SURVEY OF 1955 CASES IN ADMINISTRATIVE LAW

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I. POWER.

A. ADJUDICATION.

1. Court of Industrial Relations.

San Beda College v. CIR and National Labor Union [1] presented the issue of whether the CIR had jurisdiction over the dispute considering that thirty out of a total of about forty-five or forty-six members of the union in the court below had withdrawn their membership and that the demands did not constitute an industrial or an agricultural dispute.[2]

The CIR maintained that it had jurisdiction over the case presented by the employees of the petitioner because it cannot be deprived of jurisdiction, once attached, by the withdrawal or severance of union members from the petitioning union, and that the demands constituted an industrial dispute.

The Supreme Court concurred with the first reason of the CIR because at the time of the filing of the petition in the court below, there were more than thrity members of the petitioning union.[3]

However, the Supreme Court ruled that the demands did not constitute an industrial dispute. Said the Court: "The operation and maintainance of the school by the herein petitioner not being for profit or for the purpose of gain, people working in said College cannot be deemed to be industrial employees." [4]

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[1] G.R. No. L-7649, Oct. 29, 1955; 51 O.G. 11, 5636 (1955).

[2] The jurisdictional requirements to be complied with by the CIR before it can act are substantially the following elements as prescribed by § 4 of Com. Act No. 103: (a) A dispute, industrial or agricultural; (b) Said dispute is causing or likely to cause a strike or lockout; (c) Said dispute arose from differences of wages, dismissals, layoffs, etc. between employers and employees; (d) The number of employees or laborers involved must exceed thirty.

[3] Manila Hotel Employees Ass'n v. Manila Hotel Co., 73 Phil. 374. 389 (1941); Mortera v. CIR, 45 O.G. 1715, 1718 (1949); Pepsicola, Inc. v. National Labor Union, 46 O.G. Supp. to 9, 130, 134-135 (1950); San Miguel Brewery v. CIR, G.R. No. L-4634, April 28, 1952; Luzon Brokerage Co. v. Luzon Labor Union, 48 O.G. 3883, 3887 (1952); La Campana Coffee Factory, Inc. v. Kaisahan Ng Mga Manggagawa Sa La Campana Factory, 49 O.G. 2200, 2204 (1943); PLASLU v. CIR, 49 O.G. 3859, 3863 (1955); Standard Vacuum Oil Co. v. Orson, G.R. No. L-7540, May 25, 1955.

[4] U.S.T. Hospital Employees Ass'n v. Sto. Tomas University Hospital, G.R. No. L-6988, May 24, 1954.

In *Lope Tapia, et al., v. The Philippine Power and Development Co.*,[5] the CIR dismissed the petition that petitioners be reinstated and paid their salaries, not on the ground interposed by the company that the court had no jurisdiction because the case was brought by only three employees, but on the ground that petitioners' action had already prescribed. The Supreme Court affirmed the dismissal not on prescription but on the lack of jurisdictional number of workers involved. In the language of the Court, it said:

> "Without concurring in the opinion expressed in the order complained against that petitioners' action had already prescribed—it not appearing that prescription had been especially pleaded—the case had to be dismissed for lack of jurisdictional number of workers involved.
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> "According to Com. Act No. 103, 'The Court shall take cognizance . . . of any industrial dispute . . ., provided that the number of employees or laborers involved exceeds thirty . . .' It appearing that the present case was brought by only three employees, the lower court had no jurisdiction to try it."

In *Rural Progress Administration v. Dimson*,[6] the Supreme Court ruled that the CIR has no jurisdiction where the relationship is not one of tenancy. In other words, the Court held that where agricultural lands are being leased and the lessee actually cultivated and is actually cultivating the same with the help of paid laborers working under him and under his supervision, the relationship is not one of tenancy because the lessee is not a tenant, for a tenant is a farmer or farm laborer who undertakes to work and culticate land for another or a person who furnishes the labor.[7] A tenant is a person who, himself and with the aid available from within his immediate farm household, cultivates the land belonging to, or possessed by another, with the latter's consent for purposes of production.[8]

The Supreme Court said that the defendant actually cultivated and is actually cultivating the land for himself. Neither is he one who "furnishes the labor," because he has not made a contract with the landlord to furnish labor to such landlord. Consequently, the CFI had jurisdiction over the complaint for ejectment filed by the petitioners against Rufino Dimson.

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[5] G.R. No. L-8141, Dec. 22, 1955.
[6] G.R. No. L-6068, April 28, 1955.
[7] Act No. 4054, § 19.
[8] Rep. Act No. 1199 (An Act Governing the Relations Between the Landholders and Tenants of Agricultural Lands).

It must be noted that not every contract between landlord and tenant falls within the jurisdiction of the CIR. An example has been presented by the Court in this case. For instance, although a lease of a residential house or urban lot is entered into between landlord and tenant, none would contend that a suit for ejectment of such "tenant" would have to pass through the CIR.

The foregoing cases all involved situations where the Court of Industrial Relations had no jurisdiction. We shall next consider the cases where the CIR had jurisdiction over the situations presented.

Where both parties in a dispute agree to submit the matter on stipulation to the Presiding Judge of the CIR for decision, with the understanding that whatever decision to be rendered therein shall be considered final without the benefit of an appeal by either of the parties to the court in banc or to the Supreme Court, such stipulation does not affect either the jurisdiction of the CIR to consider in banc the motion for reconsideration of respondent union *for the jurisdiction of the Court is determined and confirmed by law, and may not be taken away, modified or even qualified, by the parties.*[9] The latter may enter into valid contracts in reference to some of their rights, including those conferred by remedial laws, and such contracts may affect the wisdom of the judicial action relative thereto, but not the jurisdiction of the Court thereon. This rule was laid down by the Supreme Court in the case of *Atok-Big Wedge Mining Co., Inc. v. CIR.*[10]

In *University Union of Free Workers v. Santos and Tan Bee,*[11] the respondents were concessionaires of the University of the Philippines Dining Hall. Because of a labor dispute that arose between the concessionaires and the union regarding conditions of employment, a case was filed with the CIR by the union. However, the case was settled amicably. Later, the concessionaires decided to close the business and terminate the services of the petitioners. The management sold the business equipments. The petitioners, sensing that the transfer of the business was fictitious, instituted a petition before the CIR. Said petition was dismissed on the ground that the new case was different from the former and that the court did not have jurisdiction since the requisite number of thirty one or more of the workers was not satisfied. In the former case amicably settled the requisite number was present while in the new case the number was reduced to twenty six. The issue therefore was one of jurisdiction. The Supreme Court however reversed the order of dismissal:

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[9] Underscoring supplied.
[10] G.R. No. L-7518, May 27, 1955.
[11] G.R. No. L-7238, July 18, 1955.

> "Since the issue involved in the present case calls for the enforcement of an agreement concerning employment entered into in the previous case, between the same parties, it may therefore be said that the present case is but an incident or an implementation of the former case which cannot now be thrown out of court on the pretense that the membership falls short of the requisite number to give jurisdiction to the court."

It is well settled that once jurisdiction is acquired, it is not lost by a later change in the status of the union. The Supreme Court has held that once the CIR has acquired jurisdiction, it retains said jurisdiction until the case is completely decided,[12] and that the reduction of the number of employees or laborers affected to a point below the number required by law to invest the jurisdiction of the court at the beginning, or the amicable settlement of some of the demands originally made, does not deprive said court of jurisdiction to continue hearing and deciding the case.[13]

The Supreme Court observed that since the petition was predicated on the plea that the transfer of the business was fictitious, this matter should first be determined before going to the personality of the petitioner. If it appeared that the transfer was genuine, then the petition would be dismissed for the absence of jurisdictional personality, upon the theory that the present case was different from the former.

The case of *Central Vegetable Oil Mfg. Co. v. CIR and Philippine Oil Industry Workers Union* [14] presented a parallel situation. The point raised was that as only twenty four laborers were affected in the dispute, the CIR lacked jurisdiction to act. The Supreme Court held that it is to be presumed that this point had been decided against the company in the previous case that culminated in its (Supreme Court's) decision ordering the reinstatement of the laborers with pay, the present case [15] being merely a result of that decision; and the reason is that the complaint brought by the petitioner to discharge the twenty workers involved which was denied by the court, was merely an incident of the case involving the demands of the union for better conditions, and there was no showing that the court below had no jurisdiction over the main case.

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[12] Philippine Land-Air-Sea Labor Union v. CIR, *supra* note 3.

[13] Pepsicola, Inc. v. National Labor Union, *supra* note 3; Sta. Mesa Shipways and Engineering Company v. Court of Industrial Relations and Tadena, et al., 48 O.G. 3353, 3359 (1952).

[14] G.R. No. L-7519, June 30, 1955.

[15] Appeal from the order of execution of the decision of the Supreme Court for the reinstatement of the laborers.

2. Court of Tax Appeals.

In the cases of *Millarez v. Amparo and Lim Hu*,[16] *Millarez v. Amparo and Nepomuceno*,[17] and *Millarez v. Amparo and Seree Investments Company*,[18] the Supreme Court held that Republic Act No. 1125 [19] gave the Court of Tax Appeals exclusive appellate jurisdiction to review decisions of the Commissioner of Customs "in any case of seizure" as in this case, thus depriving the CFI appellate jurisdiction to review decisions of the customs authorities.

Inasmuch as the CTA has exclusive appellate jurisdiction over the decision of the petitioner Collector of Customs and Commissioner of Customs for seizing and impounding the packages of garlic of respondent importers, the respondent judge of the CFI of Manila had no jurisdiction to issue the writ of preliminary mandatory injunction in each case, ordering the release, under bond, of the packages of garlic.

3. Deportation Board.

There is no question that as the power to deport is limited to aliens only, the alienage of the respondent in deportation proceedings is a basic and fundamental fact upon which the jurisdiction of the Deportation Board depends.[20] If the alienage of the respondent is not denied, the Board's jurisdiction and its proceedings are unassailable; if the respondent is admittedly a citizen, or conclusively shown to such, the Board lacks jurisdiction and its proceedings are void and may be summarily enjoined in the courts. Naturally the Board must have the power in the first instance to determine the respondent's nationality. And the respondent must present evidence of his claim of citizenship before the Board and may not reserve it before the courts alone in a subsequent action for habeas corpus.[21] It must quash the proceedings if it is satisfied that respondent is a citizen,

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[16] G.R. No. L-8364, June 30, 1955. See Notes, *Recent Decisions*, 30 PHIL. L.J. 666 (1955).

[17] G.R. No. L-8365, June 30, 1955.

[18] G.R. No. L-8351, June 30, 1955.

[19] An Act Creating the Court of Tax Appeals (June 16, 1954).

"§ 7. Jurisdiction.—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal as herein provided—

"(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected; fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs."

[20] 2 AM. JUR. 524.

[21] Carmona v. Aldanese, 54 Phil. 896 (1930).

and continue it if it finds that he is not, even if the respondent claims citizenship and denies alienage. Its jurisdiction is not divested by the mere claim of citizenship.[22]

There is also no question that a respondent who claims to be a citizen and not therefore subject to deportation has the right to have his citizenship reviewed by the courts after the deportation proceedings. When the evidence submitted by a respondent is conclusive of his citizenship, the right to immediate review should also be recognized and the courts should promptly enjoin the deportation proceedings. The legal basis of the prohibition is the absence of the jurisdictional fact of alienage.

The problem arises when the evidence is not conclusive on either side.[23] Should the deportation proceedings be allowed to continue till the end, or should the question of alienage or citizenship of respondent be allowed to be decided first in a judicial proceeding, suspending the administrative proceedings in the meantime that the alienage or citizenship is being finally determined in the courts? The foregoing question was the issue presented in the case of *Chua Hiong v. The Deportation Board.*[24] Petitioner filed a suit for a writ of habeas corpus on the ground that his arrest had been illegal and for a writ of preliminary injunction to restrain the Deportation Board from hearing the case until after his petition would have been heard.

Petitioner argued that the evidence submitted by him as to his Filipino citizenship was substantial; and that as his liberty as a

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[22] Miranda, et al.v. Deportation Board. G.R. No. L-6784, March 12, 1954.

[23] The petitioner submitted a letter of the Vice-Minister of Foreign Affairs under the Japanese Military Occupation dated August 17, 1944 and a letter of the Secretary of Justice dated October 31, 1945, finding the petitioner a natural son of a Filipino woman and therefore a Filipino citizen, and the decision of the CFI of Manila to the effect that the petitioner is the illigitimate son of a Filipino woman and therefore a Filipino citizen.

On the other hand, the above documents were contradicted by the findings of a member of the Board of Special Investigation of the Bureau of Immigration, who, after an analysis of the evidence, concluded that the testimony of the alleged mother of the petitioner had certain discrepancies which rendered it of doubtful veracity. The Sec. of Justice, in his communication addressed to the Comn'r of Immigration, found that petitioner's claim to citizenship was not satisfactorily proved and ordered that he be required to register in accordance with the provisions of the Alien Registration Act. The petitioner, too, gained original entry into the Philippines as the son of a Chinese father and a Chinese mother, which fact entirely contradicted his claim of Filipino citizenship.

[24] G.R. No. L-6038, March 19, 1955. See Notes, *Recent Decisions*, 30 PHIL. L.J. 509 (1955).

citizen is involved, the constitutional guarantee of due process of law demanded that his alleged citizenship be determined in judicial proceedings.

The Supreme Court of the United States has answered the foregoing issue in the affirmative.[25] It granted judicial intervention suspending the administrative proceedings in the meantime that the alienage or citizenship was finally determined in the courts. Our Supreme Court also gave the same answer when it said:

> "If the citizen's right to his peace is to be protected it must be protected preferably through the medium of the courts because these are independent of the branches of the government and only in their proceedings can we find guarantees of impartiality and corrections, in the ascertainment of the jurisdictional fact in issue, the respondent's claim of citizenship. However, it is neither expedient nor wise that the right to a juridical determination should be allowed in all cases; it should be granted only in cases when the courts themselves believe that there is substantial evidence[26] supporting the claim of citizenship, so substantial that there are reasonable grounds for the belief that the claim is correct. In other words, the remedy should be allowed only in the sound discretion of a competent court."

The case of *Tan Tong v. The Deportation Board*[27] involved again the question of jurisdiction of the respondent. This was an appeal from a judgment of the CFI of Cebu denying a petition for a writ of prohibition against the respondent. Petitioner was originally charged before the Bureau of Immigration with being a communist. The Board of Commissioners found that Tan Tong was engaged in communistic activities and in smuggling, and so it recommended that Tan Tong be deported to China. Later, petitioner was charged before the Deportation Board with being connected with the communist party and for having engaged in unlawful importation of merchandise. Petitioner's motion to quash the proceedings before the respondent was denied.

On appeal, petitioner contended that in view of the wordings of Section 2702 of the Revised Administrative Code,[28] it was obvious that the trial court erred in ruling that respondent Board can subject

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[25] Ng Fung Ho v. White, 259 U.S. 276, 66 L. Ed. 938 (1922).

[26] The Court said: "In the case at bar, we find that the evidence of which petitioner and the State may avail is of such substantial nature as to afford belief that only an impartial judicial investigation can evaluate it with fairness."

[27] G.R. No. L-7680, April 30, 1955.

[28] "Any person who shall fraudulently or knowingly import or bring into the Philippines, or insist in so doing, any merchandise contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such merchandise after importation knowing the same to have been imported contrary to law, shall be punished by a fine of not less than six hundred pesos and by imprison-

the petitioner to deportation for unlawful importation even without a prior court conviction for said offense. In other words, the issue was whether the Deportation Board had jurisdiction to deport the petitioner for illegal importation even without a previous conviction by a competent court for unlawful importation. The Supreme Court held that under said section the Legislature did not intend that an alien can be deported for illegal importation only upon conviction therefor in a competent court, and deprive the Deportation Board of its powers to investigate charges of unlawful importation of merchandise against an alien, especially when as it appears from the record, no criminal action for unlawful importation has been filed against him. The sole import of the section cited, according to the Court, is that if a competent court has found an alien guilty of a violation of said section, the proceedings outlined in section 69 of the Revised Administrative Code [29] are no longer necessary for deportation. Beyond that, it is unreasonable to presume that the Legislature intended more.

4. Commissioner of Immigration.

Has the Commissioner of Immigration the power to limit the period of stay in the Philippines as immigrants of aliens admitted on pre-arranged employment and later classified as non-quota immigrants? This was the issue presented in *Chang Yung Fa, et al., v. Hon. Guianzon and Comm'r of Immigration.*[30]

On November 11, 1949, petitioner was admitted to the Philippines on pre-arranged employment as immigrants under Section 13(a) of the Philippine Immigration Act of 1940,[31] with the express

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ment for not less than three months nor more than two years and, if the offender is an alien, he may be subject to deportation.

"When upon trial for a violation of this section, the defendant is shown to have or to have had possession of the merchandise in question, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court.

[29] "A subject of a foreign power residing in the Philippines shall not be deported, expelled or excluded from said Islands or repatriated to his own country by the President of the Philippines except upon prior investigation, conducted by said Executive or his authorized agent, of the ground upon which such action is contemplated. In such case the person concerned shall be informed of the charge or charges against him and he shall be allowed not less than three days for the preparation of his defense. He shall also have the right to be heard by himself or counsel, to produce witnesses in his own behalf, and to cross-examine the opposing witnesses."

[30] G.R. No. L-7785, Nov. 25, 1955.

[31] Com. Act No. 613 provides in part:

"Section 13. Under the conditions set forth in this Act, there may be admitted into the Philippines immigrants, termed "quota immigrants," not in excess of five hundred

condition that their stay shall be limited to two years. On June 12, 1950, the Immigration Act was amended [32] changing the classification of pre-arranged employees from immigrants to non-quota immigrants. The petitioners requested from the Secretary of Justice an opinion [33] but the opinion held that that condition imposed was valid, intimating that if they should fail to comply with said condition after the expiration of the period, they would be deported. Hence, the present action for declaratory judgment.

The petitioners contended on appeal that the respondent had no power to limit the period of their stay, for having been classified as "non-quota immigrants" they should have been admitted for permanent residence in this country because the word "immigrant" is defined as a person who comes into a country for permanent residence.

The Supreme Court held that, in view of the interpretation of the term "immigrant" [34] as including aliens coming both for permanent or temporary purposes, it cannot be correctly pretended that the limitation imposed upon petitioner as regards their stay in the Philippines by the Comm'r of Immigration does violence to the law since it does not clearly appear therein that such class of aliens can only be admitted with the status of permanent residence. On the contrary, the Court continued, the power of the Commissioner under the law [35] appears to be broad enough to include the authority to impose such limitation, for if the Commissioner has the power to deny completely the admission of an alien who seeks to enter this country on a pre-arranged employment by withholding the issuance of an immigration visa on the ground of public interest, with more

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of any one nationality or without nationality for any one calendar year, except that the following immigrants, termed 'non quota immigrants' may be admitted without regard to such numerical limitations;

"(a) An alien coming to pre-arranged employment, for whom the issuance of a visa has been authorized in accordance with section twenty of this Act. and his wife and his unmarried children under twenty one years of age if accompanying him or if following to join him within a period of two years from the date of his admission into the Philippines as an immigrant under this paragraph."

[32] Rep. Act No. 503 (June 12, 1950).

[33] Opinion No. 314, Ser. of 1952.

[34] The interpretation of the Court as to the meaning and scope of the term "immigrant" finds support in the case of Kamuth v. United States, 279 U.S. 231, 242-43 (1929) wherein it was held:

"In construing § 3(2) of the Immigration Act, we are not concerned with the ordinary definition of the word 'immigrant' as one who comes for permanent residence, the Act makes its own definition, which is that 'the term immigrant means any alien departing from any place outside the United States.' The term thus includes every alien coming to this country either to reside permanently or for temporary purposes, unless he can bring himself within one of the exceptions."

[35] § 20, Com. Act No. 613 (Immigration Act of 1940).

reason can he impose a less onerous condition such as limiting the duration of his stay in the country. The petitioners were thus estopped from disputing the power of the Commissioner even if when they entered they were not disqualified for admission as permanent residents because of their failure to act for the cancellation of such limitation.

5. Workmen's Compensation Commission.

The claim for having contracted tuberculosis due to their work by employees of the Quezon Institute, under the operation of the Philippine Tuberculosis Society, is not within the purview of the Workmen's Compensation Law [36] because said Quezon Institute has not been established for gain. The foregoing rule was the doctrine in the cases of *Quezon Institute v. Velasco*,[37] and *Quezon Institute v. Paraso*.[38] The Court reasoned out that in the case of *University of Santo Tomas Hospital Employees v. Santo Tomas Hospital*,[39] it was held that the Santo Tomas Hospital is not an institution established for gain and, therefore, not subject to the jurisdiction of the Court of Industrial Relations; with greater reason that the Quezon Institute should be declared as an institution not established for gain within the meaning of the Workmen's Compensation Law.

II. PROCEDURE.

A. COURT OF INDUSTRIAL RELATIONS.

1. Due Process.

There are certain cardinal primary rights which the Court of Industrial Relations must respect.[40] One of them is the right to a hearing which includes the right of the party interested to present his own case and submit evidence in support thereof.[41] In the case of *Epang v. De Leyco*,[42] petitioner filed a motion to dismiss the complaint for forcible entry and detainer. The Justice of the Peace endorsed the case to the CIR without deciding the motion to dismiss.

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[36] Act No. 3428 (Dec. 10, 1927), as amended by Rep. Act No. 772 (June 20, 1952) provides:

"(d) 'Industrial employment' in case of private employees include all employment or work at a trade, occupation, or profession exercised by an employer for the purpose of gain except domestic service."

[37] G.R. No. L-7742, Nov. 23, 1955.

[38] G.R. No. L-7743, Nov. 23, 1955.

[39] See note 4 *supra*.

[40] Ang Tibay v. CIR, 69 Phil. 635, 642-44 (1940).

[41] Phil. Movie Pictures Workers' Ass'n v. Premiere Productions Inc., G.R. No. L-5621, March 25, 1953.

[42] G.R. No. L-7574, May 17, 1955.

The CIR declared the petitioner in default after failing to answer and rendered the corresponding judgment. On appeal to the Supreme Court by certiorari petitioner contended that he was denied due process because the trial was held without notice of the hearing being given. The Tribunal sustained the petitioner, thus:

> "The petitioner having filed a motion to dismiss, he was entitled to have that motion resolved before being required to answer, since a motion to dismiss interrupts the time to plead. It follows therefore, that the petitioner was incorrectly declared in default, and the holding of the trial of the case on the merits in his absence without notice of the day of the hearing, was a denial of due process. At least the petitioner's motion should have been treated as an answer, since it raised issues that went to the merits of the case; hence petitioner was entitled to notice of the holding of the trial before the Court of Industrial Relations, and the failure to give him opportunity to appear therein tainted all the subsequent proceedings."

2. Modification by the Court of Industrial Relations of its orders and judgments.

In the case of *Philippine Land-Air-Sea Labor Union v. Cebu Portland Cement Co. & CIR* [43] the petitioning union contended that the CIR had no power to modify its previous order because said order was already final and executory. The Supreme Court held that the order was merely interlocutory, preparatory to the execution of the judgment awarding increase of wages and salaries, and in no sense a final judgment determinative of the amounts to which the petitioners were entitled and ordering payment thereof to them by the respondent company. As such it was subject to modification and amendment by the respondent court under its inherent powers [44] in order to make it conformable to law and justice. The Court cited the case of *Veluz v. Justice of the Peace of Sariaya,*[45] where it was held:

> "Any trial court discovering error or injustice in a judgment before it becomes final, may upon its own motion or that of the parties, correct the error, or if necessary, grant a new trial. No statutory authority is necessary."

It must be noted that for purposes of comparison, the CIR has, during the effectiveness of an award, order or decision, on application of an interested party, and after due hearing, the power to alter,

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[43] G.R. No. L-7296, April 30, 1955.

[44] Rule 124, § 5, Rules of Court, in relation to § 6 of Com. Act 103 (The Court of Industrial Relations Act).

[45] 42 Phil. 557 (1921).

modify in whole or in part, or set aside any such award, order or decision, or reopen any question involved therein.[46] The Court of Industrial Relations Act[47] is also a source of the power of the CIR to correct or amend its previous order or judgment.

3. Immediate execution of an award, when allowable.

In the case of *Western Mindanao Lumber Co., Inc. v. CIR and the Mindanao Federation of Labor*,[48] the respondent court issued an order for the execution of its judgment reinstating the three laborers of petitioner. This order of execution is claimed to have been issued in excess of the court's jurisdiction for the reason that there is no strike or lockout to which dismissals were related, and because the judgment is not yet complete, the counterclaim being still undecided. The reason given is based on the contention that Section 14 of Commonwealth Act No. 103, which expressly authorizes execution pending appeal, is applicable only in cases of strikes and lockouts contemplated in Section 4 of Commonwealth Act No. 103.

The Supreme Court, speaking through Justice Labrador, said:

> "It is unreasonable to asume that immediate execution of an award is allowable only during strikes or lockouts. The authority to order immediate execution must be construed to be implied from the respondent court's authority to decide and settle cases involving employment.[49] If such authority is to be exercised justly, it must be deemed to include immediate execution of its order under justifiable circumstances. In ordinary litigations not involving the daily bread or the means of livelihood of litigants, immediate execution of a judgment is expressly authorized in the discretion of the judge.[50] A reinstatement of a laborer by its very nature requires immediate execution both for the welfare of the laborer, whose daily bread comes from his daily labor, and for the employer so that he may promptly adjust his business to the new situation created by the reinstatement. Immediate execution of awards or orders for reinstatement are not necessary in cases of strikes and lockouts alone; they are as necessary in ordinary life as in the ordinary course of business."

It must be remembered that delays in appeals are unavoidable, not only because full opportunity to litigants to present and defend their rights must not be denied and is guaranteed by the Constitution, but because the search for truth and justice in litigation is a

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[46] § 17, Com. Act No. 103.
[47] See § 7, *id.*
[48] G.R. No. L-8185, Sept. 23, 1955.
[49] § 1, Com. Act No. 103.
[50] Rule 39, § 2, Rules of Court; Rule 72, § 8, Rules of Court; Art. 1674, Civil Code.

difficult and slow process. Because of these unavoidable delays, according to the Court, the law has devised the execution pending appeal provision, a positive remedy against the delay of justice.

B. PATENT OFFICE.

1. Steps in the proceedings for the approval of an application for registration.

In the case of *Ong Ai Gui v. Director of the Philippine Patent Office*,[51] it was argued that after the approval by the Director of the findings of the Commissioner to whom the application is referred and the giving of the order of publication, it becomes the ministerial duty of the Director to issue the corresponding certificate of registration. The Supreme Court said:

> "The answer to this argument is the fact that the law allows opposition to be filed after publication.[52]
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> "Of what use is the period given to oppositors to register their opposition if such oppositors are not given consideration at all, because the Director has only the ministerial duty after publication to issue the certificate of registration? It will be noted that there are two steps in the proceedings for the approval of an application for registration; the first, is that conducted in the office of the Director and taking place prior to the publication, and the second, that conducted after publication, in which the public is given the opportunity to contest the application. In the first, the application is referred to an examiner who, after study and investigation makes a report and recommendation to the Director who, upon finding that applicant is entitled to registration, orders publication or the application.[53] If he finds that applicant is not entiled to registration, he may then and there dismiss the application. In the second, opportunity is offered the public or any interested party to come in and object to the petition,[54] giving proofs and reasons for the objection, applicant being given opportunity also to submit proofs or arguments in support of the application.[55] It is the decision of the Director, given after this hearing, or opportunity to every interested party to be heard, that finally termi-

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[51] G.R. No. L-6235, March 28, 1955, 51 O.G. 1943 (1955). See Notes, *Recent Decisions*, 30 PHIL. L.J. 683 (1955).

[52] § 8 of Rep. Act No. 166 (An Act to provide for the registration and protection of Trade Marks, Trade Names and Service Marks, Defining Unfair Competition and False Marking and providing remedies against the same and for other purposes [June 20, 1947]) provides in part:

"Any person who believes that he would be damaged by the registration of a mark or trade-name may upon payment of the required fee and within thirty days after the publication under the first paragraph of § 7 hereof, file with the Director an opposition to the application."

[53] § 7, *id.*

[54] § 8, *id.*

[55] § 9, *id.*

nates of proceedings and in which the registration is finally approved or disapproved. Thereafter, notice of the issuance of the certificate of registration is published.[56]

"It is evident that the decision of the Director after the first step, ordering publication, can not have any finality. Of what use is the second step, if the Director is bound by his decision (first), giving course to the publication? His first decision is merely provisional, in the sense that the application appears meritorious and is entitled to be given course leading to the more formal and important step of hearing and trial where the public and interested parties are allowed to take part."

C. PUBLIC SERVICE COMMISSION.

1. Application for a change of route.

The case of *Heras, et al. v. De Guia*[57] presented the issue of whether the former certificate of public convenience must be cancelled before a new one, or a modified route, could be applied for. In this case, the petitioners maintained that the Commission abused its discretion in permitting the respondent, the applicant for a change of route, to discontinue and abandon the operation of his old line without first securing the cancellation of the previous certificate of public convenience. The Supreme Court held that suffice it to say that appellee's application for a change of route amounted to a petition for cancellation of the authority to operate in his original route, simultaneously with the grant of authority to operate in the new route. Similarly, when the latter route was approved in the decision appealed from, the Public Service Commission, in effect, withdrew appellee's authority to operate in the original route.

D. WORKMEN'S COMPENSATION COMMISSION.

1. Duty of "referee" to refer the entire case to the Commission.

In the case of *Luzon Stevedoring Co., Inc. v. Comm'r of the Workmen's Compensation Commission,*[58] the respondent denied the motion of the petitioner that the referee be ordered to refer the case to said Commission for review inasmuch as said referee in denying the motion of the petitioner to reconsider its former decision granting the claim for compensation, neither amended nor modified[59] his former decision. The respondent denied the motion on the ground that the decision of the referee had already become final. The decision of the respondent was not proper because:

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[56] § 10, *id.*
[57] G.R. No. L-7581, Oct. 24, 1955.
[58] G.R. No. L-8316, April 15, 1955.
[59] See Act No. 3428, § 49.

"Petitioner filed a motion for reconsideration of the order of the referee granting compensation benefits to some of the claimants within the period of 15 days after its entry, and the referee did not amend nor modify his original decision but merely reiterated it. Such being the case, the duty of the referee was to refer the entire case as provided for by the law. The referee failed to comply with this duty which motivated the petitioner to file a motion with the Commission in order that such duty may be performed. Respondent denied said motion on the mistaken belief that the decision of the referee had already become final. This is an error which constitutes an abuse of discretion."

E. FINALITY OF DECISIONS OF ADMINISTRATIVE AGENCIES.

A final decision is one which settles rights of parties respecting the subject matter of the suit and which concludes them until it is reversed or set aside. An order or decision becomes final by operation of law and not by judicial declaration.[60]

This year, the Supreme Court had occasion to determine when the decision or the order of the Court of Industrial Relations becomes final or is merely interlocutory.

Thus, in the case of *P.L.D.T. Employees' Union v. Philippine Long Distance Telephone Co. and Free Telephone Workers' Union*,[61] the Supreme Court held that the petition for review or appeal of the intervenor (P.L.D.T. Employees' Union) was premature because the order denying its motion to dismiss not being a final order the CIR still had to determine the proper bargaining agency or direct a certification election.

Te Court further said that it is the general rule that only final judgments or orders are appealable to the Supreme Court. An interlocutory order may not be appealed.[62] An order or judgment is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the trial court. In other words, a final order is that which gives an end to the litigation. When the order or judgment does not dispose of the case completely but leaves something to be done upon the merits, it is merely interlocutory.[63]

In the case of *Philippine Movie Pictures Workers' Ass'n v. Premiere Productions, Inc.*,[64] Judge Roldan denied the petitions for injunction and for contempt of court and declared that the leases involved therein were valid, before deciding on the supplemental pe-

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[60] RIVERA, J. F., LAW OF PUBLIC ADMINISTRATION 848 (1956).

[61] G.R. No. L-8138, Aug. 20, 1955.

[62] Rule 41, § 2, Rules of Court.

[63] 1 MORAN, COMMENTS ON THE RULES OF COURT 894-95 (1952); Nico v. Blanco, 46 O.G. Supp. 1, 88 (1950); Hodges v. Villanueva, G.R. No. L-4134, Oct. 25, 1951.

[64] G.R. No. L-7771-73, May 31, 1955.

tition filed to annul the lease contracts. The CIR reconsidered in banc the decision of Judge Roldan and set aside it as premature. The Supreme Court denied the petition for certiorari and remanded the cases for further proceedings because the resolution of the majority of the lower court left the case without any decision to appeal from, and that said resolution was in the nature of a mere interlocutory order not subject to appeal.

In *Lee Tay and Lee Chay Inc. v. Kaisahan Ng Mga Manggagawa Sa Kahoy Sa Filipinas,*[65] the petitioner appealed from the decision of the CIR awarding salary differentials to three laborers of the petitioner and ordering the latter to pay the gratuities as agreed upon. Respondent contended that the appeal was made after the resolution of the court a quo had become final and executory. The Supreme Court sustained the contention because the award of the salary differential had already been final and executory when the appeal was filed, as more than nine months had elapsed from the time the motion to reconsider the award was denied.

In the case of *Ventanilla v. Board of Tax Appeals, et al.*[66] petitioner filed a petition for review with the Board of Tax Appeals praying that the Collector of Internal Revenue be ordered to furnish him with a bill of particulars regarding the assessment. But the respondent sustained the Collector's contention that the letter the Collector had sent to the petitioner, in which reference was made to the tickets, was a sufficient bill of particulars. Hence, this appeal by the petitioner. The Court held that the bill of particulars was only an interlocutory matter, which, in itself, was not appealable. Consequently, the assessment became final. No appeal was made to the respondent in regard to the assessment, as all the insistence of the petitioner was with regard to the bill of particulars. The assessment made by the Collector was the substantial and dispositive part of his decision.

F. SUFFICIENCY OF EVIDENCE.

The substantial evidence test is a test of the quantitative sufficiency of evidence to support quasi-judicial determination.[67] "Substantial" means something more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate

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[65] G.R. No. L-7791, April 19, 1955.

[66] G.R. No. L-7384, Dec. 19, 1955.

[67] Benjamin, Judicial Review of Administrative Adjudication (1948). See FERNANDO AND QUISUMBING-FERNANDO, ADMINISTRATIVE LAW 143 (1953).

to support a conclusion.[68] Substantially supported findings of administrative tribunals preclude judicial substitution of judgment.[69]

In the case of *Rodriguez v. Mariano and CIR*,[70] the respondent court had not laid the proper factual basis on which the Supreme Court may pass upon the issue in the appeal with had reference to the nature of the relationship that was established between Fausto Paguio and Mariano. The Tenancy Law Enforcement Office found that Mariano came into the possession of the land as a result of a loan given by his wife to Fausto with the understanding that he was to hold it until after said loan had been fully paid. On the other hand, Mariano claimed that he could work the land as long as he wished it. The case therefore presented two conflicting facts as to which proper finding should be made. Such was not done by the respondent court, for it curtly concluded without discussing the evidence, that Mariano was a tenant.

Considering that in a petition for review only questions of law may be looked into, upon the theory that the findings of fact by the CIR are conclusive,[71] such purpose could not be accomplished if its findings were incomplete. Unless this was done, the appellate court could not properly fulfill its duty of applying the law. Therefore, the Court remanded the case to the lower court in order that a proper evaluation of the evidence may be made.

In *Tabiolo v. Marquez*,[72] the petitioner argued that the lower court erred in finding that the expenses for planting and cultivation were borne solely by the respondent. The Supreme Court sustained the lower court, saying:

> ". . . . Suffice it to say that the findings of fact of the Court of Industrial Relations are conclusive upon this Court, unless it is shown that there is absolutely no credible evidence in support thereof; and with respect to the question as to who defrayed the planting and cultivation expenses especially, the decision appealed from even quotes an express admission by petitioner that while he furnished the carabaos and the farm implements, the respondent paid for the expenses of planting."

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[68] See note 45 *supra*.

[69] Manila Electric Co. v. National Labor Union, 70 Phil. 617 (1940); Halili v. Floro, G.R. No. L-3365, Oct. 25, 1951; Halili v. Balane, G.R. No. L-3365, April 11, 1951; Manila Yellow Taxicab v. Public Service Commission, G.R. No. L-2877, April 26, 1951.

[70] G.R. No. L-6523, Jan. 31, 1955.

[71] Rule 44, § 2, Rules of Court; Union of Phil. Education Employees v. Phil. Education Co., G.R. No. L-4423, March 31, 1952.

[72] G.R. No. L-7035, March 25, 1955.

The case of *Flores v. Pingol*[73] was a petition for the review of the evidence which was the basis of the finding of the lower court that the tenant was guilty of gross misconduct and willful disobedience to the orders of his landlord in connection with his work, as well as fraud or breach of trust in connection with the work entrusted to him. The Supreme Court held that the review of the evidence could not be done because in a petition for review only questions of law may be looked into.[74]

The CIR, in the case of *Tacad, et al. v. Vda. De Cebrero*,[75] authorized the ejectment of the petitioners on the ground that the tenants were guilty of disobedience and negligence for concertedly disappearing on the appointed dates for threshing with the result that the thresher was not able to do any threshing and that the landowner had to compensate the thresher for damages suffered. Petitioner disputed this conclusion on the ground that it was not supported by the evidence. The Supreme Court ruled that as the question raised was factual and as the findings of fact of the CIR are conclusive on the Court, the petition could not be entertained.

The case of *Nicolas v. CIR and Noel*[76] was a petition for certiorari to annul the decision of the respondent on the ground that it was based only on a portion and not on the entirety of the evidence on record. The petitioner argued that the decision in reciting the history of the case, omitted the fact of the hearing conducted before Commissioner Bonifacio; that the lower court found the evidence of respondent Noel to be "uncontroverted," when the evidence presented by petitioner during the hearing before Bonifacio controverted Noel's evidence; and that the physical condition of the records revealed that at the time the decision was rendered, the proceedings before the Commissioner had not yet been transcribed.

The Supreme Court held that the court below considered the entirety of the evidence in deciding the case at bar. The mere failure to mention in the decision's narration of facts the proceedings taken before the Commissioner was no proof that the respondent court was unaware of such proceedings, since the presiding judge who penned

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[73] G.R. No. L-7497-98, April 16, 1955.

[74] Elks Club v. Rovira, 45 O.G. 3829 (1949); Phil. Refining Company Workers' Union v. Phil. Refining Co., 45 O.G. 159 (1949); Kaisahan ng mga Mangagawa sa Kahoy sa Filipinas v. Gotamco Sawmill, 45 O.G. Supp. to 9, 147 (1949); Leyte Land Trans. Co. v. Leyte Farmers and Laborers' Union, 45 O.G. 4862 (1949); Kaisahan ng mga Manggagawa sa Kahoy sa Filipinas v. Court of Industrial Relations, 45 O.G. Supp. 1, 364 (1950).

[75] G.R. No. L-7738, May 30, 1955.

[76] G.R. No. L-8129, July 25, 1955.

the decision was the very judge who commissioned Bonifacio to hear the evidence, and the transcript of the hearing replete with reference to the proceedings before Bonifacio, so that the same could not have been ignored.

With respect to the word "uncontroverted," the Court said that the same must have been used not in the sense of uncontroverted but in the sense of "not sufficiently overcome."

With respect to the third argument, the Court said that such physical condition, did "not themselves show that when the court below made its decision, the evidence presented at the first hearing had not yet been transcribed."

The petitioner in the case of *Padua v. Ocampo and Prieto and Pantranco,*[77] sought the review of the finding of the respondents to the effect that applicant failed to establish the need for the operation of the proposed services; that while the oppositors did not operate direct services or trips on the lines applied for and that direct services would be more convenient for the public than those actually existing which merely involved transfers at intermediate points, they however considered applicant's evidence "to be altogether too meager to overcome the fact that the services as either direct or one entailing transfers at intermediate points, maintained by oppositors (*sic*) at intervals which the Commission considers sufficient in the absence of a positive showing to the contrary."

In sustaining the findings of the Commission, the Court said:

> "We have gone over the evidence and have found the findings of the Commission to be fully substantiated and in making these findings, the Commission not only considered the evidence of applicant in relation to that of oppositors but even consulted its own records as regards the services being rendered by other authorized operators on the lines applied for."

Whether public necessity and convenience warrant the putting up of additional services is a question of fact [78] and that the appellate court will only reverse or modify orders of the Public Service Commission when it really appears that the evidence is insufficient to support their conclusions.[79]

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[77] G.R. No. L-7579, Sept. 17, 1955.

[78] Raymundo Transportation Co. v. Cervo, G.R. No. L-3899, May 21, 1952.

[79] Manila Yellow Taxicab Company and Acro Taxicab v. Dacron, 58 Phil. 75 (1953).

III. JUDICIAL REVIEW.

A. PRIMARY JURISDICTION, RIPENESS FOR REVIEW AND EXHAUSTION OF REMEDIES.

The overlapping of jurisdiction of certain administrative bodies and of the courts of justice has been inevitable with the increasing development of the field of administrative law. Last year the Supreme Court had opportunity to bring to harmony the aforementioned overlapping of jurisdiction.

In the case of *Santiago, et al. v. Cruz, et al.*,[80] the plaintiffs failed to appeal to the Secretary of Agriculture and Natural Resources to obtain a reversal of the decision of the Director of Lands, or to exhaust the administrative remedies open to them under the law. The Supreme Court said that while there are precedents which hold the view that before a litigant can bring a matter to court which has been passed upon by the Director of Lands, it is necessary that he first exhaust all the remedies in the administrative branch of the government, the Court could find no law expressly requiring such a prerequisite. That ruling would seem merely to apply to an action taken by an administrative official concerning public lands and not when it concerns private property as in the case at bar.[81] According to the Court, this was clearly implied in the case of *Miguel v. Vda. De Reyes*,[82] where it was held that when the property involved is a piece of public land the remedy of the party aggrieved by the decision of the Director of Lands is to appeal to the Secretary of Agriculture, and if he fails to pursue this remedy he cannot seek relief in the courts of justice.

In the case of *Secretary of Agriculture and Natural Resources and Minlawi Mining Ass'n v. Judge and Hora*,[83] the petitioner filed

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[80] G.R. Nos. L-8271-72, Dec. 29, 1955.

[81] The Supreme Court, in explaining that the lands involved herein were private lands, said:

"But we are not concerned here with lands belonging to the public domain. We are dealing with lands of private ownership even if they are occupied by the Government for resale to private persons. The Tambobong Estate was formerly owned by a private corporation which was later acquired by the Government under Com. Act No. 539, the administration of which was first placed under the Rural Progress Administration (Executive Order No. 191), and later transferred to the Bureau of Lands under Executive Order No. 376, and there is nothing in said act or order which would warrant the claim that before an action could be taken to the courts in connection with lots belonging to said estate they would have to exhaust all administrative remedies as is required in connection with public lands."

[82] G.R. No. L-4851, July 31, 1953.

[83] G.R. No. L-7752, May 27, 1955.

a motion to dismiss the complaint in the CFI of Manila filed by the respondent Hora on the ground that the decision of the petitioner had become final.

The petitioner claimed that the thirty-day period of appeal prescribed by law [84] should begin from the receipt of the decision of the Secretary of Agriculture and Natural Resources by the interested party, and that the presentation of the motion for reconsideration with said Secretary had the effect of merely suspending the running of the period of appeal, and the same to run again from the receipt of the order denying the motion for reconsideration, so that when the complaint was filed by the respondent a full period of forty-six days had already elapsed.

Hora, on the other hand, maintained that the action instituted by them constituted an appeal from an administrative tribunal to a court of justice, and under the principle that administrative remedies should be exhausted before resort to the courts may be made, the thirty-day period of appeal should be counted from the day of the notice denying the motion for reconsideration not from the decision.

The Supreme Court held:

> ". . . the contention of the respondent appeals to reason and were we to decide the question on that principle alone, we would agree. In this jurisdiction, however, the Legislature has provided the procedure by which a review of the decision of the Secretary . . . may be had in the courts of justice. The right to appeal from said decision is a statutory right; it can be invoked only in accordance with the manner which the Legislature has adopted the principle contained in the Rules [85] as to the manner of perfecting appeals in ordinary civil actions for the purpose of uniformity and to prevent the confusion that may be caused to litigants and lawyers by an appeal different from that applicable in courts of justice."

The CFI therefore had no jurisdiction to entertain the complaint filed by Hora to annul the decision of the petitioner because it was filed beyond the period required by law.

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[84] The procedure provided in § 4, Rep. Act No. 739 (An Act Requiring the Reconstruction or Reconstitution of Lost or Destroyed Records of the Bureau of Mines) is as follows:

"§ 4. . . . . The decision of the Secretary of Agriculture and Natural Resources may be taken to the court of competent jurisdiction as in ordinary civil cases within thirty (30) days from receipt of such decision: Provided, that if no such action is taken within the period of thirty days from receipt of such decision, the decision of the Secretary of Agriculture and Natural Resources shall likewise be final and binding upon the parties concerned."

[85] Rule 41, § 3, Rules of Court.