

**DIATAGON LABOR FEDERATION LOCAL 110 OF THE ULGWP,
PETITIONER, VS. HON. BLAS F. OPLE, SECRETARY OF LABOR,
CARMELO C. NORIEL, DIRECTOR OF LABOR RELATIONS, MINDANAO
ASSOCIATION OF ...**

G.R. Nos. L-44493-94. December 03, 1980

Ponente: AQUINO, J.

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AQUINO, J.:

The issue in this case, which involves a 1975 certification election, is whether two companies should be regarded as a single collective bargaining unit. The factual background is as follows:

- Lianga Bay Logging Co., Inc. is a domestic corporation which was organized in 1954. It has offices in Diatagon, Lianga, Surigao del Sur and Filipinas Life Bldg., Ayala Avenue, Makati, Metro Manila. It is engaged in logging and manufacturing plywood (p. 195, Rollo).
- Georgia Pacific International Corporation is a Delaware corporation licensed to do business in the Philippines on March 31, 1967. It has an office at Lianga. It employs around 400 workers (pp. 107, 114-123, 185-6, Rollo).
- The Diatagon Labor Federation Local 110 of ULGWP (United Lumber and General Workers of the Philippines) had a collective bargaining agreement with the Lianga Bay Logging Co., Inc. which was due to expire on March 31, 1975. On February 3, 1975, or before the expiration of that CBA, a rival union, the Mindanao Association of Trade Unions filed with the Bureau of Labor Relations a petition for the holding of a certification election at Lianga Bay Logging Co., Inc., BLR Case No. 0399. The union assumed that Lianga Bay Logging Co., Inc. had approximately 900 employees (pp. 31-32, Rollo).
- Before that petition could be acted upon, the Diatagon Labor Federation was able to negotiate on March 17, 1975 with Georgia Pacific International Corporation a CBA for a term of three years expiring on March 31, 1978 (p. 355, Rollo). That CBA was certified by the Bureau of Labor Relations on July 10, 1975 (p. 124, Rollo).
- At this juncture, it should be stressed that the said CBA included 236 employees working at the veneer plant and electrical department of Georgia Pacific International Corporation in Lianga. Those 236 employees were formerly employees of Lianga Bay Logging Co., Inc. After July, 1974, they were transferred to Georgia Pacific International Corporation and became employees of the latter (p. 131, Rollo).
- That transfer is not clearly brought out in the pleadings of the parties. The obscuration of that fact is one reason for the delay in the disposition of this case because if the consequences of that transfer are not taken into account, the case remains unclear and controversial. By reason of that transfer, the employees of Lianga Bay Logging Co., Inc. were reduced to 653 (p. 87, Rollo). Georgia Pacific International Corporation has around 400 employees. The Diatagon Labor Federation claims to have 328 members among the employees of Georgia Pacific International Corporation (pp. 114-123, Rollo).

- Another fact that should be underscored is that, in spite of the transfer, the 236 employees continued to use in 1975 the pay envelopes and identification cards of their former employer, Lianga Bay Logging Co., Inc. That confusing circumstance spawned the controversy in this case because the Mindanao Association of Trade Unions and the Director of Labor Relations used that circumstance to support their conclusion that the 236 employees should still be regarded as employees of Lianga Bay Logging Co., Inc. and not of Georgia Pacific International Corporation or that the two companies should be regarded as only one bargaining unit.
- It is the contention of the Mindanao Association of Trade Unions that the said CBA was negotiated between Georgia Pacific International Corporation and the Diatagon Labor Federation in order to frustrate the petition for certification election at Lianga Bay Logging Co., Inc. which, as above stated, was filed by the Mindanao Association of Trade Unions on February 3, 1975 (p. 248, Rollo).
- Pursuant to the order of the Med-Arbitrator dated May 14, 1975 in BLR Case No. 0399, a certification election was held in the premises of Lianga Bay Logging Co., Inc. at Diatagon on July 20, 1975. The Diatagon Labor Federation won the election with 290 votes as against 227 votes for the Mindanao Association of Trade Unions (p. 65, Rollo). The Mindanao Association of Trade Unions wanted the aforementioned 236 employees of Georgia Pacific International Corporation to take part in the election because they were using the pay envelopes and identification cards of Lianga Bay Logging Co., Inc. but they were not allowed to vote because they were not included in the payrolls of Lianga Bay Logging Co., Inc. (p. 72, Rollo).
- The Mindanao Association of Trade Unions filed an election protest dated July 23, 1975 on the ground, inter alia, that around four hundred workers were disenfranchised because of the inaccuracy of the official voting lists (p. 74, Rollo).
- Because the Mindanao Association of Trade Unions was confronted by the undeniable fact that the said 236 employees were already included in the CBA entered into between Georgia Pacific International Corporation and Diatagon Labor Federation on March 17, 1975, the Mindanao Association of Trade Unions resorted to the expedient of filing on August 1, 1975 with the Bureau of Labor Relations a petition for decertification of the aforementioned CBA (BLR Case No. 0981; pp. 135-37, Rollo). That petition was dismissed by the Med-Arbitrator in his order of February 4, 1976 on the ground that it was a reiteration of the election protest of the same union in BLR Case No. 0399 (p. 145, Rollo).
- In the meantime, or on September 8, 1975, the Med-Arbitrator dismissed the election protest of the Mindanao Association of Trade Unions and certified the Diatagon Labor Federation as the exclusive bargaining agent of the employees of Lianga Bay Logging Co., Inc. (p. 89, Rollo).
- From that order, the Mindanao Association of Trade Unions appealed on September 15, 1975 to the Director of Labor Relations. Its appeal was based on the fact that the oft-mentioned 236 employees were not allowed to vote at the certification election since the Med-Arbitrator regarded them as employees of Georgia Pacific International Corporation, having been included in its payrolls, although they still used the pay envelopes and identification cards of Lianga Bay Logging Co., Inc. (pp. 91-101, Rollo).
- The Mindanao Association of Trade Unions adopted another remedy in its unrelenting effort to attain its objective of becoming the collective bargaining agent of the workers of the two companies alleged to have a common management and represented by the same lawyers. It filed with the Bureau of Labor Relations on October 10, 1975 a petition for a certification election in Georgia Pacific International Corporation (its prior petition was for decertification of the existing CBA). It alleged that there had not been any certification election in that corporation (BLR Case No. 2033; pp. 107-108, Rollo).

- That petition was dismissed by the Med-Arbiter in his order of December 22, 1975 but, upon appeal, the Director of Labor Relations called the attention of the parties to his order in BLR Case No. 0399 (p. 166, Rollo). In that petition, the Mindanao Association of Trade Unions assumed that the 236 employees were employees of Georgia Pacific International Corporation.
- About three weeks later, or on October 29, 1975, the Mindanao Association of Trade Unions scored a notable victory. The Director of Labor Relations issued on that date in BLR Case No. 0399 an order reversing the order of the Med-Arbiter and sustaining the appeal of the Mindanao Association of Trade Unions. The Director held that the aforementioned 236 employees should be allowed to vote in the certification election at Lianga Bay Logging Co., Inc. because they used the company's pay envelopes and identification cards. The Director ignored the fact that those 236 employees were included in the payrolls of Georgia Pacific International Corporation and were already covered by the existing CBA. The Director ordered the holding of a new certification election at Lianga Bay Logging Co., Inc. wherein the 236 employees would be allowed to vote (pp. 127-9, Rollo).
- The Diatagon Labor Federation filed a motion for the reconsideration of that order (p. 130, Rollo). Lianga Bay Logging Co., Inc. filed a manifestation dated November 17, 1975 categorically alleging that the 236 workers were not its employees but employees of Georgia Pacific International Corporation (pp. 111-13, Rollo).
- The Director denied the motion in his order of December 17, 1975 wherein it was intimated that the Bureau's Labor Organization Division would thresh out at the pre-election conference whether the said 236 employees should be allowed to take part in the election (pp. 146-7, Rollo).
- The Diatagon Labor Federation appealed to the Secretary of Labor but he refused to rule on the appeal and, instead, referred it to the Director of Labor Relations. The Director in his order of March 15, 1976 dismissed the appeal. He ruled that Lianga Bay Logging Co., Inc. and Georgia Pacific International Corporation have a common interest and that the 236 employees should be regarded as employees of Lianga Bay Logging Co., Inc. The Director held that the transfer of the 236 employees to Georgia Pacific International Corporation was designed to prejudice the Mindanao Association of Trade Unions and to favor Diatagon Labor Federation, and that such an eventuality should not be tolerated (pp. 153-157, Rollo).
- Again, the Diatagon Labor Federation appealed to the Secretary of Labor from the Director's order of March 15, 1976 and again the Secretary referred the appeal to the Director who, treating the appeal as another motion for reconsideration, denied it in his resolution of April 29, 1976 in BLR Case No. 0399 (p. 164, Rollo).
- The Diatagon Labor Federation moved for the clarification of the resolution of April 27, 1976 in BLR Case No. 2033 wherein the Director impliedly allowed one certification election for the employees of the two companies. It wanted to know whether there should be two bargaining units and whether the 236 employees should be allowed to vote twice. Georgia Pacific International Corporation filed its own motion for reconsideration (pp. 167-173, Rollo).
- The Director in his order of May 29, 1976 in BLR Cases Nos. 0399 and 2033 (a consolidation of the two certification cases) ruled that the two companies should be treated as one bargaining unit because they have a common interest and that the 236 employees should be allowed to vote (pp. 174-6, Rollo).
- From that order of May 29, 1976, the Diatagon Labor Federation appealed to the Secretary of Labor but the appeal was referred to the Director of Labor Relations to be regarded as a motion for reconsideration (p. 219, Rollo). As was to be expected, the Director denied the appeal or motion for reconsideration in his order of August 18, 1976. He held that there existed no distinction between the employees of the two companies and, consequently, they should belong to only one bargaining unit (p. 221, Rollo).

- On September 9, 1976, the Diatagon Labor Federation filed this certiorari case wherein it prayed for the annulment of the aforementioned orders of the Director of Labor Relations. The two companies were impleaded as respondents. They adopted the stand of the petitioner. On September 16, 1976, this Court issued a restraining order to enjoin the holding of a new certification election.

- But before that restraining order was issued, or on September 12, 1976, a Sunday, a certification election was held among the employees of the two companies. The Diatagon Labor Federation opposed the holding of the election. There were 944 eligible voters. The Mindanao Association of Trade Unions obtained 456 votes. The Diatagon Labor Federation obtained 63 votes. Only 555 voters took part in the election. It turned out that the election was transferred by the Director of Labor Relations to September 15, 1976 (p. 224, Rollo). The protest of the Diatagon Labor Federation against that election was not acted upon by the Director of Labor Relations in view of the pendency of this case (p. 347, Rollo).

The issues are (a) whether the Director of Labor Relations gravely abused his discretion in treating the employees of the two companies as one bargaining unit and (b) whether the Secretary of Labor gravely abused his discretion in not entertaining the appeals of the petitioner from the orders of the Director of Labor Relations.

We hold that the Director of Labor Relations acted with grave abuse of discretion in treating the two companies as a single bargaining unit. That ruling is arbitrary and untenable because the two companies are indubitably distinct entities with separate juridical personalities.

The fact that their businesses are related and that the 236 employees of Georgia Pacific International Corporation were originally employees of Lianga Bay Logging Co., Inc. is not a justification for disregarding their separate personalities. Hence, the 236 employees, who are now attached to Georgia Pacific International Corporation, should not be allowed to vote in the certification election at the Lianga Bay Logging Co., Inc. They should vote at a separate certification election to determine the collective bargaining representative of the employees of Georgia Pacific International Corporation.

However, at this late hour, or after the lapse of more than five years, the result of the 1975 certification election should not be implemented. A new certification election should be held at Lianga Bay Logging Co., Inc. but the 236 employees should not be allowed to vote in that election.

With respect to the refusal of the Secretary of Labor (now Minister of Labor and Employment) to entertain appeals from the orders of the Director of Labor Relations, that norm of conduct is based on the rule laid down by the Secretary himself in Rule V (Certification Cases and Intra-Union Conflicts of Book Five [Labor Relations] of the Rules and Regulations Implementing the Labor Code dated February 16, 1976, which Rule V provides:

"SECTION 10. Decision of the Bureau is final and inappealable. - The Bureau shall have twenty (20) working days from receipt of the records of the case within which to decide the appeal (from the Med-Arbitrator). The decision of the Bureau in all cases shall be final and inappealable." (sic)

That rule is in consonance with the policy of insuring speedy labor justice. It is noteworthy that pursuant to that policy Presidential Decree No. 1391, which took effect on May 29, 1978, eliminated appeals to the Secretary of Labor from the decisions of the National Labor Relations Commission.

Rule III (Representation Issues, Interventions, Affiliations and Disaffiliations) of the Rules Implementing Presidential Decree No. 1391, which rules took effect on September 15, 1978, reaffirms the above-quoted section 10 of Rule Five in the following provisions which also recognize this Court's power to review the orders of the Director of Labor Relations:

"SEC. 8. Decision of the Bureau Director: Final and Inappealable. - The Director of Labor Relations shall have

twenty (20) working days from receipt of the records of the case within which to decide cases on appeal from the Med--Arbiters in the Regional Offices. The decision of the Direc-tor, as representative of the Minister of Labor, shall in all cases be final and inappealable. (sic)

"SEC. 9. Petition for Certiorari, Prohibition, etc. to the Supreme Court. - The filing with the Supreme Court of a petition for certiorari or prohibition shall not stay the execution of the order of the Bureau unless otherwise ordered by the Supreme Court."

Moreover, under article 226 of the Labor Code, the Bureau of Labor Relations and the labor relations divisions in the regional offices of the Department of Labor have "original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations in all workplaces".

On the other hand, the petitioner and the two companies cite section 3, Rule XVIII of the Rules of Procedure of the Bureau of Labor Relations dated September 13, 1975 which provide that "decisions of the Bureau of Labor Relations may be appealed to the Secretary of Labor whose decisions shall be final and unappealable". Evidently, that rule was abrogated by the 1976 and 1978 implementing rules quoted above.

WHEREFORE, the orders of the Director of Labor Relations holding that the employees of Lianga Bay Logging Co., Inc. and Georgia Pacific International Corporation should be treated as one bargaining unit are reversed and set aside. A new certification election should be held at Lianga Bay Logging Co., Inc. The 236 employees of Georgia Pacific International Corporation should not be allowed to vote in that election. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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