

TEOFISTO C. GANCHO-ON, PETITIONER, VS. THE HONORABLE SECRETARY OF LABOR AND EMPLOYMENT AND LAKAS NG NAGKAKAISANG MANGGAGAWA-PAFLU, RESPONDENTS.

G.R. No. 108033. April 14, 1997

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

On 16 January 1992 respondent Lakas ng Nagkakaisang Manggagawa-PAFLU filed with the Department of Labor and Employment (DOLE) a petition for certification election in a bid to exclusively represent the truck drivers of Eros Repair Shop.

Petitioner Teofisto C. Gancho-on, owner of the shop, moved for the dismissal of the petition on the ground of absence of employer-employee relationship. He contended that the members of respondent Union who would constitute the proposed bargaining unit were not employees of his shop but of individual owners of the trucks used in the trucking and hauling business managed by his wife, Herminia. In support thereof he presented certificates of registration indicating the ownership of four (4) vehicles being driven by the union members. In addition, he submitted copy of the application to operate business filed with the Mayor's Office together with an application for renewal of the certificate of registration which described his business as an automotive repair shop.

Respondent Union opposed the motion and asserted that while petitioner may be the registered owner of the shop, his wife was the manager of the trucking and hauling business under the same name and style as the shop. It offered in evidence the following documents executed by petitioner's wife herself: (a) an affidavit dated 10 February 1992 alleging among others that she was the manager of Eros Repair Shop which was engaged in the trucking and hauling of sugar cane and that the truck drivers were paid on commission basis;^[1] (b) a letter dated 17 February 1992 addressed to the Assistant Regional Director of the DOLE informing the latter of the violation by one of the truck drivers of Eros Repair Shop of a memorandum issued to all truck drivers;^[2] and, (c) another letter dated 20 February 1992 addressed to the same official seeking advice concerning eleven (11) of her truck drivers who failed to report for work.^[3]

The Med-Arbitrator -Designate concluded from the evidence thus adduced that: (a) the right to control not only the result of the drivers' work but also the means and method to accomplish their task was being exercised by petitioner's wife; (b) except for petitioner's business permit and accreditation no other evidence was presented to support the allegation that Eros Repair Shop was an entity separate and distinct from the trucking and hauling business; and, (c) most of the trucks were owned by the Gancho-on spouses.

Thus on 13 May 1992 the petition for certification election was given due course with the following options: respondent union, or no union at all. A representative officer was directed to call the parties to a pre-election conference to thresh out the mechanics of the election and to conduct and supervise the same within twenty (20) days from receipt of the order by the parties.^[4]

Petitioner assailed the order for certification election before respondent Secretary of Labor and Employment, still

insisting on the absence of employer-employee relationship.

On 31 July 1992 the appeal was denied. Respondent Secretary, ordering the pre-election conference preparatory to the certification election be immediately conducted,[5] declared that: (a) the affidavit of Mrs. Gancho-on in effect was an admission that Eros Repair Shop was engaged in trucking and hauling services; (b) it was common knowledge in the business that trucks were leased from various owners; and, (c) in the communications sent by Mrs. Gancho-on to the DOLE, she used the business name of Eros Repair Shop for her letterhead thus creating the impression that the Eros Repair Shop was actually the employer. On 14 September 1992 the motion for reconsideration was denied.[6]

Petitioner raises the same issue before us. On 11 January 1993 the certification election nevertheless proceeded. Respondent union thereafter submitted to the Court an original copy of the declaration of the final certification election results showing that it did not garner a single vote because out of thirty-six (36) drivers, all of the twenty (20) who cast their votes favored a "no union." [7]

This notwithstanding, petitioner argues that it is still necessary for the Court to resolve the issue of employer-employee relationship not only for the guidance of the bench and bar in general but also because the matter "hangs like the sword of Damocles over his head."

Petitioner entirely misses the material points which have rendered the present proceeding moot and academic. First, subject resolution of respondent Secretary as aforesaid decreed that the pre-election conference preparatory to the certification election be immediately conducted. The certification election thereafter became a *fait accompli*. Second, in a sense salutary to petitioner, the defeat suffered by respondent Union in its bid to be certified as the sole bargaining agent of the truck drivers made irrelevant the findings of both the Med-Arbiter-Designate and respondent Secretary that an employer-employee relationship existed. It should be emphasized that the issue of employer-employee relationship came into being only because petitioner denied its existence in his motion to dismiss the petition for certification election. Since the certification proceeding before the Med-Arbiter merely provided the mainspring of this petition the defeat of respondent Union in the election has stripped this case of its *raison d'être*.

It is a rule of universal application, almost, that courts of justice constituted to pass upon substantial rights will not consider questions in which no actual interests are involved; they decline jurisdiction of moot cases.[8] And where the issue has become moot and academic, there is no justiciable controversy, so that a declaration thereon would be of no practical use or value. There is no actual substantial relief to which petitioners would be entitled and which would be negated by the dismissal of the petition.[9]

WHEREFORE, the petition is DISMISSED for being moot and academic.

SO ORDERED.

Padilla (Chairman), Vitug, and Kapunan, JJ., concur
Hermosisima, Jr., J., on leave.

[1] Records, p. 29.

[2] *Id.*, pp. 31-32.

[3] *Id.*, p. 30.

[4] Issued by Med-Arbiter-Designate Ma. Wilma M. Kalaw; Records, p. 46.

[5] Issued by Undersecretary Bienvenido E. Laguesma; Rollo, p. 22.

[6] Rollo, p. 16.

[7]Id., pp. 110-112.

[8]In the Matter of the Estate of Jose Ma. Ceballos, 12 Phil. 271 (1908).

[9] Southeast Asia Manufacturing Corporation v. The Municipal Council of Tagbilaran, No. L-23858, 21 November 1979, 94 SCRA 341.

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