

**ELIZALDE & CO., INC., PETITIONER, VS. COURT OF AGRARIAN RELATIONS, ASSOCIATED LABOR UNION AND PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS, RESPONDENTS.***G.R. No. L-24200. December 26, 1967*

Ponente: REYES, J.B.L., J.

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Elizalde & Co., Inc., as owner and/or operator of the sugar cane plantations known as Haciendas Esperanza, Najalin, Consuelo, Balbina and Caiñaman, filed the present petition, praying for the review and reversal of the orders of the Court of Agrarian Relations (in its Case No. L-216, Bacolod City), dated August 20, 1964, September 12, 1964 and January 11, 1965.

On April 20, 1964, the Associated Labor Union (ALU) petitioned the Court of Agrarian Relations in Bacolod City (No. L-216) for the holding of a certification election among all the agricultural workers in the five sugar cane plantations owned and/or operated by Elizalde & Co., Inc., in the district of La Carlota, Occidental Negros, to enable them to select their exclusive bargaining representative. It proposed the selection of only one bargaining agent for all the workers, permanent and seasonal alike, in the five haciendas (Esperanza, Najalin, Consuelo, Balbina and Caiñaman) to which proposal the management did not disagree.

The Philippine Association of Free Labor Unions (PAFLU) and the Commercial, Agricultural and Industrial Labor Organization (CAILO), however, intervened, praying that separate certification elections be conducted in each of the five sugar cane plantations, and that one bargaining unit be designated for the permanent workers and another for the seasonal workers or sacadas. After the hearing, during which the parties entered into certain stipulations of fact, the court issued an order, dated August 20, 1964, directing the conducting of separate certification elections - one for permanent workers and one for seasonal workers - in each of the five plantations, reasoning that the arrangement would promote the best interests of the workers in each hacienda. The ruling was based on the court's finding that although the haciendas are owned and/or operated by Elizalde & Co., Inc., they are administered separately by different individuals; that each of the plantations is big enough to be considered an employer unit; and that, the petitioner union (ALU) counts memberships among all the employees of the five plantations; the intervenor PAFLU, among the permanent employees of three plantations, while intervenor CAILO has members only among the permanent workers of one plantation.

It does not appear when the management received notice of this order, which is dated August 20, 1964, but the records show that Elizalde & Co., Inc., filed a motion for its reconsideration dated September 1, 1964,[1] complaining that to require it to deal with ten small units virtually amounts to harassment of the management. This motion was denied on September 12, 1964. It also appears on record that in compliance with the August 20, 1964 - order of the Court, certification elections were conducted by the Department of Labor on November 16, 18, 23, 24 and 25, 1964. And, following the results of these elections, the Agrarian Court, on January 11, 1965 issued an order[2] certifying PAFLU as the sole and exclusive bargaining representative of the permanent workers

in Haciendas Esperanza, Najalin and Balbina, while the Associated Labor Union was certified as the bargaining agent of the temporary or seasonal workers in the same haciendas Esperanza, Najalin and Balbina, as well as of all the workers (permanent and seasonal) in hacienda Consuelo. No representative was certified for the workers in hacienda Caiñaman, who returned "no-union" votes. On February 20, 1965, Elizalde & Co., Inc., filed the present petition in this Court for the purpose already stated at the beginning of this opinion.

Herein petitioner is taking an appeal from the orders of the Agrarian Court of August 20, 1964, holding that there should be separate bargaining units for permanent workers and seasonal workers, in each of the five sugar cane plantations; from the order of September 12, 1964, denying its motion for reconsideration; and from the order of January 11, 1965, certifying the unions voted for in the certification elections conducted by the Department of Labor.

Under the Revised Rules of Court, any party may appeal from a final order, ruling or decision of the Court of Agrarian Relations by filing with said tribunal a notice of appeal and with this Court, the required number of petition for review or certiorari, within 15 days (Secs. 1 and 4, Rule 43) from receipt of the order, ruling or decision being contested.

The presumption that the first two orders have become executory for lack of timely appeal is rendered conclusive, not only by the holding of the certification elections on November 16, 18, 23, 24 and 25, 1964, but also by petitioner's failure to state in the petition that the appeal from the aforesaid orders is made within the period.[3] The appeal from the orders of August 20, 1964 and September 12, 1964, therefore, must be ruled out for being out of time.

Similarly, the appeal from the order of January 11, 1965 must be dismissed. Petitioner, having been notified of this order on February 4, 1965, the filing of the petition in this Court on February 20, 1965, was clearly beyond the 15-day reglementary period.

But even assuming that the correctness and legality of the orders of November 1964 and January 11, 1965 could still be properly entertained by this Court, there is nothing in the allegations of the petition that would justify reversal. It is well to reiterate, in this connection, that the determination of what constitutes a proper bargaining unit, like any other phase of certification proceedings, lies primarily in the discretion of the trial Court, since no individual factor is given by law decisive weight, and we see nothing that indicates arbitrariness or abuse of discretion by the Court below.[4] Further, that each Hacienda has its separate administrator strongly supports the orders complained of, as labor conflicts due to management practices in one plantation will not necessarily involve the others.

Petitioner's claim of nullity of the certification-order of January 11, 1965 is further weakened in that it is premised on its main proposition that the designation of separate bargaining units for the workers in the five sugar cane plantations is not supported by law and existing jurisprudence. As the issue of the constitution of appropriate bargaining units for the workers can no longer be passed upon, the same having been barred by prescriptive limitations, besides being conformable to law and jurisprudence, the attack against the certification-order necessarily must fail.

WHEREFORE, the petition is hereby dismissed, without costs.

### **SO ORDERED.**

Concepcion, C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, J.J., concur.

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[1] Supplemented on September 9 and 24, 1964.

[2] Copy of this order was received by Elizalde & Co. on February 4, 1965. (p. 4, Petition)

[3] See Atlas Consolidated Mining & Development Corporation vs. Progressive Labor Association, L-21725, Sept. 15, 1967.

[4] LVN Pictures Inc. vs. Musicians Guild (FFW) et al. L-12582, January 28, 1961; Benguet Consolidated Inc. vs. Bobok Lumber Jack Association, L-11029, May 23, 1958.

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