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II. ALL THE RESPONDENTS HEREIN, EXCEPT THE DIRECTOR OF LANDS AND THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, ARE HEREBY ORDERED TO PAY JOINTLY AND SEVERALLY PETITIONERS IN THE AMOUNT OF TEN THOUSAND (₱10,000.00) PESOS AS MORAL DAMAGES; THE SUM OF FIVE THOUSAND (₱5,000.00) PESOS AS ATTORNEY'S FEES; AND THE COSTS:

SO ORDERED.

Teehankee (Chairman), Muñoz Palma, Fernandez, and *Guerrero, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-31909. April 5, 1978]

L. R. AGUINALDO & CO., INC., AGUINALDO *INDUSTRIES CORPORATION, LOVABLE (PHIL.)* INC., and ATELIER, INC., *petitioners, vs.* **COURT OF INDUSTRIAL RELATIONS, PHILIPPINE *UNITED LABOR ASSOCIATION* (PULA), WENCESLAO OBANIL, FLAVIANO BENITEZ, CESAR CARIÑO, FELICISIMO PACULTAD, *GERARDO OCAMPO, ALEJANDRA SORIANO,* ANITA ANGKIKO, AURELIA ESCUETA, BELEN LASTRA, BIBIANA ESPIRITU, CARMEN NAVAL, *CORAZON DEL ROSARIO, ELISA FLORES,* FELY VICTORIO, FIDEL VILLANUEVA, GLORIA RICAFRENTE, LEONILA SIASAT, LILIA CHIU, *LORENZO GEOLIN, LUCIA ISIDRO,* LUISA QUIJANO, LYDIA FLORES, LYDIA PAGSULINGAN, MARCELO L. REYES, MARIA *PONCIANO, MARINA ANACLETO, MAXIMO G.***

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SANTOS, NEMESIA GALANG, OFELIA SAMSON, RAFAELA MORELOS, REMEDIOS LALICAN, REMEDIOS RICO, ROSARIO REYES, REYMUNDO VILLAR, SALVADOR GARINGARAO and SEGUNDINA D'ASIS, *respondents.*

SYLLABUS

LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; UNFAIR LABOR PRACTICE; PRESENT IN CASE AT BAR.— The contention that the dismissals were brought about by the retrenchment policy effected by the management of the petitioners has no merit. The separation of the complainants was timed at the height of the union's reorganization. Moreover, new employees were hired, together with the recalled workers, both placing them in the category of extra workers. Finally, the petitioners opened a new contract for the re-exportation of ladies' dresses to the United States. The totality of the evidence supports the following findings of the Court of Industrial Relations: "It is true that by roughly going over the exhibits submitted by respondents, it would seem that, actually, the motive behind the dismissal of individual complainants was nothing more than to effectuate a retrenchment policy. Evidence, to this, if one would go over these figures, would seem to be very convincing, especially so considering that there was a bit of truth to the allusion that employees must be laid off. In the absence of any proof, however, that will show that even a study on this matter was made, it raised serious doubts in the mind of the Court, doubts that were converted into a moral conviction that the factual truth of the matter was retrenchment policy was not the real reason for the separation of these employees from their services in the sister corporation. It must be re-emphasized, in this connection, that the termination of the services of individual complainants were so timed in such a way that suspicions would be aroused, not only because it was made simultaneously or immediately during the height of the organization of the Agemas-PULA, but, basically, in view of the mass dismissals effected by respondents which, admittedly, they had not done in the past. The Court of Industrial Relations correctly found that the petitioners are guilty of unfair labor practice.

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APPEARANCES OF COUNSEL

V.E. del Rosario & Associates for petitioners.
Jose K. Manguiat, Jr. for respondent Court.
Cecilio Magadia, Jr. for private respondents.

D E C I S I O N

FERNANDEZ, *J.*:

This is a petition to review the decision of the Court of Industrial Relations in Case No. 4547-ULP entitled "*Philippine United Labor Association (PULA), et al., complainants, versus L. R. Aguinaldo & Company, Inc., et al., respondents,*" the dispositive part of which reads:

"IN VIEW THEREOF, respondents are, therefore, adjudged guilty of unfair labor practices as charged for having dismissed individual complainants mentioned in paragraph 7 of the complaint from their work in respondent companies for no other reason except their union activities. To effectuate the policy of the Industrial Peace Act, respondents, their agents and/or representatives are hereby ordered:

(1) To cease and desist from further committing the unfair labor practice acts complained of; and

(2) Directing the L. R. Aguinaldo & Company, Inc., Aguinaldo Industries, Lovable (Phil.), Inc. and Atelier, Inc. to reinstate them to their former employment with full backwages from the time of their separation on April 23 and 24, 1965 as reflected in the complaint until they are thus reinstated to their former work at respondent companies, *without loss to their seniority rights and of such other rights and* benefits acquired by them or allowed them by law; subject, however, to the condition that whatever amount they had received as separation pay/or wages elsewhere shall heretofore be deducted from their backwages. Further, the Examiner and Economist of this Court is likewise directed to proceed to the premises of respondent companies, examine their books of accounts, payrolls and other pertinent documents, compute the backwages due the individual complainants, and submit his report to this Court twenty (20) days thereafter for further disposition.

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SO ORDERED.

Manila, Philippines, June 14, 1969.

EMILIANO C. TABIGNE
Associate Judge"[1]

and the resolution of said Court of Industrial Relations *en banc* dated December 18, 1969 denying the motion for reconsideration for lack of merit.[2]

On July 20, 1966 one of the acting prosecutors filed in the Court of Industrial Relations on behalf of the Philippine United Labor Association (PULA) and 36 individual complainants Case No. 4547-ULP for unfair labor practice against L. R. Aguinaldo & Company, Inc., Aguinaldo Industries Corporation, Lovable (Phil.) Inc. and Atelier, Inc. charging the respondent corporations with having committed unfair labor practice by separating from their respective employments the 36 individual complainants on April 23 and 24, 1965 allegedly because they refused to withdraw a petition for certification election Case No. 1429-MC, on March 11, 1965.

The respondent corporations averred in their answer[3] as affirmative defenses that the complainants have no cause of action against them; that the complainants are guilty of bad faith in filing the frivolous and malicious complaint against answering respondents; that complainants-employees, at the time their services were terminated, were still *bona fide* members of the Aguinaldo Employees Association, NLU; that the respondents, as a matter of policy, never interfered in the internal affairs of any labor union existing or active within the respondents' companies; and that the complainants-employees were dismissed for a just and valid cause and respondents had strictly complied with all the requirements of law with respect to the termination of the petitioners-employees.

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[1] Annex "D", *Rollo*, pp. 60-62.

[2] Annex "G", *Rollo*, p. 116.

[3] Annex "B", *Rollo*, pp. 41-42.

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The reasons relied upon for the review are:

"I. RESPONDENT COURT ERRED IN AWARDING BACK WAGES AND ORDERING THE REINSTATEMENT OF THE THIRTY-SIX INDIVIDUAL COMPLAINANTS ON THE BASIS OF THE UNCORROBORATED, INCREDIBLE, AND UNRELIABLE TESTIMONIES OF ONLY FIVE OF THEM.

II. AFTER FINDING THAT THE INDIVIDUAL COMPLAINANTS, EXCEPT THREE, VOLUNTARILY RECEIVED LEGAL SEPARATION PAY IN THREE INSTALLMENTS FROM PETITIONER COMPANIES, AND THAT THE COMPLAINT FOR UNFAIR LABOR PRACTICE WAS FILED MORE THAN ONE YEAR AFTER THEIR TERMINATION, RESPONDENT COURT ERRED AND ABUSED ITS DISCRETION IN NOT HOLDING THAT SAID INDIVIDUAL COMPLAINANTS HAD ACQUIESCED TO AND ARE THEREFORE BARRED FROM QUESTIONING THE VALIDITY AND LEGALITY OF THEIR SEPARATION.

III. AFTER FINDING THAT 'THERE WAS A BIT OF TRUTH TO THE ALLUSION THAT THE EMPLOYEES MUST BE LAID OFF,' RESPONDENT COURT ERRED AND ABUSED ITS DISCRETION IN REJECTING PETITIONER COMPANIES DEFENSE OF RETRENCHMENT AS THE BASIS FOR RESPONDENTS' JUST AND LEGAL SEPARATION.

IV. RESPONDENT COURT CONSEQUENTLY ERRED AND GRAVELY ABUSED ITS DISCRETION IN FINDING PETITIONER COMPANIES GUILTY OF UNFAIR LABOR PRACTICE."[4]

The main issue is whether the individual complainants, private respondents herein, were dismissed from their employment in the petitioners by reason of union activities or because of the retrenchment policy of the petitioners.

The record shows that before the present dispute arose, there were 210 rank and file employees, including the 36 individual complainants, private respondents herein, in the employ of the petitioners L. R. Aguinaldo & Company, Inc., Aguinaldo Industries

[4] *Rollo*, pp. 12-13.

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Corporation, Lovable (Phil.) Inc. and Atelier, Incorporated. Said employees had been members of the Aguinaldo Employees Association-NLU (AGEMAS-NLU for short) which had a collective bargaining and closed shop agreement with the herein petitioners effective January 1, 1963 to continue up to January 1, 1966. Sometime in January 1965, the 36 complaining workers held a meeting and decided to change the officers of the AGEMAS-NLU for becoming allegedly pro-management. They organized themselves into a new AGEMAS union which they affiliated with the Philippine United Labor Association (PULA). As members of the AGEMAS-PULA, said 36 complaining workers, together with other employees, filed with the Court of Industrial Relations a petition for certification election on March 11, 1965, under the 10% rule. The petition was docketed as Case No. 1429-MC. On April 23, 1965, Cesar Cariño, Felicisimo Pacultad, Flaviano Benitez, Gerardo Ocampo and Felicisimo Wenceslao Obanil were laid off and on the following day, April 24, the services of the rest of the complaining workers were also terminated by the petitioners. Said employees were given separation pay equivalent to one-half month's pay for every year of service which they received in three (3) installments, except Maximo Santos, Corazon del Rosario and Mariano Analceto who refused to accept the separation pay.[5]

After the certification election case was filed, officers of the management, particularly Nonie Aguinaldo, Thomas Bosch, Gil Medina, and a shop steward by the name of Gloria Molina, started a campaign among the employees to disaffiliate their membership with the complainant union. On various dates these officers of the corporation talked to individual members of the complainant union and asked them to either disaffiliate from the AGEMAS-PULA or withdraw their petition for certification election, otherwise, they would be dismissed from their work and that the company would be closed. Thomas Bosch in a number of times, as a matter of fact, approached union leader Maximo Santos, asking him to withdraw the petition in accordance

[5] Annex "G", *Rollo*, pp. 117-118.

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with the instructions of Maria Angela Aguinaldo, and that if the petition would not be withdrawn, he would be dismissed. On one occasion, Thomas Bosch, even put a small knife on the table, saying that he was ready to face anyone, though adding that the knife was not intended for Maximo Santos. On April 24, 1965, for their refusal to disaffiliate from the complainant union and withdraw the certification election petition filed with the Court of Industrial Relations, 31 complainants were dismissed. The dismissals were made purportedly in view of their membership with the AGEMAS-PULA and refusal to withdraw their pending certification election petition. Earlier on April 23, 1965, Cesar Cariño, Felicisimo Pacultad, Flaviano Benitez, Gerardo Ocampo and Wenceslao Obanil were dismissed from their employment for the same reasons as the dismissals of the 31 named employees.

The contention that the dismissals were brought about by the retrenchment policy effected by the management of the petitioners has no merit. The separation of the complainants was timed at the height of the union's reorganization. Moreover, new employees were hired, together with the recalled workers, both placing them in the category of extra workers. Finally, the petitioners opened a new contract for the re-exportation of ladies' dresses to the United States.

The totality of the evidence supports the following findings of the Court of Industrial Relations:

"It is true that by roughly going over the exhibits submitted by respondents, it would seem that, actually, the motive behind the dismissal of individual complainants was nothing more than to effectuate a retrenchment policy. Evidence, to this, if one would go over these figures, would seem to be very convincing, especially so considering that there was a bit of truth to the allusion that employees must be laid off. What surprised the Court, however, was the testimony of the administrative assistant who, himself, expressed his doubts on why the respondent corporations should implement such a retrenchment policy at the very, very height of the reorganization of complainant union. The retrenchment was obviously unnecessary in view of the pending approved contract of these companies with a certain Mr. Feinberg. As a matter of fact, this contract, he said,

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pertains to the re-export to the United States of ladies' dresses where, obviously, most of the complainants were assigned. And, finally, from the individual letters of separation of the complainants, this Court easily learned that they had rendered long years of service, some had even completed seven, eight or nine years of employment. The Court anticipates that in the application of a retrenchment policy, the number of years of service must be a prime consideration, the efficiency of the workers involved, is another. It was never shown by positive proof that those who were retained by respondents had more years of service. It was never shown as a part of the evidence for respondents that those who were dismissed were less efficient than those who were kept on working from the judgment of the management. These are elementary factors that must have been considered in the appreciation of the antecedent facts in connection with the alleged retrenchment policy. In the absence of any proof, however, that will show that even a study on this matter was made, it raised serious doubts in the mind of the Court, doubts that were converted into a moral conviction that the factual truth of the matter was retrenchment policy was not the real reason for the separation of these employees from their services in the sister corporation.

It must be re-emphasized, in this connection, that the termination of the services of individual complainants were so timed in such a way that suspicions would be aroused, not only because it was made simultaneously or immediately during the height of the organization of the Agemas-PULA, but, basically, in view of the mass dismissals effected by respondents which, admittedly, they had not done in the past. On top of this, except for blank denials on the part of respondents; responsible officials, the testimonies of witnesses (who identified and singled them out, who invariably discriminated against union members, threatened them with dismissals, convincing them that they should disaffiliate from the union, and withdrawing their petition for certification election with this Court), remained entirely unrebutted. To attest to the truth of these assertions on the witness stand, the witnesses even specifically pointed to Thomas Bosch, Gil Medina, Maria Angela Aguinaldo, otherwise known as Nonie Aguinaldo, and Gloria Molina as those who threatened them one after another. Proofs are substantial, convincing. Hence, there is no reason whatsoever for the Court to doubt their credibility."[6]

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[6] Annex "D", *Rollo*, pp. 57-60.

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The Court of Industrial Relations correctly found that the petitioners are guilty of unfair labor practice.

The private respondents who received their separation pay are not barred from contesting the legality of their dismissals. They needed the money to tide them over until they could find other employments pending their reinstatements.

In consonance with the rationalization of the formula enunciated in *Davao Free Workers Front, et al. versus Court of Industrial Relations, et al.*,[7] and in view of the lapse of almost thirteen (13) years from the date the individual complainants were dismissed, the sharp and unabated increase in the cost of living and under the circumstances and equity of the present case, complainants, upon being reinstated, should be granted backwages corresponding to a period of three (3) years from April 23 and 24, 1965, without deduction from their earnings elsewhere during their lay-off and without qualification of their backwages as thus fixed, that is, unqualified by any wage increases or other benefits that may have been received by their co-workers who were not dismissed or did not go on strike.

WHEREFORE, the decision appealed from is hereby affirmed, with the modification that the petitioners are directed to reinstate the complainants, private respondents herein, with backwages for three (3) years from the time of their separation on April 23 and 24, 1965, without deduction and without qualification as explained above and without loss of their seniority rights and of such other rights and benefits acquired by them or allowed them by law, with costs against the petitioners.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, and *Guerrero, JJ.*, concur.

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[7] 67 SCRA 418.