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SECOND DIVISION

(G. R. No. 71959. November 28, 1985)

TRADE UNIONS OF THE PHILIPPINES & ALLIED SERVICES LOCAL CHAPTER NO. 1158 (SUPER GARMENTS MANUFACTURING CORPORATION WORKERS UNION), *petitioner, vs.* **HON. JOSE L. COSCOLLUELA, JR., PRESIDING JUDGE OF BRANCH CXLVI REGIONAL TRIAL COURT OF MAKATI AND RUSTAN COMMERCIAL CORPORATION,** *respondents*.

SYLLABUS

REMEDIAL LAW; ACTIONS; DISMISSAL THEREOF, WHEN WARRANTED.— Where in a petition to restrain the trial court from enforcing its writ of temporary restraining order, it appears that no labor dispute existed between the parties involved, the petition will be dismissed for lack of merit and the temporary restraining order issued likewise will be ordered lifted.

RESOLUTION

ABAD SANTOS, *J.*:

The petition seeks to enjoin the public respondent from further proceeding in Civil Case No. 10905 of the Regional Trial Court of Makati, Metro Manila. Upon the filing of the petition this Court issued a temporary restraining order and required the private respondent to comment.

Petitioner union filed a notice of strike with the Ministry of Labor and Employment against Super Garments Manufacturing Corporation on May 12, 1985. The strike commenced on June 8, 1985 and is said to be still on.

Super Garments and Rustan Commercial Corporation have separate compartments in the same building at Malugay and Mayapis streets. It is called the Yupangco building.

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It is alleged by the petitioner union that goods of Super Garments were spirited out of its strike-bound premises thru Rustan's warehouse. Whereupon, the union picketed not only Super Garments but also Rustan. As a result Rustan filed Civil Case No. 10905 before the respondent judge for injunction and damages thru the PECABAR law office and petition No. 971 with the National Labor Relations Commission also to enjoin the union from picketing its premises. The petition was filed by another counsel, Atty. Armando V. Ampil.

In Civil Case No. 10905, the respondent judge issued an order or June 21, 1985 setting "the hearing of the application for a writ of preliminary injunction on June 27, 1985 at 2:00 o'clock in the afternoon." On July 15, 1985, the respondent judge issued the writ after finding no employer-employee relationship between the parties. This order prompted the petitioner union to come to this Court for the purpose aforesaid.

In the meantime, petitioner union on July 12, 1985, filed a complaint for unfair labor practice against both Super Garments and Rustan alleging that the former is but the manufacturing arm of the latter.

Petitioner union claims that respondent judge has no jurisdiction to issue an injunction because the case is a labor dispute; that the prerogative belongs to the Minister of Labor and Employment. Upon the other hand, private respondent Rustan says that the respondent judge has jurisdiction because there is no labor dispute between it and the union even as it went to the National Labor Relations Commission to seek identical relief.

At this stage there appears to be no labor dispute between the petitioner and the private respondent for which reason the latter was justified in seeking relief in respondent judge's court. The unfair labor complaint filed by petitioner union on July 12, 1985 does not prove a labor relationship. By the same token it was improper for the private respondent to have filed Case No. 971 with the National Labor Relations Commission.

In the light of the foregoing, the petition is dismissed for lack of merit and the temporary restraining order issued on September

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23, 1985 is hereby lifted. However, private respondent Rustan Commercial Corporation is directed to withdraw its case before the National Labor Relations Commission. No costs.

SO ORDERED.

Concepcion Jr. (*Chairman*), *Escolin, Cuevas,* and *Alampay, JJ.*, concur.

FIRST DIVISION

(G.R. No. L-44169. December 3, 1985)

ROSARIO A. GAA, *petitioner, vs.* **THE HONORABLE COURT OF APPEALS, EUROPHIL INDUSTRIES CORPORATION, and CESAR R. ROXAS, Deputy Sheriff of Manila,** *respondents.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; TERM "LABORER," DEFINED.— In its broadest sense, the word "laborer" includes everyone who performs any kind of mental or physical labor, but as commonly and customarily used and understood, it only applies to one engaged in some form of manual or physical labor. That is the sense in which the courts generally apply the term as applied in exemption acts, since persons of that class usually look to the reward of a day's labor for immediate or present support and so are more in need of the exemption than are other. (22 Am. Jur. 22 citing *Briscoe vs. Montgomery,* 93 Ga 602, 20 SE 40; *Miller vs. Dugas,* 77 Ga 4 Am St Rep 192; *State ex rel I.X.L. Grocery vs. Land,* 108 La 512, 32 Se 433; *Wildner vs. Ferguson,* 42 Minn 112, 43 NW 793; 6 LRA 338; Anno 102 Am St Rep 84. In *Oliver vs. Macon Hardware Co.,* 98 Ga 249, 25 SE 403, it was held that in determining whether a particular laborer or employee