

ACOJE WORKERS' UNION, PETITIONER, VS. NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWU), ACOJE MINES (COMPANY, AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G. R. No, L-18848. April 23, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from an Order of the Court of Industrial Relations certifying

"the National Mines and Allied Workers' Union as the sole and exclusive bargaining agent of all the workers in the Acoje Mining Company at Santa Cruz, Zambales, excluding supervisors, confidential employees and security guards, for purposes of collective bargaining under Republic Act 875 as regards to wages, rates of pay, hours of work and other conditions of employment."

Pursuant to an Order of the Court of Industrial Relations dated May 19, 1961, and a Resolution thereof en banc, dated June 8, 1961, the Department of Labor, through the Bureau of Labor Relations, conducted on June 9, 1961, a "consent election" among the workers of the aforementioned Company, in which five (5) labor unions-participated, namely, the Acoje United Workers' Union, the Acoje Labor Union (PELTA), the Acoje Labor Union (PLUM), respondent National Mines and Allied Workers' Union (NAMAWU), and petitioner Acoje Workers' Union. On June 21, 1961, the Department of Labor certified that the result of the election was as follows.:

No. of Valid Votes cast

974

No. of Spoiled Ballots

11

No. of Challenged Ballots

19

Total No. of Votes Cast

904

No. of Votes Cast for:

Acoje United Workers Union

8

Acoje Labor Union-Pelta.

11

Acoje Labor Union-Plum

5

National Mines & Allied Workers' Union

560

Acoje Workers' Union.

278

No Union desired

12

—

874

Prior thereto or on June 12, 1961, petitioner Union as which had been defeated by respondent Union by a margin of 282 votes-had filed a motion to invalidate said election upon several grounds. After due hearing, the lower court issued, on July 21, 1961, the order appealed from, holding that said motion was without merit, and certifying respondent Union as the sole and exclusive bargaining agent of all the workers of the Company. A reconsideration of said order having been denied by the Court en banc, petitioner interposed the present appeal by certiorari, and now maintains that the lower court should have invalidated the aforementioned election for the same was "the result of acts of terrorism, force, threat and intimidation employed by" agents of respondent Union.

More specifically, petitioner alleges that, "if heard or given its day in Court" it could have proven that: (a) not less than 310 workers of the Company were threatened the night immediately preceding the election by agents of respondent Union individually "to cast their vote for said Union-or else;" b) the agents of respondent Union were even aided by the Municipal Mayor of Santa Cruz, Zambales, and his policemen, and, as a consequence, said Municipal Mayor was suspended from office; c) the acts performed by said agents of respondent Union "resulted into unlawful disorder, damaged belongings, and physical injuries suffered by the workers"; d) many workers were unable to vote for justified causes; and e) many workers, subject of unfair labor practice case actually, pending in Court, were not allowed to vote, contrary to law.

The last two (2) grounds are clearly untenable. It appears that on April 24, 1961, the labor unions concerned agreed, not only to the holding of the aforementioned election, but, also, to the use of the Company payroll of March 31, 1961, as the basis for determining who are qualified to vote subject to the approval of the lower court. On May 8, 1961, the Company presented its aforementioned payroll to said court and stated the labor unions had been furnished copy thereof, at least three (3) days prior thereto. Said labor unions were given an opportunity to make their comments and observations on the list of workers contained in the payroll and to ask or suggest the inclusion or exclusion of names therein or therefrom. Petitioner's representative then stated that it would abide by whatever ruling the court may make on the matter of inclusion and exclusion of voters. Indeed, on May 19, 1961,

the court issued the corresponding order for the holding of the election and made its ruling on the question as to who were qualified to vote, and petitioner did not move for a reconsideration of said ruling, although two (2) other labor unions and the Company did so, and their motions for reconsideration were denied by the Court en banc. Hence, petitioner may no longer contest the accuracy of the aforementioned voters' list.

Pursuant thereto the Company had 1019 workers, excluding department heads and foreman, but including 48 security guards. Excluding the latter, there were, therefore, only 971 qualified voters. Of these, 904 had voted, so that only 67 qualified voters had failed to cast their votes. It is obvious that this number plus the 19 ballots challenged in the election are insufficient to offset the plurality of 282 votes obtained by respondent Union.

In connection with the duress claimed to have been used upon the voters it should be observed that in its motion dated June 12, 1961, petitioner maintained that the election should be invalidated because of alleged: a) insufficiency of the notice of said election; b) failure to furnish the petitioner with a copy of the list of qualified voters; c) inclusion among those who Voted "of confidential employees, supervisors and security or police officers; d) failure of many workers to vote due to said insufficient notice as well as the cases of violence that occurred on the eve of election." None of these grounds is now invoked by petitioner herein. Worthy of notice is the fact that petitioner did not claim that any voter had been coerced to vote for respondent Union.

In fact, in its supplemental motion of June 22, 1961, petitioner made more specific allegations to bolster up its pretense "that the election held on June 9, 1961, is inconclusive" because of the alleged "failure of more than 300 workers to vote," which, as above indicated, is not a fact. It is true that the last ground—out of the seven (7)—relied upon in the aforementioned supplemental motion was to the effect that "there are many cases where the workers were threatened, coerced and intimidated to vote for the NAMAWU." But this general allegation; without anything to indicate the number of workers involved, without the supporting affidavit of any of them, and without an offer to introduce their testimony or the testimony of any of them, was—in the light of the attending circumstances—clearly insufficient to warrant the invalidation of the aforementioned election.

As regards the disorder that had allegedly characterized the election, the minutes thereof suffice to refute petitioner's pretense. We quote from said minutes:

"Balloting went on smoothly up to closing time at 7:00 p.m. there was spirit of comradery among the representative of the contesting unions throughout the proceedings.

"Peace and order was maintained by the 18th PC Company at Iba, Zambales, graced by the presence of the Provincial Commander in person."

Wherefore, the order appealed from is hereby affirmed, with costs against the petitioner.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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