BANCO FILIPINO SAVINGS AND MORTGAGE BANK/MR. TEODORO O. ARCENAS, JR./ATTY. FRANCISCO RIVERA, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND BANCO FILIPINO SUPERVIS...

Ponente: GARCIA-FERNANDEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/f3740d4a7db8/

GARCIA-FERNANDEZ, J.:

This is a petition for certiorari (with application for issuance of temporary restraining order and/or writ of preliminary injunction) under Rule 65 of the Rules of Court, as amended, seeking to annul and set aside the decision promulgated September 29, 2010[1] and resolution promulgated December 15, 2010[2] issued by public respondent National Labor Relations Commission (Fourth Division) in NLRC-NCR Case No. 05-06928. The dispositive portion reads:

> "WHEREFORE, premises considered, the Partial Appeal filed by complainant is GRANTED while the Appeal filed by respondents is DISMISSED for lack of merit.
>
> Accordingly, the Decision of the Labor Arbiter Eduardo G. Magno dated December 21, 2009 is hereby AFFIRMED with MODIFICATION.
>
> The respondents are hereby ordered to adopt the BFSU's CBA proposals due to their refusal to bargain collectively in good faith."

The factual antecedents are as follows:

Private respondents Banco Filipino Supervisors Union (BFSU), the exclusive bargaining agent of Banco Filipino Savings and Mortgage Bank's (BFSM) supervisors, filed a complaint3 for unfair labor practice for refusal to bargain collectively against petitioners BFSM and officers Mr. Teodoro O. Arcenas, Jr. and Atty. Franciso Rivera with the NLRC. The case was docketed as NCR Case No. NCR-05-06928-09 and was raffled to Labor Arbiter Eduardo G. Magno. Mediation between the parties failed, thus the parties were ordered to submit their respective position papers.

In their position paper[4], BFSU alleged that on November 25, 2008, it submitted a letter dated November 25, 2008[5] along with the collective bargaining proposal[6] and proposed negotiation ground rules[7] to BFSM; that instead of submitting a counter-proposal, BFSU sent a letter dated March 2, 2009[8] stating that it cannot yet discuss the union's concerns because of the pending talks of BFSU with the Monetary Board; that despite three (3) reminders through letters dated December 11, 2008[9], January 30, 2009[10], and February 24, 2009[11], BFSM failed to submit their counter-proposal; and that since BFSM failed to submit a counter-proposal, BFSU's CBA proposal should be imposed on BFSM from January 1, 2009 to December 31, 2014.

In their position paper[12], BFSM alleged that upon receipt of the CBA proposal and proposed negotiation rules, Atty. Rivera sent a letter dated December 4, 2008 to BFSU, stating that BFSM is willing to discuss with BFSU; BFSM sent a letter dated March 2, 2009 to BFSU stating that it cannot yet discuss the CBA proposal with BFSU

because of talks with the Monetary Board regarding BFSM's business plan; and that despite its inability to discuss the CBA proposal, BFSM had a meeting with BFSU sometime in mid-2009 and it resulted in the release of the performance bonus and mid-year bonus. BFSM claims that it did not violate its duty to bargain but rather asked for more time to deal with other equally important matters that have a direct effect on collective bargaining and negotiation, such as a business plan meeting with the Monetary Board. BFSM also claim that it had been giving the benefits and incentives received by the rank-and-file employees under their CBA to the supervisory employees, which shows that BFSM was more generous in providing benefits and incentives to its supervisors.

After submission of pleadings[13], the labor arbiter issued the decision dated December 21, 2009[14]. The dispositive portion reads:

> "WHEREFORE, judgment is hereby rendered declaring that respondents had committed unfair labor practice act pursuant to the provision of the Labor Code. Respondents are hereby ordered to cease and desist from further committing such acts from receipt of this Decision.
>
> Respondents are hereby ordered to submit a counter-proposal of the proposed CBA submitted by the union within thirty (30) days
>
> SO ORDERED."

Both parties appealed to respondent NLRC. In their appeal[15], petitioners claim that the labor arbiter erred in ruling that the latter is guilty of unfair labor practice in dealing with BFSU despite the continuous and serious effort of petitioners to communicate with BFSU regarding the financial status of BFSM, as well as the fact that BFSU already benefited from the CBA of the rank-and-file. Meanwhile, private respondents alleged in its partial appeal[16] that the labor arbiter erred in ordering BFSM to submit its counter-proposal instead of imposing on BFSM the proposed CBA submitted by BFSU.

Respondent NLRC issued the decision promulgated September 29, 201017, stating:

> "We find the appeal of respondents lacking in merit.
>
> As correctly pointed out by the Labor Arbiter, the facts and evidence clearly disclosed that respondents committed unfair labor practice when they refused to submit counter-proposals despite notice of the union's CBA proposals.
>
> Article 252 of the Labor Code provides that:
>
> "Meaning of duty to bargain collectively. – The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession."

and

> Article 250 of the Labor Code, provides that:
>
> "Procedure in collective bargaining. – The following procedures shall be observed in collective bargaining:
>
> (a) When a party desires to negotiate an agreement, it shall serve a written notice upon the other party with a statement of its proposals. The other party shall make a reply thereto not later than ten (10) calendar days from receipt of such notice." (Underscoring supplied.)

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

> Based on the foregoing, it is clear that a party is mandated by law to meet and convene for the purpose of collective bargaining and negotiation and that the other party is given ten calendar (10) days to make a reply thereto. By that, it means that as soon as one party receives a proposal from the other, it is the obligation of the other party to submit a counter-proposal. In this case, complainant Union submitted its CBA proposal to respondent bank, but despite receipt thereof, respondent bank merely sent a reply letter, proffered uncertain promises that they will address the BFSU's concern, and in turn failed to submit a counter-proposal to the union's initial offer. Further, during the preventive mediation proceedings before the NCMB in which conferences where held on March 24 and April 2, 2009, respondent bank never submitted their counter-proposal.

xxx

> Hence, we find respondent's arguments lacking in merit.
>
> As to complainant's arguments, We find the same to be meritorious. In this case, there was no evidence that there was a pre-existing CBA between the parties. Hence, it is only proper that the proposed CBA of the complainant be imposed to respondents.

xxx"

Petitioners' motion for reconsideration[18] of the decision dated September 29, 2010 was denied by respondent NLRC in the resolution promulgated December 15, 2010[19] to wit:

> "Records are replete with evidence showing that management committed unfair labor practice when it intentionally refused to submit counter proposals despite receipt of union's CBA proposals on November 25, 2008, and the subsequent follow-up letters, in violation of Article 252 of the Labor Code, as amended. To date, despite receipt of the Decision of this Commission dated September 29, 2010, respondents continuously failed to submit their counter proposals and negotiate with them." [Citation omitted.]

In this petition, petitioners allege that respondent NLRC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in: a) affirming the finding that petitioners acted in bad faith based merely on a presumption, when the evidence on record shows the contrary; and b) in granting private respondent's partial appeal, thereby violating petitioners' constitutional right to due process.

Anent the first ground of this petition, petitioners claim that the findings of both labor arbiter and respondent NLRC that petitioners were in bad faith were presumptions due to petitioners' failure to file a "formal" counter proposal to BFSU's CBA proposal. Petitioners claim that considering BFSM was under the comptrollership of the Bangko Sentral ng Pilipinas, petitioners had been bargaining in good faith, as shown by the fact that they increased the wages and allowances of the supervisors and were given other benefits even without a CBA.

Anent the second ground, petitioners claim that their right to due process had been violated since the public respondent disregarded all the evidence on record and relied on two (2) letters, specifically the letters dated December 4, 2008 and March 2, 2009, neither of which proves that petitioners were in bad faith in dealing with BFSU.

The petition is devoid of merit.

Article 248 (g)[20] of the Labor Code of the Philippines provides that it shall be unfair labor practice for an employer to violate the duty to bargain collectively as prescribed by law. In this jurisdiction, violating the duty to bargain is committed in one or more of four ways: 1) failure or refusal to meet and convene, 2) evading the purposes of bargaining, 3) not observing good faith in bargaining, and/or 4) grossly violating the economic provisions of the collective bargaining agreement.[21]

Article 251[22] of the Labor Code of the Philippines explicitly states that in the absence of an agreement or other voluntary arrangement providing for a more expeditious manner of collective bargaining, it shall be the duty of the employer and the representative of the employees to bargain collectively in accordance with the procedure laid down in Article 250[23], to wit:

> "Article 250. Procedure in collective bargaining. – The following procedures shall be observed in collective bargaining:
>
> (a) When a party desires to negotiate an agreement, it shall serve a written notice upon the other party with a statement of its proposals. The other party shall make a reply thereto not later than ten (10) calendar days from receipt of such notice;
>
> (b) Should differences arise on the basis of such notice and reply, either party may request for a conference which shall begin not later than ten (10) calendar days from the date of request.
>
> (c) If the dispute is not settled, the Board shall intervene upon request of either or both parties or at its own initiative and immediately call the parties to conciliation meetings. The Board shall have the power to issue subpoenas requiring the attendance of the parties to such meetings. It shall be the duty of the parties to participate fully and promptly in the conciliation meetings the Board may call;
>
> (d) During the conciliation proceedings in the Board, the parties are prohibited from doing any act which may disrupt or impede the early settlement of the disputes; and
>
> (e) The Board shall exert all efforts to settle disputes amicably and encourage the parties to submit their case to a voluntary arbitrator." [Emphasis supplied.]

In Kiok Loy vs. NLRC and Pambansang Kilusan ng Paggawa, the Supreme Court held that a company's refusal to make a counter proposal, if considered in relation to the entire bargaining process, may indicate bad faith and this is specially true where the union's request for a counter proposal is left unanswered.[24]

Records show that despite receipt of the letter dated November 25, 2008 and BFSU's collective bargaining proposal and proposed negotiation ground rules, BFSM did not submit its counter-proposal within ten (10) days from the receipt of the collective bargaining proposal and instead, it sent two letters dated December 4, 2008 and March 2, 2009, the first one stating that it is willing to discuss the matter with BFSU and the second informing the latter that it cannot discuss the collective bargaining proposal due to on-going meeting with the Monetary Board regarding its business plan. By these facts alone, BFSM violated its duty to bargain by its failure or refusal to meet and convene with BFSU.

Petitioners' claim that they have been bargaining in good faith based on the totality of their actions is devoid of merit. The fact that BFSM has an existing CBA with its rank-and-file employees belies their claim of being unable to collectively bargain with BFSU, or at the very least, submit its counter-proposal. BFSM's ability to provide the supervisors the benefits given to the rank-and-file under the latter's CBA and being able to implement salary increases negate the contention of BFSM that it was financially strapped and unable to collectively bargain. Finally, the fact that BFSM did not even once submit its counter-proposal shows that BFSM had no intention to commence collective bargaining proceedings with BFSU.

In view of the foregoing, this Court finds that public respondent did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that petitioners are guilty of unfair labor practice in refusing to submit its counter-proposal despite receipt of BFSU's collective bargaining proposal.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Pizzarro, N.B., Acting Chairperson[*] Acosta, F.P., JJ., concur.

---

[*] Per raffle dated May 20, 2014.

[1] Rollo, pp. 30-37.

[2] Rollo, pp. 40-42.

[3] Rollo, pp. 295-296.

[4] Rollo, pp. 297-303.

[5] Rollo, pp. 323-324.

[6] Rollo, pp. 304-322.

[7] Rollo, pp. 325-326.

[8] Rollo, p. 327.

[9] Rollo, p. 328.

[10] Rollo, p. 329.

[11] Rollo, pp. 330-331.

[12] Rollo, pp. 53-60.

[13] During the exchange of pleadings, it was revealed that BFSU previously filed a complaint for refusal to bargain against the petitioners before the National Conciliation and Mediation Board, docketed as NCMB-NCR-PM-03-043-09, but withdrew the complaint after BFSM stated that it is willing to discuss the issue with BFSU. See Rollo, p. 74.

[14] Rollo, pp. 355-359.

[15] Rollo, pp. 92-108.

[16] Rollo, pp. 81-91.

[17] Supra note 1.

[18] Rollo, pp. 117-130.

[19] Supra note 2.

[20] Now Article 258 of the Labor Code of the Philippines.

[21] Azucena, Cesario Alvero, Jr., Everyone's Labor Code, 7[th] edition, 2012, at 263.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

[22] Now Article 262 of the Labor Code of the Philippines.

[23] Now Article 260 of the Labor Code of the Philippines.

[24] G.R. No. L-54334 January 22, 1986. See Teller, II Labor Disputes & Collective Bargaining 889, citing Glove Cotton Mills vs. NLRB 103 F. (2nd) 91.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.