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SECOND DIVISION

[G.R. No. L-32850. May 30, 1978]

ROGELIO LAFIGUERA, and The DON BOSCO TECHNICAL INSTITUTE EMPLOYEES ORGANIZATION, *petitioners*, *vs.* **THE HONORABLE V. M. RUIZ, Presiding Judge of the Court of First Instance of Rizal, Branch XV, Makati, Rizal and MARIA FRANCISCA GERONIMO, MARCELA MAGSINO, MARITA SANTIAGO, and ILUMINADA SANTOS,** *respondents*.

SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; DISMISSAL; PETITION MOOT AND ACADEMIC. — A petition for *certiorari* will be dismissed when the nature of the controversy has become moot and academic.

APPEARANCES OF COUNSEL

Joselito J. de la Rosa for petitioners.
Herras Law Office for private respondents.

R E S O L U T I O N

FERNANDO, *J.*:

This *certiorari* and prohibition proceeding was instituted by petitioners Rogelio Lafiguera and the Don Bosco Technical Institute Employees Organization. It assailed the actuation of respondent Judge V. M. Ruiz of the Court of First Instance of Rizal, Branch XV,[1] in assuming jurisdiction over a complaint for injunction intended to prohibit acts of picketing in connection with a strike.[2] It was further alleged that a restraining order

[1] The private respondents were: Maria Francisca Geronimo, Marcela Magsino, Marita Santiago and Iluminada Santos.

[2] Petition, par. 3.

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was thereafter immediately issued without a hearing.[3] More specifically, petitioner labor organization was ordered by respondent Judge to refrain from delivering defamatory, libelous and malicious speeches through a transistorized radio system, from displaying defamatory and libelous placards and from committing the alleged unlawful acts intended to "disturb, disrupt, unsettle and cause nuisance to the students and faculty members holding classes [therein]."[4] There was an urgent motion to dismiss the complaint as well as to reconsider the restraining order, petitioners stressing the lack of jurisdiction of respondent Judge "over the subject matter of the controversy because the same involves unfair labor practices and claims for overtime and minimum wages filed weeks earlier before the Court of Industrial Relations."[5] Then came the allegation that there was a notice of strike before the Department of Labor, a petition for overtime and minimum wages filed before the defunct Court of Industrial Relations and the charge for unfair labor practice still pending therein.[6] Respondent Judge, however, was unmoved by such a plea maintaining his power to act.[7] What was worse, according to petitioners, notwithstanding the lapse of five days from the issuance of the restraining order, respondent Judge posed the threat of contempt action against petitioners. The principal contention, to repeat, was that the Court of Industrial Relations and not the Court of First Instance had jurisdiction to act on such complaint.

In the answer of respondents the jurisdiction of respondent Judge was sought to be justified by the allegation that the action for injunction was not filed under Republic Act 875 but under the Rules of Court. Mention was likewise made that there was an implied admission of the illegal acts committed by petitioners

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[3] *Ibid.*, par. 4.

[4] *Ibid.*, pars. 3 and 4.

[5] *Ibid.*, par. 5.

[6] *Ibid.*

[7] *Ibid*., par. 6.

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during the picketing. There was no denial about the existence of at least two labor cases pending in the Court of Industrial Relations, but it was alleged that the parties of record were not identical. Moreover, it was stressed that Republic Act 875 should not be made to apply to respondent Don Bosco Technical Institute as it "is a non-stock, non-profit educational institution."[8] It was then asserted that not only private respondents as members of the faculty of the Don Bosco Technical Institute, but 75 other faculty members who have joined as parties plaintiffs in the action for injunction have suffered and will continue to suffer damages by way of loss of class hours, worry, anxiety and peril to life and limb if there were no restraining order issued by respondent Judge to prevent the disturbance of classes, the obstruction to free passage from the Don Bosco Technical Institute and the threats of bodily harm to the faculty members and the student body who desire to enter the premises. The prayer was for the dismissal of the petition.

Thereafter, the petition was argued orally on December 16, 1970, with counsel for petitioners being given a fifteen-day period within which to submit additional documents in support of the petition. Except for a copy of an urgent motion for contempt filed by private respondents, no other pleading was submitted by petitioners. The matter was then submitted for decision.

Since that time, no further pleading had been submitted nor any inquiry made as to the status of the case. This Court therefore, on July 13, 1977, resolved to require the parties to move in the premises, considering that as had happened in labor controversies, the passage of time had resulted in such disputes having been settled or in the labor tribunal having disposed of the matter in litigation. In this particular case, neither petitioners nor private respondents had informed the Court as to what had transpired in the proceeding had before the now - defunct Court of Industrial Relations.

A responsive pleading to the above resolution was filed by private respondents on August 9, 1977 alleging: "1. That

[8] Answer, par. 12.

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respondents submit that the instant case has already become moot and academic in view of subsequent developments, and the general order issued by the President after proclamation of martial law; 2. That in view thereof, respondents feel that the instant case should now be dismissed."[9] Counsel for petitioners was duly served, but until this date, no attention apparently had been paid to such resolution. Implicit in such inaction is the academic nature of this controversy, as noted by respondents.

WHEREFORE, this petition is dismissed for being moot and academic. No costs.

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

Antonio, J., on leave.

SECOND DIVISION

[G.R. No. L-37162. May 30, 1978]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee*, *vs.* **WARLITO PLATEROS *Y* CALATRAVA, *alias* BABIE, and MURILLO LAHOY *Y* BUENO, *alias* BOY**, *defendants-appellants*.

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; DENIAL OF THE ACCUSED; CANNOT PREVAIL OVER THE POSITIVE IDENTIFICATION BY EYEWITNESSES. — The feeble denials of the accused in murder case who admittedly were near the scene of the crime when it was perpetrated cannot prevail over the positive and

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[9] Motion to Dismiss the Case dated August 6, 1977.