

**PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU), PETITIONER,
VS. BOGO-MEDELLIN MILLING CO., INC. ET AL., RESPONDENTS.***G.R. No. L-11910. August 31, 1960*

Ponente: BAUTISTA ANGELO, J.

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This is a petition to review by certiorari an order of Hon. Jose S. Bautista dated September 18, 1956 which was affirmed by the Court of Industrial Relations en banc in its resolution of October 26, 1956, dismissing the petition for certification election filed by petitioner (Case No. 34-MC-Cebu).

It appears that on July 29, 1949, the Bogo-Medellin Milling Co., Inc., a domestic corporation duly organized under the laws of the Philippines (hereinafter referred to as company), and the Philippine Labor Federation, one of the unions in said company (hereinafter referred to as federation), who are respondents herein, entered into a joint stipulation embodying therein their relationship, as regards the terms and conditions of employment for a period of three years expiring on July 28, 1952, which agreement was approved by the industrial court on August 11, 1949. On May 16, 1952 by agreement of the parties, the collective bargaining and union shop agreement was renewed for another three years ending July 28, 1955, again with the approval of the court.

In the meantime, the Philippine Land-Air-Sea Labor Union (PLASLU), another union in said company, filed a petition with the industrial court (Case No. 722-V) against respondents asking for certification election, but because of the dispute that arose as to the advisability of holding such election then, the parties reached an amicable settlement on February 3, 1954 wherein, among others, the following was agreed: "that said petitioner agrees to recognize the validity and participate in the benefits of the collective bargaining and union shop agreement entered into between the Philippine Labor Federation and the Bogo-Medellin Milling Company dated May 15, 1952, * * *. It is also agreed and recognized that the petitioner herein, PLASLU, has members among the laborers and employees of the respondent and that the members of the PLASLU can join the Philippine Labor Federation in any petition to hear grievances presented to the respondent." This agreement was approved by the industrial court on February 6, 1954.

On July 25, 1955 three days before the expiration of the period stipulated in the renewed contract, respondents, without notice to petitioner, renewed for another three years the collective bargaining agreement, but on August 26, 1955, petitioner, alleging that it has obtained the majority of the employees and workers of the company, filed another petition for certification election in order to determine which of the two unions should hold the sole and exclusive representation of the employees.

Respondent company asked for the dismissal of this petition alleging that the renewed collective bargaining contract constitutes a bar to a new certification election, which contention, after trial, was sustained, the industrial court stating that "to rule that the renewed contract between the two respondents herein is not a bar * * * would be giving premium to non-vigilance over one's rights and discouraging timely negotiations for continuous bargaining relations." Consequently, the court dismissed the petition.

The above order having been affirmed by the court en banc, petitioner interposed the present petition contending as main issue that the industrial court erred in holding that the collective bargaining agreement concluded on July 25, 1955 is a bar to a new certification election advancing in support thereof the following arguments: (1) that Section 12 (c) of our Magna Carta of Labor (Republic Act 875) makes it mandatory upon the industrial court to order a certification election when a petition to that effect is filed With said court by at least 10% of the employees of the company; (2) since the agreement was entered into in 1949 to last for three years and was renewed twice for a similar period, the same would have a life of more than six years which is unreasonable; and (3) inasmuch as there was a mass resignation of employees severing their membership with respondent federation as early as 1951, said federation did no longer command the majority of the employees when it renewed the bargaining contract on July 25, 1955, hence said contract is null and void and is no bar to a new certification election.

We do not agree with petitioner that the law makes it mandatory upon the industrial court to order a certification election if a petition to that effect is filed and the 10% requirement is complied with. While at first glance the law on the matter seems absolute, it however admits of exceptions as held by this Court:

"The above command to the Court is not so absolute as it may appear at first glance. The statute itself expressly recognizes one exception; when a certification election had occurred within one year. And the judicial and administrative agencies have found two exceptions: where there is an unexpired bargaining agreement not exceeding two years and when there is a pending charge of company-domination of one of the labor unions intending to participate in the election." (*Acoje Mines Employees, et al., vs. Acoje Labor Union, et al.*, 104 Phil., 814; 56 Off. Gaz., [6] 1157).

However, in the, recent case of *General Maritime Stevedores Union of the Philippines, et al. vs. South Sea Shipping Line, et al.*, 108 Phil, 1112; 60 Off. Gaz., (37) 5802, this Court, after discussing the different decisions of the National Labor Relations Board with regard to the "contract-bar policy" laid down the following ruling:

"After reviewing the cases decided by the NLRB of the United States and our own cases, we have arrived at the conclusion that it is reasonable and proper that when there is a bargaining contract for more than a year, it is too early to hold a certification election within a year from the effectivity of said bargaining agreement; also that a two year bargaining contract is not too long for the purpose of barring a certification election. For this purpose, a bargaining agreement may ran for three, even four years, but in such case, it is equally advisable that to decide whether or not within those three or four years, a certification election should not be held, may well be left to the sound discretion of the CIR, considering the conditions involved in the case, particularly, the terms and conditions of the bargaining contract.

"We also hold that where the bargaining contract is to run for more than two years, the principle of substitution may well be adopted and enforced by the CIR to the effect that after two years of the life of a bargaining agreement, a certification election may be allowed by the CIR; that if a bargaining agent other than the union or organization that executed the contract, is elected, said new agent would have to respect said contract, but that it may bargain with the management, for the shortening of the life of the contract if it considers it too long, or refuse to renew the contract pursuant to an automatic renewal clause."

Bearing in mind the above doctrine, no alternative is left than to hold that the industrial court was right in dismissing the petition it appearing that when, the same was filed there was an existing collective bargaining agreement which was concluded between the employer and the Philippine Labor Federation on July 25, 1955 to run for another period of three years. It should be noted that said collective bargaining agreement was approved by the industrial court without any objection on the part of the PLASLU, for it was only on August 20, 1955 that it filed its petition for certification, or 29 days too late. As this Court has observed, a collective bargaining agreement may run for three or even four years depending upon the factors that may intervene, and the question of

whether said period is reasonable or not "may well be left to the sound discretion of the CIR, considering the conditions involved in the case, particularly, the terms and conditions of the bargaining contract."

Undoubtedly, one of the factors is the fact that¹ on February 3, 1954 the PLASLU, the respondent company, and the Philippine Labor Federation filed a joint motion Informing the industrial court that they had concluded an amicable agreement wherein, among other things, the PLASLU agreed "to recognize the validity and participate in the benefits of the collective bargaining and union shop agreement entered into between the Philippine Labor Federation and the Bogo-Medellin Milling Company dated May 16, 1952." And in connection with the attitude of the PLASLU in asking for certification much after the renewal of the collective bargaining agreement, the industrial court made the following comment:

"* * * Indeed, it cannot be said that the petitioner herein did not know that the said contract of May 16, 1952, was to expire on July 28, 1955. Yet, it was only on August 26, 1955, one month after the expiration of the above-mentioned contract, that the herein petition for certification election was filed with the Court. It does not even appear that before July 28, 1955, the petitioner requested the respondent company for recognition as the sole collective bargaining agency for the workers and employees therein."

We, therefore, conclude that the industrial court did not abuse its discretion in considering the existing collective bargaining agreement as a bar to the belated petition for certification filed by petitioner.

With regard to the contention that there was a mass resignation of the employees of the company severing their connection with the Philippine Labor Federation as early as 1951 so that when it renewed its bargaining contract on July 25, 1955 it no longer had the majority of the employees, suffice it to say that petitioner is now estopped from invoking such defense it appearing that on February 3, 1954 it concluded an amicable agreement with said federation wherein it agreed to abide by the terms and conditions appearing therein. Said agreement is the best refutation of petitioner's claim regarding the federation's deficient representation.

Wherefore, the order of the industrial court dated September 16, 1956, as well as its resolution dated October 26, 1956, are hereby affirmed, with costs against petitioner.

Paras, C. J., Bengzon, Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Gutierrez David, JJ., concur.

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