

**FEDERATION OF THE UNITED WORKERS ORGANIZATION (F.U.W.O.),
PETITIONER, VS. THE COURT OF INDUSTRIAL RELATIONS AND
NATIONAL LABOR UNION (NLU), RESPONDENTS.***G.R. No. L-37392. December 19, 1973*

Ponente: FERNANDO, J.

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There would have been no necessity for this certiorari proceeding to review an order of respondent Court of Industrial Relations had there been greater awareness on its part that the very purpose of a certification election is precisely to ascertain which labor organization has the right to act as the sole bargaining representative. As was so categorically announced in the latest decision on the subject, promulgated earlier this year:[1] "The objectives of the Industrial Peace Act would be sooner attained if, at the earliest opportunity, the employees, all of them of an appropriate collective bargaining unit, be polled to determine which labor organization should be its exclusive representative." [2] The blame does not lie entirely with the respondent Court, for petitioner, Federation of the United Workers Organization, after seeking certification as the sole and exclusive bargain-ing agent of the rank-and-file employees of the Goodyear Textile Manufacturing Company, apparently was misled by a pending unfair labor practice case into withdrawing such petition. Thereafter respondent Court granted its prayer but would continue nonetheless the holding of such certification election substituting another labor union [3] in its place, one that did seek to intervene. Petitioner would thus be left in the cold, unable because of its ill-advised move, to participate in the certification poll that would be there-after held. While it had only itself to blame, the effect, if the challenged order of respondent Court were sustained, would be to cast doubt, contrary to the intent of the Industrial Peace Act, on which union is the real choice of all the employees of an appropriate bargaining unit. In that sense the order cannot stand. We grant the petition for reversal.

The Order in question contains all the necessary facts: "On December 15, 1972, the Federation of the United Workers Organization filed the instant petition praying, for reasons alleged therein, that, upon proof of majority status, petitioner be certified as the sole and exclusive bargaining agent of the rank and file employees of the Goodyear Textile Manufacturing Company. On January 23, 1973, the Goodyear Textile United Workers Organization (GUWO) - NLU filed a Motion to Intervene alleging, in substance, that majority of the employees of the employer firm are its members and, therefore, has an interest in the outcome of the present proceeding. Intervenor prays that it be allowed to intervene in the present case. As shown by the record, the employer Company involved in this proceeding has already complied with the directives contained in the Order of this Court dated January 3, 1973, namely; its submission of (a) the Affidavit of Compliance * * *, (b) the alphabetical list of its employees * * * and (c) its payrolls for the one-month period immediately preceding December 15, 1972 * * *, although the same was returned to counsel for the company to be replaced with xerox copies thereof. Before the Petition could be heard on the merits, or specifically on February 16, 1973, the Petitioner filed a 'Manifestation of Withdrawal of Petition' and, for reasons therein given, prayed that the Petition be considered withdrawn. During the scheduled hearing on February 16, 1973, the petitioner, despite being informed of said

setting, neither appeared nor filed any motion for its cancellation, transfer or postponement. The Company was present during the hearing, and so was the Intervenor who, thru its representative, manifested that, since Petitioner is withdrawing its Petition, it asked the Court to be certified as the collective bargaining agent of all the rank and file employees of the employer firm. It is thus clear that Intervenor is definitely interested in pursuing the resolution of the question of union representation among the workers of the company. And, considering its claim that the majority thereof are its members, sufficient legal basis exists to allow its intervention. Under these circumstances, the Court believes that the dismissal of this Petition in its entirety, at this stage, as a consequence of the withdrawal thereof as prayed for by Petitioner, would serve the employees or workers no practical purpose, for necessarily the determination of their majority representation would still remain an issue that must be resolved one way or the other. We, therefore, feel that it would be more in keeping with the mandate of the law, as well as to avoid multiplicity of suits, along with the wholesome desire to act with dispatch in representation cases, that Petitioner be merely considered withdrawn as a party to this proceeding since, by its filing of the afore-mentioned 'Manifestation of Withdrawal of Petition,' it has already lost its interest to further proceed with the very purpose for which the instant case was filed and that the Intervenor be substituted in its place as the original petitioner." [4]

While it cannot be said that respondent Court was arbitrary considering the ambivalent attitude as well as the apparent lack of a sure footing in the domain of labor law of petitioner union, still to sustain what it did would certainly frustrate a correct ascertainment of the true wishes of the rank-and-file employees. That is not to promote the objective of the Industrial Peace Act.

The order of respondent Court now challenged is not without plausibility from the standpoint of rigid adherence to the concept of adversary proceedings where parties bear the brunt of their own ineptitude. Such an approach is not controlling in proceedings of this character. What is of the essence is that the sole bargaining representative should be the choice of the majority of the employees concerned. No stone should thus be left unturned to assure a free expression of their choice. As far back as *LVN Pictures, Inc. v. Philippine Musicians Guild*, [5] a 1961 decision, the then Justice, later Chief Justice, Concepcion made clear: "The absence of an express allegation that the members of the Guild constitute a proper bargaining unit is not fatal in a certification proceeding, for the same is not a 'litigation' in the sense in which this term is commonly understood, but a mere investigation of a non-adversary, fact-finding character, in which the investigating agency plays the part of a disinterested investigator seeking merely to ascertain the desires of employees as to the matter of their representation. In connection therewith, the court enjoys a wide discretion in determining the procedure necessary to insure the fair and free choice of bargaining representatives by employees." [6] The slightest doubt cannot therefore be entertained that what possesses significance in a petition for certification is that through such a device the employees are given the opportunity to make known who shall have the right to represent them. What is equally important is that not only some but all of them should have the right to do so.

WHEREFORE, the order of March 9, 1973 is set aside. The respondent Court is hereby required to allow petitioner Labor Union to participate in the certification election in which the employees of the Goodyear Textile Manufacturing Company would choose its collective bargaining representative.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ. concur.
Barredo, J., did not take part.

[1] *B. F. Goodrich Philippines, Inc. v. B. F. Goodrich (Marikina Factory) Confidential and Salaried Employees Union-NATU*, L-34069-70, February 28, 1973, 49 SCRA 532.

[2] *Ibid*, 535.

[3] Goodyear Textile United Workers Organization.

[4] Petition, Annex C.

[5] 110 Phil. 725.

[6] Ibid, 728-729. The latest case where the above excerpt is cited with approval is Philippine Association of Free Labor Unions v. Court of Industrial Relations, L-33781, October 31, 1972, 47 SCRA 390. Cf. Acoje Workers' Union v. National Mines and Allied Workers' Union, L-18848, April 23, 1963, 7 SCRA 730; Binalbagan--Isabela Sugar Co., Inc. v. Phil. Asso. of Free Labor Unions, L-18782, August 29, 1963, 8 SCRA 700; Sta. Cecilia Sawmills, Inc. v. Court of Industrial Relations, L-19273, Feb. 29, 1964, 10 SCRA 433; Itogon-Suyoc Mines, Inc. v. Baldo, L-17739, Dec. 24, 1964, 12 SCRA 599; BCI Employees and Workers Union v. Mountain Province Workers Union, L-23813, Dec. 29, 1965, 15 SCRA 650; Kapisanan Ng Mga Manggagawa sa Manila Rail-road Company v. Hernandez, L-19791, May 16, 1967, 20 SCRA 109; Seno v. Mendoza, L-20565, Nov. 29, 1967, 21 SCRA 1124; National Labor Union v. Go Soc & Sons, L-21260, April 30, 1968, 23 SCRA 431.

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