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SECOND DIVISION

[G.R. No. L-29217. May 11, 1978]

MARIA CRISTINA FERTILIZER PLANT EMPLOYEES ASSOCIATION, VICENTE DUMAGUENG, OLEGARIO SARMIENTO, ANDRES BELTRAN, DIONISIO TANDOC, TOMAS MAPANAO, EUDOSIO ALCOVER, ALFONSO ALVAREZ, MAGDALENO BAGUIO, ANASTACIO CAPANGPANGAN, JUSTINIANO IGNACIO and ANGEL SANTIAGO, SR., *petitioners*, *vs.* **HON. TEODULO C. TANDAYAG, MARIA CRISTINA FERTILIZER CORPORATION**, *respondents*.

[G.R. No. L-33935. May 11, 1978]

MARIA CRISTINA FERTILIZER PLANT EMPLOYEES ASSOCIATION-ALU, VICENTE DUMAGUENG, OLEGARIO SARMIENTO, ANDRES BELTRAN, DIONISIO TANDOC, TOMAS MAPANAO, EUDOSIO ALCOVER, ALFONSO ALVAREZ, MAGDALENO BAGUIO, ANASTACIO CAPANGPANGAN, JUSTINIANO IGNACIO and ANGEL SANTIAGO, *petitioners*, *vs.* **MARIA CRISTINA FERTILIZER CORPORATION, JOSE MARCELO and COURT OF INDUSTRIAL RELATIONS**, *respondents*.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; LABOR STRIKES; WHEN CONSIDERED AN UNFAIR LABOR PRACTICE.** — An illegal strike, accompanied by violent or intimidatory picketing, may constitute an unfair labor practice insofar as it amounts to a refusal on the part of the union to bargain collectively with the employer (Sec. 4[b][3], Industrial Peace Act; Art. 249[c], Labor Code).

2. **ID.; ID.; ID.; ID.; RULE WHEN DAMAGES AROSE THEREFROM.** — Where the plaintiff's cause of action for damages arose out

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of, or was necessarily intertwined with, the alleged unfair labor practice committed by the union, the jurisdiction properly belonged to the Court of Industrial Relations. For the same reason, the lower court has no jurisdiction to issue the injunction against the union. Where the issue in an action filed in the Court of First Instance was tied up with an unfair labor practice case pending in the court of Industrial Relations, the action was outside the jurisdiction of the regular courts even if acts of violence, intimidation and coercion were imputed to the union. The injunction should have been obtained from the Industrial Court which was empowered to restrain such acts under the Industrial Peace Act. That rule obviates multiplicity of suits.

3. **REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; FINDINGS OF FACTS OF COURT OF INDUSTRIAL RELATIONS CONCLUSIVE ON SUPREME COURT.** — The Supreme Court may review the decision of the Court of Industrial Relations in unfair labor practice cases only on questions of law. The Industrial Court's findings, if supported by substantial evidence are conclusive. The review is proper if the Court of Industrial Relations has decided a question of substance not heretofore determined by the Supreme Court or has decided it in a way not in accord with law or with the Supreme Court's applicable decisions.

4. **ID.; ID.; ID.; ID.; INDUSTRIAL COURT'S FACTUAL FINDINGS MAY BE SET ASIDE ONLY IF DEVOID OF BASIS.** — The factual findings of the Court of Industrial Relations should be set aside if they are devoid of basis and if it acted with grave abuse of discretion. Its factual findings are final and binding when (1) the parties were given the opportunity to present evidence; (2) the tribunal considered the evidence presented; (3) there is something in the record to support the findings, and (4) the evidence supporting the findings is substantial.

5. **ID.; EVIDENCE; SUBSTANTIAL EVIDENCE, DEFINED.** — Substantial evidence means evidence which is more than a mere scintilla. It is relevant and credible evidence which a reasonable mind might accept as adequate to support a conclusion.

6. **LABOR AND SOCIAL; LABOR RELATIONS; LABOR STRIKE; ONLY PEACEFUL PICKETING ALLOWED.** — A strike is a legitimate weapon in the universal struggle for existence. But to be lawful, a strike must be preceded by the requisite intention

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to strike. It should have lawful purpose and should be executed through lawful means.

7. **ID.; ID.; ID.; DISMISSAL OF OFFICERS AND MEMBERS WHO TOOK PART IN ILLEGAL STRIKE.** — It is not a grave abuse of discretion for the Court of Industrial Relations to declare that union officers and members, who took part in an illegal strike, authorized the unlawful acts, committed them or ratified them, had lost their status as employees

8. **ID.; ID.; ID.; NOTICE OF INTENTION TO STRIKE, INSUFFICIENCY OF.** — A notice of intention to strike sent by the union to company, and not to the Conciliation Service or Director of Labor, with whom the company had a pending suggestion for mediation is not the notice of intention to strike contemplated in Section 14(d) of the Industrial Peace Act.

9. **ID.; ID.; ILLEGAL STRIKE; DEFINED.** — A strike is illegal where the strikers resort to unlawful acts in the conduct of the strike, such as conducting a highly coercive picketing, preventing the plant supervisor from checking defects in the company plant, threatening with harm or violence a contractor dealing with the company, using human barricades to block the ingress of nonstrikers, and displaying inflammatory placards.

FERNANDO, *J.*, *concurring* and *dissenting*:

1. **LABOR AND SOCIAL; LABOR RELATIONS; INDUSTRIAL PEACE ACT; JURISDICTION OVER UNFAIR LABOR PRACTICE CASES VESTED IN THE COURT OF INDUSTRIAL RELATIONS.** — The fundamental doctrine of the exclusive competence vested in the Court of Industrial Relations had nowhere been more emphatically set forth than in *Associated Labor Union v. Gomez*, Justice Sanchez being the *ponente*, in these words: "A rule buttressed upon statute and reason that [is] frequently reiterated in jurisprudence is that labor cases *involving unfair labor practice* are within the *exclusive* jurisdiction of the CIR. By now, this rule has ripened into dogma. It thus commands adherence, *not breach*." Since then cases have been decided enunciating the principle of exclusive jurisdiction of the Court of Industrial Relations over unfair labor practice controversies demonstrating how firmly the Supreme Court is committed to such a ruling, in accordance with the letter and spirit of the Industrial Peace Act.

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2. ID.; ID.; ID.; AVERMENT OF DAMAGES WILL NOT DEFEAT THE COURT OF INDUSTRIAL RELATION'S EXCLUSIVE JURISDICTION. — The averment that damages were suffered by reason of the strike will not work to defeat the jurisdiction of the Court of Industrial Relations to hear the unfair labor practice charge. Reason for this is that the right to damages "would still have to depend on the evidence in the unfair labor practice case" — in the Court of Industrial Relations. To hold otherwise is to sanction split jurisdiction — which is obnoxious to the orderly administration of justice. (*Associated Labor Union v. Gomez, 195 SCRA 304, 308-309*)

3. ID.; ID.; ID.; STRIKES; PROHIBITION PENDING THE DETERMINATION OF THE DISPUTE BEFORE THE COURT OF INDUSTRIAL RELATIONS. — Under Commonwealth Act No. 103 the employee, tenant or laborer is inhibited from striking or walking out of his employment only when so enjoined by the Court of Industrial Relations and after a dispute has been submitted thereto and pending award or decision by the court of such dispute. It follows that, as in the present case, the employees or laborers may strike before being ordered not to do so and before an industrial dispute is submitted to the Court of Industrial Relations, subject to the power of the latter, after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled, to order them to return, with the consequence that if the strikers fail to return to work, when so ordered, the court may authorize the employer to accept other employees or laborers.

4. ID.; ID.; ID.; ID.; A CONCERTED ACTIVITY ENTITLED TO LEGAL PROTECTION. — The Industrial Peace Act made explicit that a strike is a concerted activity entitled to legal protection. It expressly recognizes the right of the employees "to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection." (Section 3, Industrial Peace Act)

5. ID.; ID.; ID.; ID.; AN INSTITUTIONALIZED FACTOR OF DEMOCRATIC GROWTH; NOTICE OF INTENTION TO STRIKE NOT TO BE RIGIDLY INTERPRETED. — A strike is "an institutionalized factor of democratic growth." It is a logical

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corollary to the philosophy of the Industrial Peace Act, embodying the policy of self-organization and collective bargaining, that to the workers themselves should be left the determination of whether or not to engage in such concerted activity as a strike. They are free to select the means for attaining success in their disputes with management. The requirement in the Act that before the employees may strike, they must file with the Conciliation Service of the Department of Labor a notice of such intention, should not be given an interpretation so rigid in character as to render nugatory such a right.

6. **ID.; ID.; ID.; ID.; BELIEF IN GOOD FAITH OF THE COMMISSION OF UNFAIR LABOR PRACTICE, SUFFICIENT INDUCEMENT THEREFOR.** — A strike does not automatically carry the stigma of illegality even if no unfair labor practice were committed by the employer. It suffices if such a belief in good faith is entertained by labor as the inducing factor for staging a strike.

7. **ID.; ID.; ID.; ID.; MAY BE ILLEGAL IF MARKED BY VIOLENCE.** — A strike may be tainted by illegality if marked by violence. What was within the protection of the Industrial Peace Act was the concerted activity of cessation of work in order that a union's economic demands may be granted or that an employer cease and desist from an unfair labor practice. That was a right recognized by law, which certainly could not approve of the utilization of force to attain either objective. It is a truism to state that implicit in the concept of a legal order is the maintenance of peaceful ways. It would follow then that if marred by violence, a strike could be characterized as illegal.

8. **ID.; ID.; ID.; ID.; RESPONSIBILITY FOR ACTS OF VIOLENCE *SHOULD BE INDIVIDUAL.*** — *Care is to be taken, however,* especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed.

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9. ID.; ID.; ID.; ID.; ID.; NOT EVERY FORM OF VIOLENCE MAKES A STRIKE ILLEGAL. — A strike is usually attended by "the excitement, the heat and the passion of the direct participants in the labor dispute, at the peak thereof* * *," the picketing as such being "inherently explosive." But not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment by the guilty party. Only such strikers who were proven to have committed "specific serious act of violence" could be penalized with loss of employment.

10. ID.; ID.; ID.; ID.; ID.; FINDING OF ILLEGALITY SHOULD NOT BE AUTOMATICALLY FOLLOWED BY WHOLESALE DISMISSAL; REASON. — Why a mere finding of the illegality of a strike should not be automatically followed by wholesale dismissal was once again stressed in the recent case of *Almira v. B. F. Goodrich Philippines, Inc.* in these words: "It would imply at the very least that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there be acceptance of the view that under all the circumstances of this case, petitioners should not be deprived of their means of livelihood. Nor is this to condone what had been done by them. For all this while, since private respondent considered them separated from the service, they had not been paid. From the strictly juridical standpoint, it cannot be too strongly stressed, to follow Davis in his masterly work, Discretionary Justice, that where a decision may be made to rest on informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight. Finally, labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*."

APPEARANCES OF COUNSEL

Juanario Seno for Maria Cristina Fertilizer Plant Employees Association, *et al.*

Florentino Capco for Maria Cristina Fertilizer Corporation.

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DECISION

AQUINO, *J.*:

These two cases have a common factual background. L-29217 is about the jurisdiction of the Court of First Instance of Lanao del Norte to entertain an action for damages arising from unfair labor practices and to issue an injunction restraining the picketing concomitant with the strike. And L-33935 is a consolidation of two unfair labor practice cases originating from the Court of Industrial Relations (CIR).

The first case was filed by the employer against the union in connection with an alleged illegal strike and picketing. The second case was filed by the union against the employer for the latter's alleged refusal to enter into a collective bargaining agreement. The salient facts are as follows:

1. Maria Cristina Fertilizer Corporation, a company engaged in the manufacture of fertilizer and chemicals at its plant in Iligan City, had a collective bargaining agreement (CBA) with the Maria Cristina Fertilizer Plant Employees Association expiring on December 31, 1967. In September, 1967 the union submitted to the company a draft of a new CBA. The company countered with the suggestion that the existing CBA be renewed for a five-year period.

2. Believing that the company did not want to negotiate a new CBA, the union on November 2, 1967 sent to the company a notice of strike. The company clarified that it was not refusing to negotiate. It sent to the union its own draft of a new CBA. In December, 1967 fruitless negotiations regarding a new CBA were held on several occasions between the company and the union.

3. On January 5, 1968 the company proposed that all regular employees would be given an increase of twenty pesos and that those whose monthly salary was below ₱130 would be paid ₱150 a month. The union rejected the proposal. On January 15, 1968 the company president sent a radiogram to the union president, requesting the latter to specify the provisions in the draft of the CBA, which were unacceptable, and appealing to

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the union members to take into account the problems facing the company.

4. The union in its letter of January 16, 1968 reminded the management of its four major demands previously submitted to the company president. The letter ended with this ominous warning: "Until midnight tonight, we beg your understanding and acceptance." (Exh. M or 17). On that same day, the company president sent a wire to the union president, suggesting mediation and conciliation by the Department of Labor. The union president promised to reply in the afternoon of the next day, January 17, after consultation with the officers of the union.

5. Without having made any reply, the union declared a strike in the evening of January 17, 1968. The declaration of a strike, which was served upon the plant manager at eleven-thirty in the evening, reads as follows:

"Please be informed that the Maria Cristina Fertilizer Plant Employees Association is declaring a strike against the management of the Maria Cristina Fertilizer Corporation at 10:47 p.m. on January 17, 1968 for the following reasons:

"1. For the refusal of the Management to grant the reasonable Union demands.

"2. For violation of the Minimum Wage Law by the management.

"3. For the anti-unionism attitude of the management.

"4. For various unfair labor practices.

"Any negotiation the management wants will be coursed on the picket lines.

"The Union will maintain a peaceful and lawful picket lines around the premises of the Maria Cristina Fertilizer Plant Compound to effect its strike until their grievances are given redress.

"Yours truly,

"MC-Fertilizer Plant Employees
Assn. (MCFPEA)
"By: Sgd. Vicente Dumagueng
President"

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In view of the strike and the picketing, the company's operations were paralyzed.

6. Two weeks after the strike was declared, or on January 30, 1968, the company filed with the Court of First Instance of Lanao del Norte against the union and its officers a complaint for damages with a petition for preliminary injunction. The company alleged that the strike and picketing were illegal and that it was suffering a loss of ₱39,000 daily as a result of the strike. The union alleged in its answer that the lower court has no jurisdiction because the case involves a labor dispute which falls within the exclusive jurisdiction of the CIR. The union opposed the issuance of an injunction on the ground that the strike was lawful, peaceful and orderly. (Civil Case No. 1262).

7. On February 8, 1968 the lower court issued an injunction restraining the union and its agents and representatives from preventing the employees, who are not members of the union, from entering the fertilizer plant and performing their usual duties and from going out of the same and from preventing the customers from loading the fertilizer and other products purchased from the company.

8. Not content with filing an action for injunction and damages, the company on January 31, 1968 filed against the union and its officers a charge of unfair labor practice with the CIR's regional office at Cagayan de Oro City. After due investigation, the CIR's prosecution division on March 12, 1968 filed in behalf of the company a complaint for unfair labor practice against the union and its officers for having declared an illegal strike and resorted to unlawful picketing which were the same acts complained of in Civil Case No. 1262. (CIR Case No. 109-ULP-ORO).

9. On the other hand, the union on March 8, 1968 charged the company and its president with unfair labor practice. After due investigation, the prosecution division filed on October 30, 1968 in behalf of the union a complaint for unfair labor practice against the company, its president and personnel officer for having allegedly refused to enter into a collective bargaining

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agreement, for restraining the members of the union in exercising their right to self-organization, and for discriminating against them by not giving them the privileges enjoyed by non-union members (CIR Case No. 111-ULP-ORO).

10. The strike was terminated on *October 18, 1968* when the parties entered into a collective bargaining agreement which took effect on the following day. The picketing was lifted. But before that settlement was made, or on July 9, 1968, the union filed in this Court the special civil actions of *certiorari* and prohibition against the Court of First Instance of Lanao del Norte and the company in order to nullify the injunction and to secure a declaration that the lower court has no jurisdiction over Civil Case No. 1262. On July 17, 1968, or after the petitioners had posted a bond in the sum of ₱500, this Court issued a writ of preliminary injunction restraining the lower court from further proceeding in Civil Case No. 1262 and from enforcing the writ of preliminary injunction dated February 8, 1968. (L-29217). Hence, Civil Case No. 1262 was frozen.

11. The two unfair labor practice cases were heard jointly. The CIR trial judge in a decision dated May 4, 1970 held that the strike was illegal because there was no notice of intention to strike, as contemplated in Section 14 of Republic Act No. 875, and because the picketing was highly coercive in character. The officers and members of the union named as respondents were declared to have lost their status as employees of the company. A motion for the reconsideration of that decision was denied in the CIR's resolution *en banc* dated May 14, 1971.

12. On August 19, 1971 the union filed in this Court a petition for the review of that decision. The petition was given due course. (L-33935).

L-29217 -- Jurisdictional issue: Can the CFI enjoin a strike and award damages arising from alleged unfair labor practices? — We hold that the Court of First Instance of Lanao del Norte has no jurisdiction over Civil Case No. 1262 which is interwoven with the unfair labor practice case, CIR Case

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No. 109-ULP-ORO. The two cases involve the legality of the strike and picketing conducted by the union against the company.

An illegal strike, accompanied by violent or intimidatory picketing, may constitute an unfair labor practice insofar as it amounts to a refusal on the part of the union to bargain collectively with the employer (Sec. 4[b][3], Industrial Peace Act; Art. 249[c], Labor Code).

The Court of Industrial Relations used to have exclusive jurisdiction over the prevention of unfair labor practices, a power which was not affected "by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise" (Sec. 5, Industrial Peace Act).

It is settled that where the plaintiff's cause of action for damages arose out of, or was necessarily intertwined with, the alleged unfair labor practice committed by the union, the jurisdiction properly belonged to the Court of Industrial Relations (*Associated Labor Union vs. Central Azucarera de la Carlota*, L-25649, June 30, 1975, 64 SCRA 564; *Progressive Labor Association vs. Atlas Consolidated Mining and Development Corp.*, L-27585, May 29, 1970, 33 SCRA 349; *Goodrich Employees Association vs. Flores*, L-30211, October 5, 1976, 73 SCRA 297; *Holganza vs. Apostol*, L-32953, March 31, 1977, 76 SCRA 190).

For the same reason, the lower court has no jurisdiction to issue the injunction against the union. Where the issue in an action filed in the Court of First Instance was tied up with an unfair labor practice case pending in the Court of Industrial Relations, the action was outside the jurisdiction of the regular courts even if acts of violence, intimidation and coercion were imputed to the union. The injunction should have been obtained from the Industrial Court which was empowered to restrain such acts under the Industrial Peace Act. That rule obviates multiplicity of suits. (*BCI Employees and Workers Union vs. Marcos*, L-21016, July 30, 1965, 14 SCRA 793).

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Applying the above-cited rulings, we come to the unavoidable conclusion that all the proceedings in Civil Case No. 1262 are void for lack of jurisdiction. That case should be dismissed.

L-33935 — Legality of the strike. — The union and its officers, as appellants in the unfair labor practice cases, contend that the Industrial Court erred in not holding that the strike was staged against an unfair labor practice; in finding that the strike was illegal because the requisite thirty-day notice was not given; in holding that illegal acts were resorted to in the prosecution of the strike, there being no substantial evidence to prove the alleged illegal acts; in declaring that the individual petitioners had lost their status as employees, notwithstanding their good faith in declaring a strike; in not finding that the petitioners did not take part nor authorize the alleged illegal acts; in not finding that the company and its president were estopped to claim that the strike was illegal; in not declaring the company guilty of unfair labor practices, and in not ordering the reinstatement of the individual petitioners with back wages.

The union has not raised clear-cut or pure legal issues. This Court may review the CIR's decision in unfair labor practice cases only on questions of law. The CIR's findings, if supported by substantial evidence, are conclusive (Sec. 6, Industrial Peace Act. See Sec. 15 of Commonwealth Act No. 103 as amended). The review is proper if the CIR has decided a question of substance not heretofore determined by this Court or has decided it in a way not in accord with law or with this Court's applicable decision (Sec. 3, Rule 43, Rules of Court).

The CIR's factual findings should be set aside if they are completely devoid of basis and if it acted with grave abuse of discretion. Its factual findings are final and binding when (1) the parties were given the opportunity to present evidence; (2) the tribunal considered the evidence presented; (3) there is something in the record to support the findings, and (4) the evidence supporting the findings is substantial (*Kaisahan ng Mga Manggagawa sa La Campana vs. Tantongco and CIR*, 116 Phil. 883, 890).

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Substantial evidence means evidence which is more than a mere scintilla. It is relevant and credible evidence which a reasonable mind might accept as adequate to support a conclusion (*Ang Tibay vs. Court of Industrial Relations,* 69 Phil. 635).

In this case, the CIR on the basis of the evidence found (a) that in no instance did the company refuse to negotiate with the union on the terms of a new collective bargaining agreement; (b) that the company did not coerce the employees to resign from the union on the promise of increased compensation and, therefore, it did not interfere in the right of the employees to self-organization; (c) that the company did not perpetrate acts of discrimination against the members of the union, and (d) that the strike was staged because of the company's refusal to grant the union's four demands regarding the inclusion of foremen and casuals in the union, the increase of the basic monthly pay to ₱180 and the increase to ₱240 a month of the salaries of employees already receiving ₱180 a month, free medical and dental treatment for the employees and their families, and gratuity pay.

The CIR found that the union struck in order to attain those demands and not because of the alleged refusal to the company to enter into a new collective bargaining agreement. The company had a pending suggestion for mediation by the Department of Labor when the strike was declared.

Hence, the union should have filed with the Conciliation Service or with the Director of Labor Relations thirty days prior to the strike a notice of its intention to strike, as required by Section 14(d) of the Industrial Peace Act.

The CIR also found that the union resorted to unlawful acts in the conduct of the strike. The picketing was highly coercive. The union prevented the plant supervisor from checking the leak in the ammonia pipeline, threatened with harm or violence a contractor dealing with the company, barred the entrance into the company compound trucks loaded with pyrite, used a human barricade to block the ingress of nonstrikers and

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supervisors, and displayed a placard with the words "Blast off Cahanap."

The lower court arrived at those factual conclusions after analyzing the evidence presented by the parties at a full-dress hearing. Those findings are supported by substantial evidence.

Specifically, we are bound by the finding that the alleged letter of November 2, 1967 was not the notice of intention to strike contemplated in Section 14(d) of the Industrial Peace Act. That letter was sent to the company and not to the Conciliation Service or Director of Labor Relations. The chief conciliator of the Department of Labor testified that his office did not receive any notice of the impending strike. That testimony was given credence by the CIR. We cannot reverse that finding.

Nor can we ignore the CIR's explicit finding that the strike was not peacefully conducted and that the picketing was characterized by coercion and intimidation. Only peaceful picketing is allowed (Republic Act No. 1167; *De Leon vs. National Labor Union*, 100 Phil. 789).

As has been said, a strike is a legitimate weapon in the universal struggle for existence. But to be lawful, a strike must be preceded by the requisite notice of intention to strike. It should have a lawful purpose and it should be executed through lawful means. (See Sec. 264[b] of Labor Code).

Since the strike was found by the CIR to be illegal, we cannot say that it gravely abused its discretion in declaring that the union officers and members, who took part in the strike, authorized the unlawful acts, committed them, or ratified them, had lost their status as employees. (See *Almeda vs. CIR and Pepsi-Cola Bottling Co., Inc.*, 97 Phil. 306, 317.)

WHEREFORE, in L-29217 the order and writ of injunction issued by the Court of First Instance of Lanao del Norte are set aside for lack of jurisdiction and the writ of preliminary injunction issued by this Court is made permanent. In L-33935 the CIR decision and resolution under appeal are affirmed. No costs.

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SO ORDERED.

Barredo, Antonio, Concepcion Jr., and *Santos, JJ.*, concur.

Fernando (Chairman), J., concurs in L-29217 and dissents in L-33935 in a separate opinion.

FERNANDO, *J.*, *concurring* and *dissenting:*

It must be conceded that from the perspective taken by the Court in these two cases, Justice Aquino's opinion, distinguished, as is usually the case, by thorough research and marked clarity, supplies a neat and logical solution to the basic problem posed. Inasmuch as the decision in L-29217 reaffirms the well-settled doctrine that an unfair labor practice controversy was within the exclusive jurisdiction of the now-defunct Court of Industrial Relations, there can be no thought of dissent. It is a different matter as far as L-33935 is concerned. I am not prepared to yield concurrence inasmuch as, to my mind, there appears to be a retreat from the later trend discernible in recent opinions of this Court, to be more specifically referred to, informed by a spirit of leniency towards participants in an illegal strike. That approach, in my opinion, reflects greater fidelity to the expanded constitutional principles of social justice[1] and protection to labor,[2] dismissal being visited only on those strikers found guilty of committing serious acts of violence.

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[1] According to Article II, Section 6 of the present Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[2] According to Article II, Section 9 of the present Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

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1. The fundamental doctrine of the exclusive competence vested in the Court of Industrial Relations had nowhere been more emphatically set forth than in *Associated Labor Union v. Gomez*,[3] Justice Sanchez being the *ponente*, in these words: "A rule buttressed upon statute and reason that [is] frequently reiterated in jurisprudence is that labor cases *involving unfair labor practice* are within the *exclusive* jurisdiction of the CIR. By now, this rule has ripened into dogma. It thus commands adherence, *not breach*."[4] As noted in *Security Bank Employees Union-NATU v. Security Bank and Trust Co.*,[5] there were from *PAFLU v. Tan*[6] to *Bay View Hotel, Inc. v. Manila Hotel Workers Union*[7] fourteen decisions of this Tribunal enunciating the principle of exclusive jurisdiction of the Court of Industrial Relations over unfair labor practice controversies. Three other cases, *Associated Labor Union v. Borromeo*,[8] *Veteran Security Free Workers Union v. Cloribel*,[9] and *Meralco Workers Union v. Gaerlan*,[10] were decided prior to *Progressive Labor Association v. Atlas Consolidated Mining and Development Corporation*,[11] cited in the opinion of Justice Aquino. There were three other decisions referred to therein, *Associated Labor Union v. Central Azucarera de la Carlota*,[12] *Goodrich Employees Association v. Flores*,[13] and *Holganza v. Apostol*.[14]

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[3] L-25999, February 9, 1967, 19 SCRA 304.

[4] *Ibid.*, 309.

[5] L-28536, April 30, 1968, 23 SCRA 503.

[6] 99 Phil. 854 (1956).

[7] L-21803, December 17, 1966, 18 SCRA 946.

[8] L-26461, November 27, 1968, 26 SCRA 88.

[9] L-26439, January 30, 1970, 31 SCRA 297.

[10] L-24505, April 30, 1970, 32 SCRA 419.

[11] L-27585, May 29, 1970, 33 SCRA 349.

[12] L-25649, June 30, 1975, 64 SCRA 564.

[13] L-30211, October 5, 1976, 73 SCRA 297.

[14] L-32953, March 31, 1977, 76 SCRA 190.

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To demonstrate how firmly committed this Court is to such a ruling, in accordance with the letter and spirit of the Industrial Peace Act,[15] reference may be made to fourteen other cases from *Lakas ng Manggagawang Makabayan v. Abiera*[16] to Holganza.[17]

2. To be more precise, insofar as the issue of damages is concerned, the same leading case of Associated Labor Union stated the following: "Jurisdiction then is *exclusively* vested in the Court of Industrial Relations. For, explicit in Section 5(a) of the Industrial Peace Act is the precept that — 'The Court shall have jurisdiction over the prevention of unfair labor practices and is empowered to prevent any person from engaging in any unfair labor practice. This power shall be *exclusive* and shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise.'* * * Nor will Sugeco's averment below that it suffers damages by reason of the strike, work to defeat the CIR's jurisdiction to hear the unfair labor practice charge. Reason for this is that the right to damages 'would still have to depend on the evidence in the unfair labor practice case' — in the CIR. To hold otherwise is to sanction split jurisdiction — which is obnoxious to the orderly administration of justice."[18]

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[15] Republic Act No. 875 (1953).

[16] L-29474, December 19, 1970, 36 SCRA 437.

[17] *Cf. Loquinco v. Dry Bottling Co. of the Phil.*, L-28621, Feb. 22, 1971, 37 SCRA 535; *Espanilla v. La Carlota Sugar Central*, L-23722, March 31, 1971, 38 SCRA 186; *Rustan Supervisory Union v. Dalisay* , L-32891, April 29, 1971, 38 SCRA 500; *H. Aronson & Co. v. Associated Labor Union*, L-23010, July 9, 1971, 40 SCRA 7; *Associated Labor Union v. Cruz*, L-28978, Sept. 22, 1971, 41 SCRA 12; *Phil. Engineering Corporation v. CIR*, L-27880, Sept. 30, 1971, 41 SCRA 89; *Mindanao Rapid Co. v. Omandan*, L-23058, Nov. 27, 1971, 42 SCRA 250; *United Central and Cellulose Labor Association v. Santos*, L-21094, May 30, 1972, 45 SCRA 147; *Phil. Asso. of Free Labor Unions v. Quicho*, L-30153, Sept. 13, 1972, 47 SCRA 11; *New Frontier Supermarket Labor Union v. Ericta*, L-30826, April 30, 1974, 56 SCRA 785; *Litton Mills Workers Union-NATU v. Reyes*, L-23745, Jan. 22, 1975, 62 SCRA 98. The twelfth case was *Goodrich Employees Asso. v. Flores*.

[18] 19 SCRA 304, 308-309.

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3. Now as to the dissenting portion of this opinion. As set forth at the outset, it is a different approach to the principle governing strikes that precludes me from according acceptance to the opinion of the Court in L-33935. My starting point is the highly-persuasive *ponencia* of Justice Laurel in the leading case of *Rex Taxicab Co. v. Court of Industrial Relations*:[19] "Independently of the right to organization and collective bargaining which, according to some authorities, connotes the right to strike in the event that such a course is deemed advisable by the employees for their mutual aid or protection (see cases on Labor Law by Landis, pp. 632, 633), Commonwealth Act No. 103, for instance, provides that when any dispute has been submitted to the Court of Industrial Relations for settlement or arbitration, and pending award or decision by the court of such dispute, the employee, tenant, or laborer shall not strike or walk out of his employment when so enjoined by the court after hearing and when public interest so requires, and if he has already done so, he shall forthwith return to it, upon order of the court, which shall be issued only after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled. (Commonwealth Act No. 103, Section 19, as amended by Commonwealth Act No. 559.) In other words, the employee, tenant or laborer is inhibited from striking or walking out of his employment only when so enjoined by the Court of Industrial Relations and after a dispute has been submitted thereto and pending award or decision by the court of such dispute. It follows that, as in the present case, the employees or laborers may strike before being ordered not to do so and before an industrial dispute is submitted to the Court of Industrial Relations, subject to the power of the latter, after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled, to order them to return, with the consequence that if the strikers fail to return to work, when so ordered, the court may authorize the employer to accept other employees or laborers. Furthermore, the jurisdiction of the Court of Industrial Relations does not

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[19] 70 Phil. 621 (1940).

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extend to cases where the number of employees, laborers or tenants or farm-laborers involved does not exceed thirty, and it is apparent that in any of these cases the prohibition against a strike pending the determination of the dispute before the Court of Industrial Relations cannot be invoked. We are here concerned with a definite and well-marked policy of the legislature and not with the extent to which the policy would go. If the legislature should decide to prohibit or abolish strikes absolutely, as it has attempted to do in the past, this is its prerogative, not ours. In this case, we cannot supply what we might conceive to be the defects of the law and interpolate into it what, in our opinion, ought to have been put there by the lawmakers. We can neither mar nor change a clear legislative policy."[20]

4. That was so under Commonwealth Act No. 103. At the most, it was implicit. The Industrial Peace Act made explicit that a strike in a concerted activity entitled to legal protection. It expressly recognizes the right of the employees "to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection."[21] The above provision of law is taken from the Wagner Act.[22] Commenting on that section of the Wagner Act, Cox says: "Although the National Labor Relations Act is primarily concerned with safeguarding employees in their right to organize labor unions and bargain collectively, it also confers important rights to engage in strikes, picketing and other forms of economic pressure. Section 7 created 'the right to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.' Section 8(a)(1) forbids an employer to interfere with, restrain or coerce employees in the exercise of a right guaranteed by Section 7. When peaceful negotiations over wages or hours break down

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[20] *Ibid.*, 629-630.

[21] Section 3, Industrial Peace Act.

[22] Section 7, Wagner Act.

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and the employees resort to a peaceful strike, they are engaging in 'concerted activities.'"[23]

5. That the law should be thus ought not to occasion any surprise. For, in the apt phrase of Justice J.B.L. Reyes, a strike is "an institutionalized factor of democratic growth."[24] It is a logical corollary to the philosophy of the Industrial Peace Act, embodying the policy of self-organization and collective bargaining, that to the workers themselves should be left the determination of whether or not to engage in such concerted activity as a strike. They are free to select the means for attaining success in their disputes with management. The requirement in the Act that before the employees may strike, they must file with the Conciliation Service of the Department of Labor a notice of such intention, should not be given an interpretation so rigid in character as to render nugatory such a right. It would be, to my mind, to take a backward step.

6. On a more specific level, it may be stated that a strike does not automatically carry the stigma of illegality even if no unfair labor practice were committed by the employer. It suffices if such a believe in good faith is entertained by labor as the inducing factor for staging a strike. So it was clearly stated by Chief Justice Concepcion, while still an Associate Justice of this Court: "As a consequence, we hold that the strike in question had been called to offset what petitioners were warranted in believing in good faith to be unfair labor practices on the part of Management, that petitioners were not bound, therefore, to wait for the expiration of thirty (30) days from notice of strike before staging the same, that said strike was not, accordingly, illegal and that the strikers had not thereby lost their status as employees of respondents herein."[25]

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[23] Cox, The Right to Engage in Concerted Activities, 26 Indiana Law Journal, 319-320.

[24] *San Carlos Milling Co., Inc. v. Court of Industrial Relations*, L-15453, March 17, 1961, 1 SCRA 734, 740.

[25] *Ferrer v. Court of Industrial Relations*, L-24267, May 31, 1966, 17 SCRA 352, 360. The Ferrer doctrine was followed in *Norton & Harrison*

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7. It is to be admitted that a strike may be tainted by illegality if marked by violence. What was within the protection of the Industrial Peace Act was the concerted activity of cessation of work in order that a union's economic demands may be granted or that an employer cease and desist from an unfair labor practice. That was a right recognized by law, which certainly could not approve of the utilization of force to attain either objective. It is a truism to state that implicit in the concept of a legal order is the maintenance of peaceful ways. It would follow then that if marred by violence, a strike could be characterized as illegal. Nonetheless, as was observed in *Shell Oil Workers' Union v. Shell Company of the Philippines*:[26] "Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed."[27] While the Court held in this case that there was no unfair labor practice, still, from my appraisal of the situation, there was good faith in the belief of the strikers of its existence.

8. According to the Court: "The CIR also found that the union resorted to unlawful acts in the conduct of the strike. The picketing was highly coercive. The union prevented the plant supervisor from checking the leak in the ammonia pipeline, threatened with harm or violence a contractor dealing with the company, barred the entrance into the company compound trucks

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Co. & Jackbilt Concrete Blocks Co. Labor Union v. Norton Harrison Co. & Jackbilt Concrete Blocks Co., Inc., L-18461, Feb. 10, 1967, 19 SCRA 310.

[26] L-28607, May 31, 1971, 39 SCRA 276.

[27] *Ibid.*, 292.

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loaded with pyrite, used a human barricade to block the ingress of nonstrikers and supervisors, and displayed a placard with the words 'Blast off Canahap.'"[28] There is relevance therefore to this excerpt from the Shell opinion: "Except on those few days specified then, the Shell Company could not allege that the strike was conducted in a manner other than peaceful. Under the circumstances, it would be going too far to consider that it thereby became illegal. This is not by any means to condone the utilization of force by labor to attain its objectives. It is only to show awareness that in labor conflicts, the tension that fills the air as well as the feeling of frustration and bitterness could break out in sporadic acts of violence. * * * It is enough that individual liability be incurred by those guilty of such acts of violence that calls for loss of employee status."[29]

9. It was realistically observed by retired Chief Justice Concepcion that a strike is usually attended by "the excitement, the heat and the passion of the direct participants in the labor dispute, at the peak thereof * * *"[30] In *Insular Life Assurance Co., Ltd. Employees' Association v. Insular Life Assurance Co., Ltd.*,[31] there was the recognition by this Court, speaking through the then Associate, now Chief Justice, Castro, of picketing as such being "inherently explosive."[32] It is thus clear that not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment by the guilty party. As was held in the Shell Oil Worker's Union decision, only such strikers who were proven to have committed "specific serious acts of violence" could be penalized with loss of employment.[33]

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[28] L-29217, 9.

[29] L-28607, May 31, 1971, 39 SCRA 276, 293.

[30] *Ferrer v. Court of Industrial Relations*, L-24267, May 31, 1966, 17 SCRA 352, 360.

[31] L-25291, January 30, 1971, 37 SCRA 244.

[32] *Ibid.*, 273.

[33] L-28607, May 31, 1971, 39 SCRA 276, 294.

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10. Why a mere finding of the illegality of a strike should not be automatically followed by wholesale dismissal was once again stressed in the recent case of *Almira v. B. F. Goodrich Philippines, Inc.*[34] in these words: "It would imply at the very least that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there be acceptance of the view that under all the circumstances of this case, petitioners should not be deprived of their means of livelihood. Nor is this to condone what had been done by them. For all this while, since private respondent considered them separated from the service, they had not been paid. From the strictly juridical standpoint, it cannot be too strongly stressed, to follow Davis in his masterly work, Discretionary Justice, that where a decision may be made to rest on informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight. Finally, labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*."[35] This decision, it must be noted, was rendered after the effectivity of the present Constitution.

Hence this dissent in L-33935, there being, to my mind, a failure to meet the more exacting standard to justify dismissal of strikers, even on the assumption that the strike could be declared illegal.

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[34] L-34974, July 25, 1974, 58 SCRA 120.

[35] *Ibid.*, 131.