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SECOND DIVISION

[G.R. Nos. L-34948-49 May 15, 1979]

PHILIPPINE METAL FOUNDRIES, INC., *petitioner, vs.* **COURT OF INDUSTRIAL RELATIONS, REGAL MANUFACTURING EMPLOYEES ASSOCIATION (REGEMAS) and CELESTINO BAYLON,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; TERMINATION EMPLOYMENT; REASON FOR DISCHARGE MUST BE ESTABLISHED.** — To determine whether a discharge is discriminatory, the true reason for the discharge must be established. While union activity is no bar to a discharge, the existence of a lawful cause for discharge is no defense if the employee was actually discharged for union activity.

2. **REMEDIAL LAW; EVIDENCE; FINDINGS OF FACT OF THE INDUSTRIAL COURT; BINDING AND CONCLUSIVE IF SUPPORTED BY SUBSTANTIAL EVIDENCE.** — The question of whether an employee was discharged because of his union activities is essentially a question of fact as to which the findings of the Court of Industrial Relations are conclusive and binding if supported by substantial evidence considering the record as a whole. This is so because the Industrial Court is governed by the rules of substantial evidence, rather than by the rule of preponderance of evidence as in ordinary civil cases.

3. **ID.; ID.; SUBSTANTIAL EVIDENCE; DEFINED.** — Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. It means such evidence which affords a substantial basis from which the fact in issue can be reasonably inferred.

4. **ID.; ID.; MOTIVE; HOW PROVED.** — Although a man's motive, like his intent, is, "as much a fact as the state of his digestion," evidence of such fact may consist both direct testimony by one whose motive is in question and of inference of probability drawn from the totality of others facts.

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5. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; STRIKE; DOES NOT REQUIRE THAT AN UNFAIR LABOR PRACTICE BE COMMITTED BY EMPLOYER. — When a union declares a strike in the belief that the dismissal of the president was due to union activities, said strike is not illegal. It is not even required that there be in fact an unfair labor practice 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.

6. ID.; ID.; ID.; "NO STRIKE" CLAUSE; APPLICABLE ONLY TO ECONOMIC STRIKES. — A strike declared due to unfair labor practice of the employer is not a violation of the "no strike" clause of the Collective Bargaining Agreement. Moreover, a no strike clause prohibition in a Collective Bargaining Agreement is applicable only to economic strikes.

7. ID.; ID.; NOTICE OF STRIKE; WHEN NOT REQUIRED. — In strikes arising out of and against a company's unfair labor practice, a strike notice is not necessary in view of the strike being founded on urgent necessity and directed against practices condemned by public policy, such notice being legally required only in cases of economic strikes.

APPEARANCES OF COUNSEL

V. E. del Rosario & Associates for petitioner.
Rufino B. Risma for private respondents.

D E C I S I O N

ANTONIO, *J.*:

The Philippine Metal Foundries, Inc. (now dissolved and merged with Shriro [Philippines] Inc.) is seeking in this case a review of the decision of the Court of Industrial Relations in Cases Nos. 3932-ULP and 3941-ULP.

Petitioner, in its complaint dated November 21, 1963 (Case No. 3941-ULP), charged the Regal Manufacturing Employees Associations (FTUP) and its members (herein private respondents), with unfair labor practice for declaring a strike

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on October 5, 1963 and picketing the company's premises without filing a notice of strike in spite of the existence of a no strike, no lockout clause and grievance procedure in the collective bargaining agreement entered into between the petitioner and the Union. In their answer to this complaint, the Union and its members denied the charge and, as affirmative defense, alleged that on October 3, 1963, the Union requested the management for a grievance conference, stating in its invitation the time and place of meeting, but the company, through its General Manager, refused and instead handed the Union's President a memorandum dismissing him from work and told the Union members not to report for work, which is in violation of the no lockout and no strike clause of the contract.

Upon the other hand, petitioner Philippine Metal Foundries, Inc. and its General Manager, in Case No. 3932-ULP, were charged by private respondents on July 21, 1964 with unfair labor practice for the dismissal of Celestino Baylon, President of the Union, on October 3, 1963, allegedly due to his union activities in representing and protecting the Union members in their relations with the petitioner. To this complaint, petitioner and its manager filed an answer denying the material allegations and alleged as affirmative defenses, among others, that on October 3, 1963, the company was constrained to terminate the services of Baylon by reason of the fact that he had, in spite of repeated notices and warnings from the company, frequently and repeatedly absented himself from his work as foundry worker and by reason of said dismissal he, as President of the Union as well as an officer of the FTUP, encouraged and abetted the staging of a strike on October 5, 1963, without prior notice to the company or any of the latter's officials, in gross violation of a stipulation provided in their Collective Bargaining Agreement, establishing pickets and blocking ingress and egress to and from the company's premises, causing interruption of the work and/or business of the company to its serious damage and prejudice.

After holding joint trial on these two cases, the Court of Industrial Relations rendered its decision, finding that Baylon, as Union President, was discharged for his union activities and

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that the employees declared a strike because they believed in good faith that the dismissal of their President was an unfair labor practice. The Court declared respondents Philippine Metal Foundries, Inc. and Leopoldo Relunia, in Case No. 3932-ULP, guilty of unfair labor practice in dismissing complainant Celestino Baylon; ordered respondents to reinstate Celestino Baylon to his former position with all the rights and privileges formerly appertaining thereto, with one (1) year back wages computed from October 3, 1963; and dismissed the petitioner's charge in Case No. 3941-ULP.

Its motion for reconsideration having been denied by the Court of Industrial Relations *en banc*, petitioner filed the present petition which was considered by this Court as submitted for decision without respondents' brief.

The issues raised are: (1) whether Celestino Baylon was dismissed due to his absences or to his union activities as Union President; and (2) whether the strike declared by the Union on October 5, 1963, is legal or not.

With respect to the first issue, it is argued by petitioner that according to the Collective Bargaining Agreement between the Union and the company "one absent for a period of one week who fails to give notice thereof shall be dropped automatically" and under its Disciplinary Policies and Procedures, dated and enforced since March 1, 1963, absence of an employee without permission for a period of seven (7) consecutive calendar days is a ground for immediate dismissal, upon establishment of guilt; that since the Court of Industrial Relations found that Baylon incurred numerous absences from January to September 1963, broken down as follows: for the month of January, one (1) unexcused absence; March, one (1) unexcused absence and twelve (12) consecutive absences without permission; April, four (4) consecutive absences without permission; May, two (2) absences without permission; and September, five (5) unexcused absences, the said court erred in holding that in Case No. 3932-ULP, Baylon was dismissed not because of his absences but rather due to his being Union President and union activities.

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In determining whether a discharge is discriminatory, the true reason for the discharge must be established. It has been said that while union activity is no bar to a discharge, the existence of a lawful cause for discharge is no defense if the employee was actually discharged for union activity. There is no question that Celestino Baylon incurred numerous absences from January to September 1963. Had the company wanted to terminate his services on the ground of absences, it could have done so, pursuant to Article V of the Collective Bargaining Agreement as early as March 1963 when he incurred twelve (12) consecutive absences without permission. Its failure to do so shows that the infractions committed by Baylon were disregarded. The Court of Industrial Relations found that Baylon went to the company on September 28, 1963, but did not work as he was very sleepy. When he reported for work on October 1, 1963, he submitted a written explanation for his absences which was received by the company. Two (2) days later, as President of the Union, he invited the General Manager of the company for a grievance conference to thresh out union problems at the D & E Restaurant at 6:00 p.m. of October 5, 1963. The letter of invitation was received by the company at almost 12:45 noon of October 3, 1963. At 2:45 p. m. of the same day, Baylon was in turn handed his termination letter. Under the attendant circumstances, We believe the Court of Industrial Relations was justified in concluding that:

"In 1963, Baylon had been a habitual absentee. His excused absences for causes other than sickness, sick leave and vacation leave, total two (2) in January; nine (9) in February; eleven (11) in April; ten (10) in May; nine (9) in June; eleven (11) in July; and five (5) in August (Exhs. '5' and '5-A').

"This record, plus his numerous tardiness and half-day work, and the aforesaid unexcused absences, show how little work for the employer Baylon had been doing as an employee (Exhs. 'EE' and '6-A'). His last unexcused absence in September must have been just enough on the part of the company to withdraw its special treatment of Baylon as union president (Exh. 'EE').

"This Court believes, however, that it was the aforementioned letter of invitation to a grievance conference sent by Baylon to the general

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manager (Exhs. 'DD' and '7'), coming at the heels of his last unexcused absences, that broke the proverbial camel's back. His dismissal under the foregoing circumstances, being ultimately triggered by his union activity, is therefore not without some taint of unfair labor practice."

The question of whether an employee was discharged because of his union activities is essentially a question of fact as to which the findings of the Court of Industrial Relations are conclusive and binding if supported by substantial evidence considering the record as a whole.[1] This is so because the Industrial Court is governed by the rule of substantial evidence, rather than by the rule of preponderance of evidence as in any ordinary civil cases.[2] Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[3] It means such evidence which affords a substantial basis from which the fact in issue can be reasonably inferred.[4] Examining the evidence on hand on this matter, We find the same to be substantially supported.

Although a man's motive, like his intent, is, in the words of Lord Justice Bowen, "as much a fact as the state of his digestion," evidence of such fact may consist both direct testimony by

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[1] *G.P.T.C. Employees Union v. CIR, et al.*, L-10339, Nov. 29, 1957, 102 Phil. 538; *Sunripe Coconut Products, Co., Inc. v. CIR, et al.*, L-2009, Apr. 30, 1949, 83 Phil. 5.18; *Manila Metal Caps and Tin Cans Mfg. Co., Inc. v. CIR*, L-17578, July 31, 1963, 8. SCRA 552; *Luzon Labor Union v. Luzon Brokerage Company*, L-17086, Nov. 30, 1961, 3 SCRA 631; *Castillo v. CIR*, L-26124, May 29, 1971, 39 SCRA 75; *Philippine Engineering Corp. v. CIR*, L-27880, Sept. 30, 1971, 41 SCRA 89; *Cruz v. Philippine Association of Free Labor Union (PAFLU)*, L-26519, Oct. 29, 1971, 42 SCRA 68; *Bulakeña Restaurant & Caterer v. CIR*, L-26796, May 25, 1972, 45 SCRA 8.7; *Mercury Drug Co., Inc. v. CIR*, L-23357, April 30, 1974, 56 SCRA 694; and *Phil. Rock Products, Inc. v. Phil. Assn. of Free Labor Unions (PAFLU)*, L-32829 Aug. 30, 1974, 58 SCRA 730.

[2] *Iloilo Chinese Commercial School v. Fabrigar, et al.*, L-16600, Dec. 27, 1961, 3 SCRA 712; and *Sanchez v. CIR*, L-19000, July 31, 1963, 8 SCRA 654.

[3] *Ang Tibay v. CIR*, No. 46496, Feb. 27, 1940, 69 Phil. 635.

[4] *U.S. Lines v. Associated Watchmen & Security Union (PTWO)*, L-12218, May 21, 1958.

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one whose motive is in question and of inferences of probability drawn from the totality of other facts.[5]

It is admitted by petitioner that it accepted the invitation of Baylon for a grievance conference on October 5, 1963. Yet, two hours after it accepted the letter of invitation, it dismissed Baylon without prior notice and/or investigation. Such dismissal is undoubtedly an unfair labor practice committed by the company. Under these facts and circumstances, Baylon and the members of the Union had valid reasons to ignore the schedule grievance conference and declared a strike. When the Union declared a strike in the belief that the dismissal of Baylon was due to union activities, said strike was not illegal.[6] It is not even required that there be in fact an unfair labor practice 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] The strike declared by the Union in this case cannot be considered a violation of the "no strike" clause of the Collective Bargaining Agreement because it was due to the unfair labor practice of the employer. Moreover, a no strike clause prohibition in a Collective Bargaining Agreement is applicable only to economic strikes.[8]

The strike cannot be declared as illegal for lack of notice. In strikes arising out of and against a company's unfair labor practice, a strike notice is not necessary in view of the strike being founded on urgent necessity and directed against practices condemned by public policy, such notice being legally required only in cases of economic strikes.[9]

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[5] *N.L.R.B. v. Park Edge Sheridan Meats, Inc.*, 341 F. 2d 725 (1965).

[6] *Norton & Harrison Co. & Jackbilt Concrete Blocks Co. Labor Union (NLU) v. Norton & Harrison, et al.*, L-18461, Feb. 10, 1967, 19 SCRA 310.

[7] *SOWU v. Shell Co. of the Phils., Ltd.*, L-28607, May 31, 1971, 39 SCRA 276.

[8] *Mastro Plastic Corporation v. N.L.R.B.*, 350 U.S. 270, 100 L. Ed. 309, 76 Sup. Ct. 349.

[9] *Rustan Supervisory Union v. Dalisay*, L-32891, April 29, 1971, 38 SCRA 500.

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On the contention of petitioner that the grievance conference which Baylon requested to be held on October 5, 1963 was not for the purpose of discussing union problems but of his dismissal, it is clearly shown in the records that Baylon received his termination letter *after* he requested for a grievance conference. It is, therefore, clear that when Baylon requested for a grievance conference, he was not yet aware of his dismissal. Baylon could not have requested for a grievance conference on October 5, 1963 if he did not have demands to present on that date. The records disclose that, as Union President, he used to make representations and protestations in behalf of the members of the Union against unfair acts committed by the company. As early as March 2, 1962, he reminded the company of an agreement arrived at in a previous labor-management conference that was violated when the management hired several casual workers without giving preference to previously laid off employees and without notifying the Union President (Exhibit "P"). On May 25, 1962, he complained of the poor condition of the toilet facilities in one of the buildings of the company and requested the management for its improvement (Exhibit "Q"). On August 18, 1962, he called the attention of the management regarding the plight of seventy-two (72) workers who were supposed to be temporarily laid off for a period of two (2) months only as agreed upon between the Union and the management, but were not re-hired after the lapse of the period so he requested for the payment of their separation pay (Exhibit "R"). On December 14, 1962, he requested for the payment of a claim for compensation of a worker prior to the scheduled hearing of the same (Exhibit "U"). On December 20, 1962, he worked for the payment of the accrued vacation and sick leave of a terminated worker (Exhibit "V"). On January 12, 1963, he interceded for the payment of the two months separation pay of another terminated worker (Exhibit "W"). On April 25, 1963, he worked for the payment of separation pays of terminated workers found to be physically unfit (Exhibit "AA"). And on September 2, 1963, he invited the General Manager of the company for a grievance conference to settle the complaints of several Union members regarding their vacation leaves and other union problems (Exhibit "BB"). These exhibits show how

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Baylon, as President of the Union, fought for the rights and protection of his members. We are satisfied that the Court's finding, in the above regard, are supported by substantial evidence on the record considered as a whole.

IN VIEW WHEREOF, the petition for *certiorari* is hereby DISMISSED.

Fernando (Actg. CJ.), Concepcion Jr., Santos, and *Abad Santos, JJ.*, concur.

Aquino, J., took no part.

Barredo, J., on leave.

EN BANC

[G.R. No. L-38725. May 15, 1979]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ANTONIO ARTIEDA,** *defendant-appellant.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; NOT AFFECTED BY FAILURE TO EXPOSE NAME OF KILLER TO AUTHORITIES. — The failure of a witness to expose the name of the killer due to fear of reprisal when he informed the authorities does not discredit him. Experience has shown that witnesses are reluctant to identify the accused until they are safe enough from probable harm.

2. ID.; ID.; SUFFICIENCY OF IDENTIFICATION OF ACCUSED. — It is not impossible for the accused to have been recognized and identified by the eyewitnesses, even if there was no moon at the time of incident, where it appears that the accused was already known to the eyewitnesses before the happening of