

PLDT EMPLOYEES' UNION, PETITIONER, VS. PHILIPPINE LONG DISTANCE TELEPHONE COMPANY FREE TELEPHONE WORKERS' UNION, (PAPLU), RESPONDENTS.

G.R. No. L-8138. August 20, 1955

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BENGZON, ACTING C.J:

On September 30, 1953, the Philippine Long Distance Telephone Company, a public utility corporation locally organized, filed in the Court of Industrial Relations a petition for certificate under section 12 of Republic Act No. 875. It alleged that, a week before, it received from the Free Telephone Workers' Union notice of its desire to bargain collectively; that until the receipt of such notice, the Company believed the only legitimate labor organization existing therein was the PLDT Employees Union with which it had signed a collectively bargaining agreement still in operation; and that said Company was in no position to determine which of the two Unions represented the majority of the workers. Therefore it requested that an investigation be conducted for the purpose of determining the proper collective bargaining agency for its employees, and in the event such investigation fails to determine the proper agency that an order be issued requiring the holding of a certification election.

Upon its petition, the PLDT Employees Union was allowed to intervene, and on October 21, 1953 it submitted a motion to dismiss, which as amended, claimed that it had a collective bargaining agreement in force until September 14, 1954, and that a favorable action by the Court on the petition would permit another labor organization in the same establishment to present to the employer another set of demands and compel said employer to bargain with it during the lifetime of an existing bargaining agreement, thereby infringing the constitutional provision against impairment of contracts.

The Free Telephone Workers' Union—hereafter designated respondent—asserting that it represented the preponderant majority of the employees, manifested its willingness to let the investigation proceed; and answering the Employees' Union's motion to dismiss, it contended that the existing collective bargaining agreement constituted no legal objection, inasmuch as no certification election had been held within the preceding twelve months. As to the alleged impairment of the existing collective contract, it argued there was no such impairment, because "the contract is between the company and the employees represented by the intervenor union who are the principals and can change their agent at will" by a majority which it is desired to ascertain.

After considering the pleadings and the arguments, the Hon. Arsenio Roldan, Presiding Judge, dismissed the petition in December 1953 principally for the reason that the collective bargaining agreement between the intervenor and the company will expire on September 14, 1954, and that before such date it may not be changed nor amended.

The respondent Workers' Union asked for reconsideration, which the intervenor opposed. On August 9, 1954 the Court of Industrial Relations in banc, by majority vote, set aside the order of dismissal and remanded the case for "determination of the appropriate collective bargaining unit, (agency) after which the holding of a certification election in accordance with law should be ordered", (if necessary).

Hence this petition for review—which takes the place of an appeal from the order of the Court of Industrial Relations.

It is the general rule that only final judgments or orders are appealable to this Court. An interlocutory order may not be appealed. (Rule 41 sec. 2) "An order or judgment is deemed final when it finally disposes of the pending action so that nothing more can be done with it in the trial court. In other words, a final order is that which gives an end to the litigation * * * when the order or judgment does not dispose of the case completely but leaves something to be done upon the merits, it, is merely interlocutory. For instance an order denying a motion of dismissal founded on lack of jurisdiction * * * is merely interlocutory,"[1] and is not appealable.

It would seem from the foregoing that this petition for review or appeal of the intervenor is premature, the order denying its motion to dismiss not being a final order. The Industrial Court still had to determine the proper bargaining agency or direct a certification election. There was something to be done in the Industrial Court.

We are aware, of course, that the law permitting appeals to this Court from "any order" of the Court of Industrial Relations does not in any line employ the word "final". But it is reasonable to suppose that Congress did not intend to disregard such well-known rule of orderly procedure, which is based partly upon the convenience of the appealing party itself, in the sense of forestalling useless appeals. In this case for example, if instead of appealing, the intervenor allowed the investigation to continue, and later it is declared to be the proper bargaining agency, then this appeal would have been useless. If it is not so declared—then perhaps[2] it is time to appeal; not before. Before that time it may not claim to be aggrieved by the order remanding the case for ascertainment of the labor union which represents the majority.

The assertion that the appealed order impairs petitioner's collective bargaining agreement is unfounded, because the tenor of the order precisely contemplates that any bargaining agreement between the Telephone Company and the newly-found bargaining agency will have effect only after September 14, 1954 when the (then) existing collective agreement could be properly terminated.

On this point petitioner insists the respondent Court could not say the contract would expire on September 14, 1954, in view of the following stipulation in the bargaining agreement:

"that it is hereby mutually agreed upon by the parties that the duration of this Agreement shall be for a period of one year, counting from the date of its signing by said parties, with the understanding that it shall be considered renewed or extended from year to year thereafter, unless it is terminated by any one of the parties in writing to the other at least thirty days before it is proposed to expire".

Petitioner takes the position that, far from automatically ceasing on September 14, 1954, the contract is automatically renewed—unless it is denounced by one of the parties. Yet when the court mentioned September 14, 1954, it merely meant that according to the contract on that date it may be denounced or substituted by one of the parties; and the Telephone Company by filing the petition obviously and foresightedly manifested its intention to terminate such contract with petitioner, if and when, it is found that said petitioner no longer represented the majority of the Company's employees.[3] Furthermore, as explained by the Industrial Court.

"If a certification election is not held immediately, the agreement may be renewed with or without modification by the parties thereto and again it may be used as an argument to bar the subsequent holding of a certification election. The result would be to deprive entirely the Free Telephone Workers' Union (PAFLU) of an opportunity to prove that it, and not the PLDT Employees Union, has the majority status and, therefore, entitled to represent all the employees of the Company for collective bargaining purposes."

It is interesting to note in this regard that in the United States, where we copied the present Industrial Peace Act an

existing collective bargaining contract with a union is a bar to subsequent certification election when * * * it has a definite and reasonable period to run and has not been in existence for too long a period (history, industry and customs may affect reasonableness of the contract term * * *.) (Werne Law of Labor Relations p. 27 citing U.S. Finishing Co. 63 NLRB 575.) Normally, the National Labor Relations Board is inclined to regard long-term contracts, which have been in existence for more than two years, as no obstacle to determining bargaining representatives. (Werne op. cit pp. 28-29 citing several cases.)

"A contract which provides for automatic renewal in the absence of notice by one of the contracting parties of intention to alter, modify or terminate it prior to a specified period preceding the termination date, will operate as a bar to an election. However, this rule does not apply where a contesting union has given timely notice to the employer or filed a petition with the Board reasonably prior to the specified date for automatic renewal." (Werne, op. cit p. 29 citing several Labor Board cases.)

Explaining its position in detail, the National Labor Relations Board said in the case of Reed Roller Bit Co. 72 N. L. R. B. 927:

"Whenever a contract is urged as a bar, the Board is faced with the problem of balancing two separate interests of employees and society which the Act was designed to protect: the interest in such stability as is essential to encourage effective collective bargaining, and the sometimes conflicting interest in the freedom of employees to select and change their representatives. In furtherance of the purposes of the Act, we have repeatedly held that employees are entitled to change their representatives, if they so desire, at reasonable intervals; or conversely, that a collective bargaining contract may preclude a determination of representatives for a reasonable period.

In the light of our experience in administering the Act, we believe that a contract for a term of 2 years cannot be said to be of unreasonable duration. We have already held that 2-year contracts are presumptively of reasonable duration. In applying this rule, we have not "discovered any compelling conditions which indicate that such agreements unduly limit the right of employees to change their representatives. Moreover, in entertaining rival petitions several months before the expiration of the numerous 1-year contracts which are made, we have found in many instances the contracting parties, having composed their differences and executed collective bargaining contracts after the expenditure of much time, effort and money, can feel truly secure in their respective positions only for the brief period of approximately 8 or 9 months.

For large masses of employees collective bargaining has but recently emerged from a stage of trial and error, during which its techniques and full potentialities were being slowly developed under the encouragement and protection of the Act. To have insisted in the past upon prolonged adherence to a bargaining agent, once chosen, would have been wholly incompatible with this experimental and transitional period. It was especially necessary, therefore, to lay emphasis upon the right of workers to select and change their representatives. Now, however, the emphasis, can better be placed ' elsewhere. We think that the time has come when stability of industrial relations can be better served, without unreasonably restricting employees in their right to change representatives, by refusing to interfere with bargaining relations secured by collective agreements of 2 years' duration." (Mathews, Labor Relations And The Law (1953) p. 191-192.)

Now then, as this contract between the Company and the petitioner was signed December 1, 1951, it had been in operation more than two years in August 1954 when the certification election was ordered. It is therefore no bar to the certification even under American labor views."

By the way, this is not to hold that as a matter of law in this jurisdiction the two-year period is a definite term within which bargaining contracts are not to be disturbed. Indeed, the statute providing that certification elections shall not be ordered oftener than once a year, (Sec. 12 (b) R. A. 875) might give ground to the argument that a collective bargaining agreement between the employer and a labor union representing the majority of the laborers

may be terminated, after a year, by a new majority organization. The quotations are herein made merely to exhibit some considerations that have influenced or may influence the courts in the exercise of their discretion in the matter.

Anent the alleged impairment of its contract, petitioner should keep in mind the modern concept embodied in the New Civil Code, that labor contracts being impressed with common interest are subject to the special laws on labor unions, collective bargaining, strikes, lockouts etc. (Art. 1700.)

In view of the foregoing, this petition for review should be denied. To avoid misunderstandings however, it should be made clear that the next step is for the court a quo to determine after a speedy and appropriate hearing upon notice, the labor union that represents the majority of the employees; and if there is any difficulty in determining such majority, then said court may order a certification election in accordance with legal provisions. Petition denied with costs.

Padilla, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

Petition denied with costs.

[1] Moran Comments (1952 Ed. Vol. I, pp. 894-895; Nico vs. Blanco 81 Phil., 213, 46 Off. Gaz., Suppl. (1) 88; Hodges vs. Villanueva 90 Phil., 255).

[2] Perhaps. But consider this: "This type of proceeding before the Board (certification) results in a written certification or decertification by the Board of the exclusive bargaining agent. The certification is not an order and contains no injunctive provisions or directions for affirmative action by the employer. It is not directly reviewable by the courts. The proceeding is considered investigatory and nonadversary and the result is not a 'final' order. It is reviewable by the courts indirectly in connection with the review of an unfair labor practice proceeding when the order of the Board in such proceeding is based upon the certification proceeding." (Werne, *The Law of Labor Relations* p. 90)

[3] The employer's obligation to bargain with a labor union becomes absolute upon the union's demand for collective bargaining, provided the union, at that time represents the majority of the employees. (See Werne, *The Law of Labor Relations* p. 3.)

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