

Recent Cases

FILIPINAS CIA. DE SEGUROS,
Petitioner, vs. TAN CHUICO, Res-
pondent. G. R. L-1559, Promulgat-
ed January 30, 1950.

This is a petition for a writ of certiorari directed to the Court of Appeals.

The respondent is the owner of a building in Lucena, Tayabas, insured for ₱20,000.00 and ₱10,000.00 in two policies issued by the petitioner. On January 5, 1942, the building was burned. Notice and proof of loss had been made, but as petitioner refused to pay, action was brought to recover on the policies. The judgment in the Court of First Instance and the Court of Appeals was for the respondent.

The contentions of the petitioner are as follows:

1. Art. 8 of the contract provides: "Under any of the following circumstances the insurance ceases to attach as regards the property affected unless the insured, before occurrence of any loss or damage, obtains the sanction of the company signified by endorsement upon the policy, by or on behalf of the company:

a) If the trade or manufacture carried on be altered or if the nature of the occupation of, or other circumstances affecting the building insured or containing the insured property be changed in such a way as to increase the risk of loss or damage by fire.

The petitioner claims that the sealing of the respondent's property by the Japanese on December 28, 1941, changed the nature of the occupation

thereof in a manner which increased the risk of loss, and that in accordance with art. 8, the insurance ceased to attach as of December 28, 1941.

2. That because a consuming fire was accidental is not proof of the fact that such fire was not the remote or indirect result of, or contributed to, by the abnormal conditions.

HELD: 1. With respect to the supposed increase in risk, there were only three possible sources of danger to which the building insured could have been exposed before it was burned: by action of the USAFFE, guerrilla or civilian saboteurs. There could not have been any danger from the USAFFE because they had withdrawn from Manila and surrounding provinces to Bataan. Neither was there any risk from guerrilla forces because these units began to organize only after the fall of Bataan. There was no danger from saboteurs among the civilian population after the Japanese occupied Lucena on December 27, 1941, because there is absolutely no evidence of the possible existence of such elements for, according to the evidence of record, except for looting, there was peace and quiet in Lucena upon the coming of the Japanese.

Again, "we fail to understand how sealing alone can increase the risk to which a building is exposed. Besides, sealing was an act of the enemy over which the plaintiff had no influence or control.

2. Abnormal conditions do not necessarily imply disorders, fighting, looting, etc. The existence of a regularly organized government with its

police, health and fire departments is a sign of normalcy in a community. The absence thereof is a sign of abnormal conditions. These are clearly reflected also in the conduct of the people, in the closing of their homes, their absence from the town, the fact that they retired to the barrios at night for rest, etc. Hence, the fire occurred during the existence of abnormal conditions directly caused by war and invasion.

However, it was proved that the fire which cause the loss of the building had no direct or indirect relation, either proximately or remotely, with the abnormal conditions alleged by the petitioner, and that it was, therefore, the result of causes independent of the said abnormal conditions.

DEE C. CHUAN & SONS, INC.,
Petitioner, vs. COURT OF INDUSTRIAL RELATIONS, CONGRESS OF LABOR ORGANIZATIONS (CLO), KAISAHAN NG MGA MANGGAGAWA SA KAHUY SA PILIPINAS AND JULIAN LOMANOG AND HIS WORK-CONTRACT LABORERS, Respondents.

G. R. No. L-2216, Present: Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Torres, JJ. Promulgated: Jan. 31, 1950.

DECISION

TUASON, J.:

Dee C. Chuan & Sons, Inc. assails the validity of an order of the Court of Industrial Relations. The order, made upon petitioner's request for authority to hire "about twelve (12) more laborers from time to time and on a temporary basis" contains the proviso that "the majority of the laborers to be employed should be native." The petition was filed pending settlement by the court of a labor dispute between the petitioner and Kaisahan Ng Mga Manggagawa sa Kahoy sa Pilipinas.

At the outset, the appellant takes exception to the finding of the court below that Dee C. Chuan & Sons, Inc., is capitalized with foreign capital and managed by person of foreign descent. This question has little or no bearing on the case and may well be passed over except incidentally as a point of argument in relation to the material issues.

It is next said that "The Court of Industrial Relations cannot intervene in questions of selection of employees and workers so as to impose unconstitutional restrictions," and that "The restriction of the number of aliens that may be employed in any business, occupation, trade or profession of any kind, is a denial of the equal protection of the laws." Although the brief does not name the persons who are supposed to be denied the equal protection of the laws, it is clearly to be inferred that aliens in general are in petitioner's mind. Certainly, the order does not, directly or indirectly, immediately or remotely, discriminate against the petitioner on account of race or citizenship. The order could have been issued in a case in which the employer was a Filipino. As a matter of fact the petitioner insists that 75% of its shares of stock are held by Philippine citizens, a statement which is here assumed to be correct.

But is petitioner entitled to challenge the constitutionality of a law or an order which does not adversely affect it, in behalf of aliens who are prejudiced thereby? The answer is not in doubt. An alien may question the constitutionality of a statute (or court order) only when and so far as it is being, or is about to be, applied to his disadvantages. (16 C.J.S. 157, et seq.) The prospective employees whom the petitioner may contemplate employing have not come forward to seek redress; their identity has not even been revealed. Clearly the petitioner has no case in so far as strives to protect

the rights of others, much less others who are unknown and undetermined. U. S. vs. Wong Kum Ark, 169 U. S. 649, Truax vs. Raich, 239 U. S. 39, 60 L. ed. 131, and other American decisions cited do not support the petitioner for the very simple reason that in those cases it was the persons themselves whose rights and immunities under the constitution were being violated that invoked the protection of the courts.

The petitioner is within its legitimate sphere of interest when it complains that the appealed order restrains it in its liberty to engage the men it pleases. This complaint merits a more detailed examination.

That the employer's right to hire labor is not absolute has to be admitted. "This privilege of hiring and firing *ad libitum* is, of course, being subjected to restraints today." Statutes are cutting in on it. And so does Commonwealth Act No. 103. The regulations of the hours of labor of employees and of the employment of women and children are familiar examples of the limitation of the employer's right in this regard. The petitioner's request for permission to employ additional laborers is an implicit recognition of the correctness of the proposition. The power of the legislature to make regulations is subject only to the condition that they should be affected with public interest and reasonable under the circumstances. The power may be exercised directly by the law-making body or delegated by appropriate rules to the courts or administrative agencies.

We are of the opinion that the order under consideration meets the test of reasonableness and public interest. The passage of Commonwealth Act No. 103 was "in conformity with the constitutional objective and * * * the historical fact that industrial and agricultural disputes have given rise to disquietude, bloodshed and revolution in our country."

(Antamok Goldfields Mining Co. vs. Court, 40 O. G., 8th Supp., 173.) "Commonwealth Act No. 103 has precisely vested the Court of Industrial Relations with authority to intervene in all disputes between employers and employees or strikes arising from differences as regards wages, compensation, and other labor condition which it may take cognizance of." (Central Azucarera de Tarlac vs. Court, 40 O. G., 3rd Supp., 319, 324.) Thus it has jurisdiction to determine the number of men to be laid off during off-season. By the same token, the court may specify that a certain proportion of the additional laborers to be employed should be Filipinos, if such condition, in the court's opinion "is necessary or expedient for the purpose of settling disputes, preventing further disputes or doing justice to the parties."

The order in question has that specific end in view. In parallel vein the court observed: "Undoubtedly, without the admonition of the Court, nothing could prevent petitioner from hiring purely alien laborers, and there is no gainsaying the fact that further conflict or dispute would naturally ensue. To cope with this contingency, and acting within the powers granted by the organic law, the court, believing in the necessity and expediency of making patent its desire to avoid probable and possible further misunderstanding between the parties, issued the order."

We are not prepared to declare that the order is not conducive to the aim pursued. The question is a practical one depending on facts with which the court is best familiar. The fact already noted should not be lost sight of—that there is a pending strike and, besides, that the employment of temporary laborers was opposed by the striking employees and was the subject of a protracted hearing.

We can not agree with the petitioner that the order constitutes an

unlawful intrusion into the sphere of legislation, by attempting to lay down a public policy of the state or to settle a political question. In the first place, we believe, as we have already explained, that the court's action falls within the legitimate scope of its jurisdiction. In the second place, the order does not formulate a policy and is not political in character. It is not a permanent all-embracing regulation. It is a compromise and emergency measure applicable only in this case and calculated to bridge a temporary gap and to adjust conflicting interests in an existing and menacing controversy. The hiring of Chinese laborers by the petitioner was rightly considered by the court likely to lead the parties away from the reconciliation which it was the function of the court to effectuate.

As far as the petitioner is concerned, the requirement that majority of the laborers to be employed should be Filipinos is certainly not arbitrary, unreasonable or unjust. The petitioner's right to employ labor or to make contract with respect thereto is not unreasonably curtailed and its interest is not jeopardized. We take it that the nationality of the additional laborers to be taken in is immaterial to the petitioner. In its application for permission to employ twelve temporary laborers it expressly says that these could be Filipinos or Chinese. On the face of this state-

ment, assuming the same to be sincere, the petitioner's objection to the condition imposed by the court would appear to be academic and a trifle.

We should not close without adverting to the fact that the petitioner does not so much as pretend that the hiring of additional laborers is its prerogative as a matter of right. It seems to be conceded that during the pendency of the dispute the petitioner could employ temporary laborers only with the permission of the Court of Industrial Relations. The granting of the application thus lies within the sound judgment of the court, and if the court could turn it down entirely, as we think it could, its authority to qualify the permission should be undeniable, provided only that the qualification is not arbitrary, against law, morals, or established public policy, which it is not as an expedient and emergency step designed to relieve petitioner's own difficulties. Also important to remember is that it is not compulsory on petitioner's part to take advantage of the order. Being a permittee petitioner is the sole judge of whether, it should take the order as it is, or leave it if it does not suit its interest to hire new laborers other than Chinese.

The order appealed from is affirmed with costs to this appeal against the petitioner-appellant.

(Sgd.) PEDRO TUASON

● Briefed by
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