

**ACOJE MINES EMPLOYEES AND ACOJE UNITED WORKERS UNION,
PETITIONERS AND APPELLANTS, VS. ACOJE LABOR UNION (PETA)
AND ACOJE MINING CO., RESPONDENTS AND APPELLEES.**

G.R. No. L-11273. November 21, 1958

Ponente: BENGZON, J.

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BENGZON, J.:

This petition for review involves the suspension of proceedings for certification election. There are decisions squarely in point.

In case No. 288-MC of the Court of Industrial Relations, 334 employees of the Acoje Mines Inc., signed and submitted to that court in August 1955, a petition for certification election, alleging that for the six hundred and twenty employees in the corporation, there were two legitimate labor organizations, namely, the Acoje United Workers Union—hereinafter called Workers Union—and the Acoje Labor Union (Peta)—hereinafter called Peta—and that an election was necessary to choose the true representative of the employees for purposes of collective bargaining.

The workers Union manifested its willingness to submit to election.

On the other hand, the Peta objected, alleging among other defenses:

(a) An existing collective bargaining contract for four years (1954-1958) between the Acoje Mining Company—hereinafter designated as the Mining Company—and the Peta; and

(b) The Court had, under investigation, an unfair labor practice complaint (Case No. 255-ULP) wherein the Mining Company stood charge with having assisted in the organization of the Workers Union and of controlling the same.

The Mining Company admitted the existence of the Bargaining Agreement; but in view of the pronouncements of this Court in *PLDT Employees Union vs. Philippine Long Distance Telephone Co.*, 91 Phil., 424, 51 Off. Gaz., 4519, it submitted the question whether the existence of said Agreement could prevent the certification election, since there had been "no certification election held during the twelve months prior to the date of the present request of the employees."

By its motion of December 22, 1954, the Peta, reiterating the points mentioned in its answer, prayed that the holding of certification election be held in abeyance. The Workers Union opposed; but the Court ordered suspension, because it "had invariably suspended the proceedings in certification election cases until after the termination of the unfair labor practice cases alleging company domination."

Having failed in a move to reconsider, the employees took the matter to this Court. This time they were joined, as petitioners, by the Workers Union.

There is no question that, months before the presentation of the employee's petition for election,—to be more specific, on May 19, 1954,—the Pelta complained to the Industrial Court that the Mining Company had organized a company-dominated labor association called Acoje United Workers Union; that it had performed several acts of discrimination against workers of the Pelta even as it favored members of the Workers Union, openly encouraging and urging its laborers to join the latter.

There is no assertion that such complaint was flimsy, or made in bad faith or filed purposely to forestall the certification election. So, no reason existed for the Industrial Court to depart from its established practice of suspending the election proceeding. And this seems to be accepted rule in the law of labor relations, the reason being, in the words of Mr. Justice Montemayor, if there is a union dominated by the company, to which some of the workers belong, an election among workers and employees of the company would not reflect the true sentiment and wishes of the said workers and employees because the votes of the members of the dominated union would not be free." [1]

And we have held, through Mr; Justice J. B. L. Reyes, that such charge of company domination is a prejudicial question that until decided, shall suspend or bar proceedings for certification election."[2]

Indeed, if as a result of the Pelta's complaint in Case No. 255-ULP, the Workers Union should be ordered dissolved[3] as a company-dominated union, any election held in the meantime would be a waste of energy and money to all parties concerned.

Petitioners herein take the position that once a petition for certification election is submitted and signed by at least 10 per cent (10%) of all the workers in the bargaining unit, it is mandatory upon the Court to order a certification election—with no exceptions. They quote section 12(c) of Republic Act 875, which reads as follows:

"SEC. 12 (c). In an instance where a petition is filed by at least ten per cent of the employees in the appropriate unit requesting an election, it shall be mandatory on the Court to order an election for the purpose of determining the representative of the employees for the appropriate bargaining unit."

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.[4] And the judicial and administrative agencies have found two exceptions: where there is an unexpired bargaining agreement not exceeding two years[5] and when there is a pending charge of company-domination of one of the labor unions intending to participate in the election.[6]

Anent the contention that the Industrial Court's order amounted to a curtailment of the rights of the majority, it is enough to point out that petitioners have not yet shown, in an election, that they constitute the majority; and as indicated by the decisions, the suspension was decreed and desired precisely for the purpose of insuring that the wishes of the majority of the workers freely exercising the right to vote, shall be expressed—without interference by the employer, without the hindrances affecting a company-dominated association.

Wherefore, the Industrial Court acted prudently and legally in ordering the suspension upon the ground already mentioned. And thus the necessity is obviated of passing on the issue whether the existing bargaining agreement of four years was another obstacle to the certification election. The Mining Company, It may be noted, expressing its neutrality upon the two questions in debate, asked for a declaration of the continued effectivity until February 1958 of its agreement with the Pelta, should a certification election be approved in this Court.

Inasmuch as we decline to direct the holding of such election, and as February 1958 has already come and gone, we find it unnecessary to make the declaration prayed for.

Accordingly the petition for review is denied, with costs against petitioners.

Paras, C. J., Padilla, Montemayor,. Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L. and Endencia, JJ., concur.

[1] Manila Paper Mills Employees vs. Court of Industrial Relations, supra., p. 10.

[2] Standard Cigarette Workers Union vs. Court of Industrial Relations, 53 Off. Gaz., 5216

[3] Sec. 23 (d) Republic act 875.

[4] 12 (b) Republic Act 875.

[5] Where in view of the nature of the business such term is found to be a reasonable. PLDT Employees Union vs. Phil Long Distance, supra.

[6] Manila Paper Mills, supra. Standard Cigarette, supra. Unless the same Union that charge the company with unfair labor practice, insists in holding despite pendency of such charge.

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