

LAKAS NG MANGGAGAWANG PILIPINO, PETITIONER, VS. BENGUET CONSOLIDATED, INC., NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWU-MIF), PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (P...*G.R. No. L-35075. November 24, 1972*

Ponente: FERNANDO, J.

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In line with this Court's policy of assuring that the collective bargaining representative represents the genuine choice of the workers, respondents[1] were required to answer this suit for certiorari and prohibition with preliminary injunction. It is the contention of petitioner, Lakas ng Manggagawang Pilipino, that in a pending certification proceeding before respondent, the then Judge Amando C. Bugayong, it filed a motion for intervention, which was disregarded, as shown in an order of April 28, 1972, wherein respondent Judge set a consent election to take place on May 16, 1972, without mention being made of petitioner as one of the labor organizations to take part therein.[2] This was followed by the order complained of, dated May 10, 1972, where there is a formal denial of its motion to intervene.[3] While filing a motion for reconsideration, petitioner could not await its resolution because on the date of its filing, May 12, 1972, it was shown that respondent Judge had left for Zamboanga to hear another case, thus precluding any action thereon, as, according to the rules, it must be initiated by the trial judge, and that for the next two days, May 13 and 14, the Court of Industrial Relations would not be in session, being a Saturday and a Sunday. Accordingly, on the above facts, with the petition indicative that it had a bona fide right to participate in such a certification election, this Court, in its resolution of May 15, 1972, required respondents to answer, and in addition, issued a temporary restraining order. The answers were duly forthcoming from respondents. Then, on August 29, 1972, there was an urgent motion and manifestation from the Benguet Consolidated, Inc. Employees and Workers Union-Paflu praying that it be allowed to intervene in the proceeding before this Court, alleging that its interest would be better protected if it were joined as a party rather than its parent federation, the Philippine Association of Free Labor Unions. Under the circumstances, this Court likewise deemed it best to have the matter completely and thoroughly aired before it thus allowed such intervention.

On September 2, 1972, the memorandum for petitioner was filed. There was a memorandum for respondent Judge Bugayong submitted on September 16. Then came a motion to dismiss from petitioner dated November 9. It reads thus: "[Comes now] the petitioner, by its National President and assisted by its undersigned counsel, and to this Honorable Court respectfully represents: 1. That the ultimate objective of the present case is to compel the admission by the Court of Industrial Relations of the petitioner as a party intervenor in representation proceedings for the purpose of choosing a bargaining agent for collective bargaining; 2. That the objective can now be attained as two other contending unions, namely, National Mines and Allied Workers Union and the Benguet Mine Workers Union have expressed their conformity to the inclusion of petitioner as intervenor in the representation proceedings before respondent CIR; [Wherefore], it is respectfully prayed that this case be dismissed to enable

respondent CIR to take further action in the representation proceedings before it." [4] Respondents were required to comment. The only opposition filed is that of intervenor, Benguet Consolidated, Inc. Employees and Workers Union-Paflu. It would predicate an alleged right which, in its opinion, would be disregarded if the important legal issues raised would not be resolved. A reading, however, of the answer filed by it, [5] accompanying its motion for intervention, would indicate an admission of paragraphs 2, 3, 4, 5, and 6 of the petition, [6] lack of knowledge of paragraphs 7 to 14 thereof, [7] and a denial, general in character, of the remaining three paragraphs, [8] one of which, [9] would put in issue the allegation of petitioner that it did command a majority of the rank and file of employees and the other two, merely limited to the usual allegations of petitioner lacking any plain, speedy and adequate remedy, and entertaining the apprehension that without a restraining order, the matter might become moot. The intervenor Union did set up affirmative defenses to this effect: "That petitioner Union failed to intervene within a reasonable time in the Petition for Certification filed with the Court of Industrial Relations by the National Mines and Allied Workers Union * * * docketed as Case No. 3586 and assigned to the sala of respondent Judge; That Petitioner, as correctly stated by respondent Judge in its Order dated May 10, 1972 manifested that it was not interested in taking part in the Certification Election in Benguet Consolidated, Inc., and that it was not pursuing its intervention; * * * That the Honorable Supreme Court may not legally Order the suspension of a Certification Election where the basis of the suspension are mere allegations as is the case in the above Petition; That Petitioner could not be included as party intervenor in CIR Case No. 3586-MC as it has not shown substantial interest in said proceeding. In fact, Petitioner has intervened instead in another certification case involving the same parties now pending before Presiding Judge Arsenio Martinez of the Court of Industrial Relations and docketed as Case No. 3528-MC; that said case is still pending hearing before said Judge Martinez; That the BCI Employees and Workers Union-[Paflu] was not furnished timely with a copy of the pleading for intervention filed by Petitioner in Case No. 3586-MC; that therefore, said pleading should be considered as not having been filed at all; That Petitioner has not exhausted all the remedies afforded him by law before the trial court and the Court of Industrial Relations en banc; * * *." [10]

It is obvious from a perusal of the above that the opposition to dismissing this case is bereft of any support in law. The intervenor Union appears to be unaware that from the earliest case decided under the Industrial Peace Act, this Tribunal has wisely recognized a latitude of discretion in the Court of Industrial Relations, the agency which is in a better position to see to it that the certification election is properly conducted. Even intervenor Union cannot dispute the proposition that what is essential is that every labor organization be given the opportunity in a free and honest election to make good its claim that it should be the exclusive collective bargaining representative. In line with such a sound juridical concept, it has been made clear by this Court in an opinion by the then Justice, now Chief Justice, Concepcion, in *LVN Pictures, Inc. v. Philippine Musicians Guild*, [11] that a certification proceeding 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, * * *." [12] Only last month, in *Philippine Association of Free Labor Unions (Paflu) v. Court of Industrial Relations*, [13] such a doctrine was reiterated. Where, as is indicated in the motion to dismiss, the Court of Industrial Relations is precisely taking the necessary steps to assure that all labor organizations having a right to take part therein can participate in such certification election, there is no justification for the opposition to the motion to dismiss. It may be said parenthetically that the assertion of the intervenor Union that keeping this case in the docket might "ultimately result in the enrichment of Philippine jurisprudence" is not a sufficient reason for denying such motion to dismiss, even on the assumption that the legal points raised by the intervenor Union could happily contribute to that result. It will be, however, to err on the side of optimism if such a thought were entertained, considering the significance, or more appropriately, its lack, of the legal issue raised by it. As a matter of fact, it is difficult to resist the suspicion that this refusal to have the certification election conducted as soon as possible could be a betrayal of a fear on the part of intervenor Union that its claim of being the choice of the rank and file would not be borne out by the result.

WHEREFORE, the motion to dismiss of petitioner Lakas Ng Manggagawang Pilipino is granted. Without pronouncement as to costs.

Concepcion, C.J., Ruiz Castro, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

Makalintal and Zaldivar, JJ., took no part.

[1] The respondents are Benguet Consolidated, Inc., National Mines and Allied Workers' Union (Namawu-Mif), Philippine Association of Free Labor Unions (Paflu), Benguet Mine Workers Union, and Hon. Amando C. Bugayong of the Court of Industrial Relations. '

[2] Petition, Annex E.

[3] Ibid., Annex F.

[4] Motion to Dismiss, November 9, 1972.

[5] Answer, Annex A to Motion for Intervention, July 14, 1972.

[6] Ibid., par. 2.

[7] Ibid., pars. 3 and 4.

[8] Ibid., par. 5.

[9] Petition, par. 15.

[10] Answer, Annex A to Motion for Intervention, pars. 7 to 13. 11 110 Phil. 725 (1961). Cf. PLDT Employees' Union v. PLDT Co. Free Tel. Workers' Union, 97 Phil. 425 (1955); Buklod Ng Saulog Transit v. Casalla, 99 Phil. 16 (1956); Bacolod-Murcia Milling Co., Inc. v. National Employees-Workers Security Union, 100 Phil. 516 (1956); The Standard Cigarette Workers' Union v. Court of Industrial Relations, 101 Phil. 126 (1957); Manila Paper Mills Employees & Workers Association v. Court of Industrial Relations, 104 Phil. 10 (1958); Acoje Mines Employees and Acoje United Workers Union v. Acoje Labor Union, 104 Phil. 814 (1958); General Maritime Stevedores' Union of the Philippines v. South Sea Shipping Line, 108 Phil. 1112(1960); Phil. Land-Air-Sea Labor Union v. Bogo-Medellin Milling Co., Inc., 109 Phil. 227 (1960); Benguet Consolidated Unions Council v. Court of Industrial Relations, 109 Phil. 280 (1960); 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. Association of Free Labor Unions, L-18782, August 29, 1963, 8 SCRA 700; Sta. Cecilia Saw Mills, Inc. v. Court of Industrial Relations, L-19273-74, February 29, 1964, 10 SCRA 433; Itogon-Suyoc Mines, Inc. v. Baldo, L-17739, Dec. 24, 1964, 12 SCRA 599; BCI Employees & Workers Union v. Mountain Province Workers Union, L-23813, Dec. 29, 1965, 15 SCRA 650; Kapisanan Ng Mga Manggagawa sa Manila Railroad Co. v. Hernandez, L-19791, May 16, 1971, 20 SCRA 109; National Labor Union v. Go Soc & Sons, L-21260, April 30, 1968, 23 SCRA 431.

[12] Ibid., 728.

[13] G.R. No. L-33781, October 31, 1972.

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