the case to this Court on a petition for *certiorari*, docketed as G.R. No. L-39097, but this Court dismissed the said petition for lack of merit.[4]

Before the judgment could be executed, petitioner union, acting thru its officers and legal counsel, agreed to submit the case to voluntary arbitration; and in said arbitration, a compromise agreement was signed.[5]

Although the majority of the original complainants ratified the compromise agreement, 25 union members filed a petition to annul said agreement on the ground that they had not authorized their union officials and counsel to enter into any compromise on their behalf. Acting on the petition, Labor Arbiter Ernilo Peñalosa, after due hearing issued an order dated September 22, 1975 declaring the compromise agreement invalid and of no binding effect to the 25 complaining union members. In the same order, the Labor Arbiter declared their immediate reinstatement to their jobs with full backwages from the time of their dismissal until reinstated.

On appeal by the respondent company to the NLRC, the order was affirmed *in toto*. The company further appealed to the Secretary of Labor; and the latter, on May 6, 1976, rendered

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[2] Annex B, *Rollo*.

[3] Annex C, *Rollo*.

[4] Annex D, *Rollo*.

[5] Annex E, *Rollo*.

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a decision upholding the resolution of the NLRC, with the modification that said members are entitled to only six months backpay and that their reinstatement be held in abeyance pending the final determination of the main case on the merits.[6]

Both parties challenged this decision of the Secretary of Labor; the union members appealed to the Office of the President, while the company elevated the case to this Court on a petition for *certiorari* and prohibition, docketed as G.R. No. L-43954. In a resolution dated October 20, 1976, this Court dismissed the company's petition for lack of merit.[7] Also on October 20, 1976, the Office of the President, thru Presidential Assistant Ronaldo B. Zamora, issued a decision, the dispositive portion of which reads:

"In view of the foregoing, this Office hereby affirms the order appealed from, with the modification that the hearing on the main case be done in accordance with the provisions of the New Labor Code. As regards appellants Santiago de Jesus and Rogelio Pineda who appear to have availed of the monetary benefits under the compromise agreement, this Office is leaving the determination thereof to the appropriate office concerned."[8]

Still undaunted, the respondent company filed a petition with this Court docketed as G.R. No. L-45450, to annul and set aside the Zamora decision; and said petition was dismissed by this Court in its resolution of February 28, 1977, in this wise:

"L-45450 (*Elizalde & Co., Inc. v. Hon. Ronaldo B. Zamora, et al.*) — Considering the allegations of the petitioner as well as the annexes therein included, more specifically Annex "L", which categorically dismissed for lack of merit a previous petition, L-43954, *Elizalde & Co., Inc. v. Hon. Blas F. Ople*, on the precise point at issue, the only difference being that the present petition assails the validity of an order of Presidential Assistant Ronaldo B. Zamora, affirming the appealed order of the Secretary of Labor, this Court resolved to dismiss the petition for lack of merit. Attys.

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[6] Annex J, *Rollo*.

[7] Annex L, *Rollo*.

[8] Annex A, pp. 17-21, *Rollo*.

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Benjamin G. Arcinas, Benjamin C. Gascon and Arturo M. Martin are required to explain within fifteen (15) days from receipt why no disciplinary action should be taken against them for filing this petition when clearly the point at issue had been passed upon and found to be lacking in merit in the resolution of October 20, 1976 in the aforesaid case of *Elizalde & Co., Inc. v. Hon. Blas F. Ople*, L-43954 with the subsequent motion for reconsideration having been denied again for lack of merit, in another resolution of this Court on December 17, 1976."

The above resolution notwithstanding, the Union filed the present petition, docketed as G.R. No. L-45498, assailing the very same decision of Presidential Assistant Zamora. Clearly, the petition must be dismissed. The Zamora decision had already been passed upon by this Court in the petition filed by the respondent company in G.R. No. L-45450. The petitioner Union, as private respondent therein, had been duly heard by the Court.

WHEREFORE, the petition is hereby DISMISSED. This resolution is final and no motion for reconsideration thereof will be entertained.

SO ORDERED.

Concepcion Jr., Abad Santos, Cuevas, and *Alampay, JJ.*, concur.

FIRST DIVISION

(G. R. No. 58671. November 22, 1985)

EDUVIGIS J. CRUZ, *petitioner, vs.* **COURT OF APPEALS, *ET AL.*,** *respondents.*