

FRANCISCO O. YASA, PETITIONER, VS. HONORABLE LEONARDO L. LEONIDA, DOLORES M. PERALTA-BELAY AND MERCEDES R. POSADA-LACAP, IN THEIR CAPACITY AS COMMISSIONERS OF THE FIFTH DIVISION...

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

Before the Court is a petition for certiorari under Rule 65, 1997 Rules of Civil Procedure, as amended, assailing public respondent National Labor Relations Commission's (NLRC's) (i) Decision dated December 26, 2012[1] in NLRC NCR CN. 05-07993-11 (NLRC LAC NO. 03-001053-12) which dismissed, for lack of jurisdiction, petitioner's complaint for illegal dismissal, and (ii) Resolution dated April 29, 2013[2] which denied petitioner's motion for reconsideration of the Decision dated December 26, 2012.

THE ANTECEDENTS

Private respondent Vishay Philippines, Inc. (Vishay, for brevity) is a corporation engaged in the manufacture of electronic and semiconductor products.[3] Private respondents Luzviminda P. Rosini and Norbert Lang are the Senior Manager for Human Resources and the Country Manager, respectively, of private respondent Vishay.[4] Private respondent Vishay Philippines, Inc. Employees Union-Federation of Free Workers (VPIEU-FFW) is a labor organization and the recognized bargaining unit of the rank and file employees of private respondent Vishay.[5]

In 1983, petitioner Francisco O. Yasa started working as Machine Mechanic at private respondent Vishay where he also became a member of private respondent VPIEU-FFW. He rose from the ranks and eventually occupied the position of Senior Mechanic. From 2001 to 2010, petitioner served as a member of the board of directors of private respondent VPIEU-FFW.[6]

On April 26, 2011, petitioner received a letter[7] from the executive board of private respondent VPIEU-FFW charging him with violation of the union's Constitution and By-Laws (CBL), specifically, working against the purposes of the union and disloyalty to the union, and directing him to explain why he should not be expelled from the union. The charges against petitioner included (i) accusing the union officers of negotiating a Collective Bargaining Agreement (CBA) for financial gain, by insinuating that there was "under the table" transaction; (ii) accusing the union officers of buying the L300 van of the union for an overprice of five hundred (P500,000.00) thousand pesos without any evidence; (iii) accusing the union officers of fooling the members by reporting to different institutions the additional budget for groceries; (iii) boasting among the members to have filed a case before the fiscal against the union officers without exhausting administrative remedies; (iv) charging the union officers as corrupt before the eyes of union members without basis; and, (v) sowing hatred and disunity among the members by destroying the credibility of the union officers.

In a letter dated May 2, 2011,[8] petitioner denied the charges and explained, among others, that he was merely

expressing his sentiments through Facebook and was just “concerned with the affairs of the UNION and its members.” Private respondent VPIEU-FFW found petitioner guilty of violating the CBL and expelled him from membership, per Resolution No. 23 dated May 5, 2011.[9] In a letter dated May 10, 2011[10] of Union President Jun Ramirez, petitioner was informed of his expulsion from private respondent VPIEU-FFW. On the same date, private respondent VPIEU-FFW informed private respondent Luzviminda P. Rosini of petitioner's expulsion from the union and requested that petitioner be dismissed from employment pursuant to the union executive board decision and the union security clause contained in the CBA.[11]

Private respondent Luzviminda P. Rosini immediately informed petitioner of the request for his dismissal from employment and directed him to submit a written explanation on why private respondent Vishay should not implement the union security clause of the CBA.[12] Petitioner submitted his written explanation on May 11, 2011.[13]

On May 12, 2011, petitioner filed a motion for reconsideration[14] of Resolution No. 23, but the same was denied by private respondent VPIEU-FFW.[15] The denial of petitioner's motion for reconsideration was subsequently communicated to private respondent Luzviminda P. Rosini.[16]

In a letter dated May 13, 2011,[17] private respondent Luzviminda P. Rosini informed petitioner of his dismissal from employment at the close of working hours on May 13, 2011, pursuant to the union security clause of the CBA.

On May 20, 2011, petitioner filed with the labor arbiter a complaint[18] against private respondents for “Illegal Dismissal – Actual, Non-payment – Salary/Wages, Moral and Exemplary Damages.”

After the parties had filed their position papers and presented their evidence, the labor arbiter rendered a Decision dated December 26, 2012,[19] finding petitioner's expulsion from private respondent VPIEU-FFW and subsequent dismissal from employment as valid and legal, and dismissing petitioner's complaint for lack of merit. Thus:

“In sum, We are convinced that the expulsion of complainant Yasa from the Union and his subsequent termination from employment by the company pursuant to the CBA's Union Security Clause was undoubtedly valid and legal.

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered DISMISSING the above-entitled case for lack of merit.

SO ORDERED.”

Petitioner filed an appeal[20] before public respondent NLRC, which rendered a Decision dated December 26, 2012,[21] dismissing petitioner's complaint against private respondents Vishay, Luzviminda P. Rosini and Norbert Lang for lack of merit, and dismissing petitioner's complaint against private respondent VPIEU-FFW for lack of jurisdiction. Thus:

“WHEREFORE, premises considered, the complaint against VISHAY, Luz Rosini and Norbert Lang is DISMISSED for lack of merit. The complaint against VISHAY-FFW is DISMISSED for lack of jurisdiction.

SO ORDERED.”

Petitioner filed a motion for reconsideration of the Decision dated December 26, 2012, but public respondent NLRC denied the same in a Resolution dated April 29, 2013.[22]

Thus, petitioner filed the present petition for certiorari which is premised on the following grounds:

THE PUBLIC RESPONDENT NLRC ACTED IN EXCESS OF ITS JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN PROMULGATING THE ASSAILED DECISION AND RESOLUTION CONSIDERING THAT:

A.

THE DISMISSAL OF THE COMPLAINT AGAINST VPIEU-FFW FOR LACK OF JURISDICTION IS PATENTLY ERRONEOUS AND CONTRARY TO STANDING LAW AND JURISPRUDENCE.

B.

THE DISMISSAL OF THE COMPLAINT AGAINST VISHAY PHILIPPINES, INC., LUZ ROSINI AND NORBERT ANG, FOR LACK OF MERIT IS ARBITRARY AND WHIMSICAL FOR AS WILL BE SHOWN HEREUNDER, SUCH IS CONTRARY TO EVIDENCE PRESENTED, LAW AND STANDING JURISPRUDENCE.”[23]

THE ISSUE

Whether public respondent NLRC committed grave abuse of discretion in (i) dismissing petitioner's complaint against private respondent VPIEU-FFW for lack of jurisdiction, and (ii) dismissing petitioner's complaint against private respondents Vishay, Luzviminda P. Rosini and Norbert Lang for lack of merit.

THE COURT'S RULING

In dismissing petitioner's complaint against private respondent VPIEU-FFW, public respondent NLRC ratiocinated that the same involved an intra-union dispute; consequently, it is the Bureau Of Labor Relations (BLR) that had jurisdiction over the complaint, not the labor arbiter and public respondent NLRC.[24] However, petitioner argues that it is the labor arbiter and public respondent NLRC who have jurisdiction over the present case, not the BLR, because the present case involves “illegal dismissal, unfair labor practice, and a claim for reinstatement, payment of all monetary claims.”[25] Allegedly, petitioner's “expulsion from the union was arbitrary and impetuous, consequently constituting unfair labor practice,”[26] as petitioner “was not maligning the union,” but “merely exercising the rights of a member when he inquired about the proceedings of the collective bargaining, when he inquired about the purchase by the union of a vehicle, (and) when he questioned the use of the bulletin board.”[27]

The argument is unfounded.

Article 217 of the Labor Code, as amended, provides for the jurisdiction of labor arbiters as follows:

“Art. 217. Jurisdiction of the Labor Arbiters and the Commission. -

(a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

- Unfair labor practice cases;
- Termination disputes;
- If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;

- Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
- Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and
- Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.

(b)

The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.

(c)

Cases arising from the interpretation or implementation of collective bargaining agreements and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements.”

On the other hand, the jurisdiction of the Bureau of Labor Relations is provided in Article 226 of the Labor Code, as amended. Thus:

“ART. 226. BUREAU OF LABOR RELATIONS. — The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor shall 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 whether agricultural or nonagricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedure and/or voluntary arbitration.

An intra-union dispute refers to any conflict between and among union members, including grievances arising from any violation of the rights and conditions of membership, violation of or disagreement over any provision of the union's constitution and by-laws, or disputes arising from chartering or disaffiliation of the union.[28] Sections 1 and 2, Rule XI of Department Order No. 40-03, Series of 2003 of the DOLE enumerate the following circumstances as inter/intra-union disputes, to wit:

“RULE XI
INTER/INTRA-UNION DISPUTES AND
OTHER RELATED LABOR RELATIONS DISPUTES

SECTION 1. Coverage. — Inter/intra-union disputes shall include:

(a)

cancellation of registration of a labor organization filed by its members or by another labor organization;

(b)

conduct of election of union and workers' association officers/nullification of election of union and workers' association officers;

(c)

audit/accounts examination of union or workers' association funds;

(d)

deregistration of collective bargaining agreements;

(e)

validity/invalidity of union affiliation or disaffiliation;

(f)

validity/invalidity of acceptance/non-acceptance for union membership;

(g)

validity/invalidity of impeachment/expulsion of union and workers' association officers and members;

(h)

validity/invalidity of voluntary recognition;

(i)

opposition to application for union and CBA registration;

(j)

violations of or disagreements over any provision in a union or workers' association constitution and by-laws;

(k)

disagreements over chartering or registration of labor organizations and collective bargaining agreements;

(l)

violations of the rights and conditions of union or workers' association membership;

(m)

violations of the rights of legitimate labor organizations, except interpretation of collective bargaining agreements;

(n)

such other disputes or conflicts involving the rights to self-organization, union membership and collective bargaining —

(1)

between and among legitimate labor organizations;

(2)

between and among members of a union or workers' association.

SECTION 2. Coverage. — Other related labor relations disputes shall include any conflict between a labor

union and the employer or any individual, entity or group that is not a labor organization or workers' association. This includes: (1) cancellation of registration of unions and workers' associations; and (2) a petition for interpleader.” (Underlining supplied.)

Based on the aforequoted provision, petitioner's issue with private respondent VPIEU-FFW involves an intra-union dispute because it concerns the “validity/invalidity of impeachment/expulsion of union and workers' association officers and members.” Although petitioner's complaint[29] against private respondent VPIEU-FFW was for illegal dismissal with prayer for reinstatement without loss of seniority rights, the same also put at issue the legality of petitioner's expulsion from private respondent VPIEU-FFW. Accordingly, public respondent NLRC was correct when it held that jurisdiction over such controversy insofar as private respondent VPIEU-FFW is concerned, lies with the BLR. Thus:

“On appellant's claim against the Union, it appears that the matter is an intra-union conflict. Article 226 of the Labor Code as amended by Republic Act No. 6715, provides:

Art. 226. BUREAU OF LABOR RELATIONS. - The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor shall 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 whether agricultural or nonagricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedure and/or voluntary arbitration.

The Bureau shall have fifteen (15) calendar days to act on labor cases before it, subject to extension by agreement of the parties (Emphasis supplied)

An intra-union dispute is defined under Section (z), Rule I of the Rules Implementing Book V of the Labor Code, viz:

(z) 'Intra-Union Dispute' refers to any conflict between and among union members, and includes all disputes or grievances arising from any violation of or disagreement over any provision of the constitution and by-laws of a union, including cases arising from chartering or affiliation of labor organizations or from any violation of the rights and conditions of union membership provided for in the Code.

Anent the foregoing, this Office has no jurisdiction to hear the complaint of appellant against the union. Thus, appellant's case against the Union should be dismissed for want of jurisdiction.”[30]

With respect to the complaint for illegal dismissal against private respondents Vishay, Luzviminda P. Rosini and Norbert Lang, public respondent NLRC cannot be faulted in finding that the same was without merit. It is clear from the records that petitioner's dismissal from employment stemmed from his expulsion from private respondent VPIEU-FFW for violation of the latter's Constitution and By-Laws, specifically, gross misconduct and disloyalty for working against the purposes of private respondent VPIEU-FFW, which prompted the latter to ask private respondent Vishay for the implementation of the Union Security Clause contained in its CBA with private respondent VPIEU-FFW.

The Union Security Clause of the parties' CBA provides:

“Article II

Union Security

SECTION 1. Maintenance of Membership – All employees who are the bargaining unit defined in Article I hereof and are members of the UNION upon the signing of this Agreement shall remain members of the

UNION in good standing for the duration of this Agreement as a condition precedent to continued employment with the COMPANY. It is understood that employees within the bargaining unit who are not members of the UNION as of the date of signing of this Agreement shall be free to join or not to join the Union without pressure or compulsion from the COMPANY or the UNION.

XXX XXX XXX

SECTION 3. Dismissals – Any such employee, mentioned in Section 2 hereof, who refuses to join the UNION after attaining regular status and any UNION member who fails to maintain his membership in the UNION for any of the following grounds:

- (a) Commission of a crime against the Federation, UNION officers and members;
- (b) Non-payment of right amount of UNION dues and other special assessments to the UNION;
- (c) Voluntary resignation from the UNION during the effectivity of the Agreement; and
- (d) Violation of the UNION's Constitution and By-Laws shall, upon written notice by the UNION of such refusal to join or to maintain membership in the UNION, be dismissed from employment by the COMPANY provided, however, that the UNION shall hold the COMPANY free from blameless from any and all liabilities that may arise should the dismissed employee question, in any manner, his dismissal, and provided further that no such written recommendation shall be made upon the COMPANY nor shall the COMPANY be compelled to act upon any such recommendation within the period of sixty (60) days prior to the expiry date of this Agreement conformably with law.”

In dismissing an employee from employment pursuant to the Union Security Clause, the employer must determine and prove that: (i) the union security clause is applicable; (ii) the union is requesting for the enforcement of the union security provision in the CBA; and, (iii) there is sufficient evidence to support the union's decision to expel the employee from the union or company.[31]

In the present case, the following considerations show that all the requisites were complied with by private respondent Vishay.

First, the Union Security Clause is an existing provision in the parties' CBA, and its validity was not questioned by the parties. It is applicable because membership in private respondent VPIEU-FFW is necessary for continued employment in private respondent Vishay.

Second, private respondent VPIEU-FFW sent a letter dated May 10, 2011[32] informing private respondent Vishay of its strong “request that Francisco Yasa, be immediately dismissed from his work for the interest of industrial peace in the plant,” pursuant to the “union executive board decision and the union security clause” of the parties' CBA.

Third, there is sufficient evidence to support the union's decision to expel the employee from the union or company. In a letter dated April 26, 2011,[33] private respondent VPIEU-FFW charged petitioner with violation of its Constitution and By-Laws, specifically, “working against the purposes or principles of the union such as but not limited to disloyalty, lack of interest or gross misconduct,” and “disloyalty to the union or discrediting the union in any manner” by committing the following acts:

- “(1) accusing the union officers of negotiating a Collective Bargaining Agreement (CBA) for financial gains, by insinuating that there was under the table transaction;
- (2) accusing the union officers of buying the L300 van of the union for an overprice of five hundred (P500,000.00) thousand pesos without any evidence;
- (3) accusing the union officers of fooling the members by reporting to different institutions the additional budget for groceries;
- (4) boasting among the members to have filed a case before the fiscal against the union officers without exhausting administrative remedies such as discussing the matter with union officers or appropriate committee;
- (5) charging the union officers as corrupt before the eyes of union members without basis;
- (6) sowing hatred and disunity among the members by destroying the credibility of the union officers;”

Records also bear that petitioner had made several posts in his Facebook account indirectly accusing private respondent VPIEU-FFW's officers of corruption and bargaining to the prejudice of union members. Copies of screenshots of the Facebook posts[34] were attached to the record. In a letter dated May 2, 2011[35] addressed to the union's executive board, petitioner denied the charges and admitted that he made the Facebook posts, but that he was merely expressing his sentiments. Petitioner also explained that he did not name the union officers concerned in his Facebook posts. He was just concerned with the affairs of the union and its members.

However, contrary to the claims of petitioner, although he did not mention any names, his Facebook posts alluded corruption and dishonesty to the “union pres at ibang officer” who were clearly known to the members of private respondent VPIEU-FFW. The acts of petitioner tended to discredit the union officers and promoted disunity among the members. Thus, the decision of the executive board of private respondent VPIEU-FFW to expel petitioner from membership for infractions which are “inimical to the interest of the union and acts against the purposes and principles of the union,”[36] was not unfounded. As correctly observed by public respondent NLRC:

“Appellant, in his explanation, while he denies the accusations against him, did not refute the postings/messages he made in the facebook which was the basis for the charges against him. However, he claims that he was only concerned with the affairs of the union and its members. He was merely expressing his sentiments and did not name names in the Facebook postings and comments.

We find the contention of appellant untenable. An examination of the postings/messages made by the appellant would show that it directly or indirectly attacks the credibility and integrity of the union and its officers when he accused them of fraud and anomalous transactions without any supporting evidence.

Appellant's allegation that it cannot be considered as gross misconduct as it does not relate to the performance of his duties is misplaced. He was terminated for the offense of misconduct not in relation to his duties as senior mechanic but his behavior toward the union wherein he is a member.”[37]

Petitioner further posits that he was denied due process because his dismissal from employment was made in a “hasty and summary manner”[38] and private respondent Vishay failed to establish “sufficient evidence to support the decision of the union to expel the employee from the union.”[39]

It bears stressing that termination of employment by virtue of a union security clause embodied in a CBA is recognized and accepted in our jurisdiction. This practice strengthens the union and prevents disunity in the bargaining unit within the duration of the CBA.[40]

It is also well-settled that procedural due process in the dismissal of employees requires notice and hearing. The employer must furnish the employee two written notices before termination may be effected. The first notice apprises the employee of the particular acts or omissions for which his dismissal is sought, while the second notice informs the employee of the employer's decision to dismiss him. The requirement of a hearing, on the other

hand, is complied with as long as there was an opportunity to be heard, and not necessarily that an actual hearing was conducted.[41]

The twin-notice rule was complied with in the present case. Records bear that private respondent VPIEU-FFW's executive board issued Resolution No. 23[42] expelling petitioner from membership on May 5, 2011. On May 10, 2011, private respondent VPIEU-FFW sent a letter to private respondent Luzviminda P. Rosini informing her of petitioner's expulsion and requesting petitioner's dismissal from employment pursuant to the union security clause contained in the parties' CBA.[43] On the same date, private respondent Luzviminda P. Rosini sent a letter to petitioner requiring him to submit his "written explanation or statement on the Union's request and why the Company should not implement the provisions of the CBA on Union Security clause x x x" in order "to afford him (you) the opportunity to present his (your) side on the matter." [44] In a letter dated May 11, 2011,[45] petitioner acknowledged receipt of said letter and explained his side of the controversy.

On May 13, 2011, private respondent Luzviminda P. Rosini sent a letter[46] to petitioner dismissing him from employment pursuant to the union security clause of the CBA. Thus:

"x x x

Considering that the union's request for your dismissal from employment finds support in the above-quoted provision of the CBA and the Company, after due verification and consideration of the documents submitted by the union as well as your answer dated May 11, 2011, is reasonably convinced that the decision to expel you from the union is duly supported with sufficient evidence and that you have been duly accorded your right to be heard in consonance with the procedural due process requirement of law, the Company regrets to inform you that it finds no valid reason to deny or refuse the request made by the union. x x x"

Then again, there is grave abuse of discretion only when a court, board, tribunal or official acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of judgment as to be equivalent to lack of jurisdiction.[47] No grave abuse of discretion has been shown to exist in the present case, since the assailed Decision dated December 26, 2012 and Resolution dated April 29, 2013 of public respondent NLRC are in accordance with law and settled jurisprudence.

WHEREFORE, the petition is denied for lack of merit.

SO ORDERED.

Sorongon[*] and Manahan[**], JJ., concur.

[*] Vice Associate Justice Myra V. Garcia-Fernandez, per Office Order No. 240-14-ABR dated May 23, 2014

[**] Vice Associate Justice Francisco P. Acosta, per Office Order No. 241-14-ABR dated May 23, 2014

[1] pp. 47-63, Rollo

[2] pp. 64-68, Ibid.

[3] p. 369, Ibid.

[4] p. 370, Ibid.

[5] p. 498, Ibid.

[6] pp. 48-49, Ibid.

- [7] pp. 71-72, Ibid.
- [8] pp. 84-86, Ibid.
- [9] pp. 87-89, Ibid.
- [10] p. 174, Ibid.
- [11] p. 171, Ibid.
- [12] p. 94, Ibid.
- [13] pp. 95-98, Ibid.
- [14] pp. 90-91, Ibid.
- [15] pp. 92-93, Ibid.
- [16] p. 203, Ibid.
- [17] pp. 69-70, Ibid.
- [18] pp. 105-106, Ibid.
- [19] pp. 233-248, Ibid.
- [20] pp. 249-275, Ibid.
- [21] pp. 47-63, Ibid.
- [22] pp. 64-68, Ibid.
- [23] p. 19, Ibid.
- [24] pp. 59-60, Ibid.
- [25] p. 21, Ibid.
- [26] p. 25, Ibid.
- [27] p. 30, Ibid.
- [28] Employees Union of Bayer Phils., FFW, et al. vs. Bayer Phil., Inc., et al., 636 SCRA 473, December 6, 2010
- [29] pp. 105-106, Rollo
- [30] pp. 59-60, Ibid.
- [31] Herminigildo Inguillo, et al. vs. First Philippine Scales, Inc., et al., 588 SCRA 471, June 5, 2009
- [32] p. 171, Rollo
- [33] pp. 71-72, Ibid.
- [34] pp. 185-194, Ibid.
- [35] pp. 84-86, Ibid.
- [36] p. 88, Ibid.
- [37] p. 57, Ibid.

[38] p. 36, Ibid.

[39] p. 40, Ibid.

[40] Alabang Country Club, Inc. vs. NLRC, et al., 545 SCRA 351, February 14, 2008

[41] Landtex Industries and William Go vs. Court of Appeals, et al., 529 SCRA 631, August 9, 2007

[42] pp. 87-89, Rollo

[43] p. 171, Ibid.

[44] p. 94, Ibid.

[45] pp. 95-98, Ibid.

[46] pp. 69-70, Ibid.

[47] Arsenio Reyes vs. Court of Appeals, 328 SCRA 864, March 27, 2000

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