

**PHOENIX IRON AND STEEL CORPORATION, PETITIONER, VS.
SECRETARY OF LABOR AND EMPLOYMENT AND PISCOR WORKERS
UNION – ALLIANCE OF NATIONALIST AND GENUINE LABOR
ORGANIZATIONS (PISCOR-...**

G.R. No. 112141. May 16, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Disputed here is the applicability of our ruling in *Progressive Development Corporation v. Secretary, Department of Labor and Employment*.^[1]

Private respondent PISCOR Workers Union - Alliance of Nationalist and Genuine Labor Organizations (PISCOR--ANGLO) asserting to be a legitimate labor organization filed on 13 October 1992 a petition for certification election with the Med-Arbiter. On 3 December 1992 petitioner Phoenix Iron and Steel Corporation (PHOENIX) sought clarification of the legal personality of PISCOR-ANGLO (UNION). On 19 January 1993, finding that the UNION had not complied with the requisites of law, Med-Arbiter Napoleon V. Fernando dismissed the petition holding that -

A careful scrutiny of the record reveals that the principal party petitioner herein, the Piscor Workers Union, is not a duly registered labor organization x x x x (The) record undisputably shows that for purposes of registering Piscor Workers Union as an affiliate of ANGLO no books of account was filed before the BLR. And that the constitution and by-laws as well as the list of members who ratified the same were not attested to by the union president. The constitution and by-laws was not likewise verified under oath. In view thereof and in the light of the above-quoted Supreme Court ruling (*Progressive Development Corporation vs. Secretary of Labor*, G.R. No. 96425, February 4, 1992), petitioner Piscor Workers Union failed to attain the status of legitimate labor organization x x x x (The) authority to file petition (for certification election) which is dated September 6, 1992, is without force and effect x x x considering that it was only on September 27, 1992, that Piscor Workers Union was established. Thus, in (the) absence of legal personality Piscor Workers Union may not validly authorize ANGLO to file the present petition.

It is further observed that there is much to be desired in the matter of notarization of the supporting documents submitted for the petitioner's union registration and on the matter of the notarization of this very petition. In the first place it should be noted that the requirement of due notarization of supporting documents for union registration and that of the petition for certification election is mandatory.

In *Progressive* case, the Supreme Court declares that: 'In the case at bar, the failure of the secretary of PDEU-KILUSAN to certify the required documents under oath is fatal to its acquisition of a legitimate status.'

While Section 1, Rule V, Book V of the Rules and Regulations Implementing the New Labor Code provides that: 'Section 1 - Where to file - A petition for certification election x x x x The petition shall be in writing and under

oath' (underscoring supplied).

When the rule requires a document to be under oath, it goes with it the requirement that the said document must properly be under oath. Improper notarization is no compliance at all x x x x In the case at bar, the inconsistency in the dates of execution of the petition as contained in the body of the petition which shows that it was executed on October 13, 1992, and the date of alleged notarization which is October 8, 1992, really impart some serious cloud as to whether or not this petition was properly notarized.[2]

On appeal to the Office of Secretary of Labor, Undersecretary Bienvenido E. Laguesma, acting by authority of the Secretary of Labor, issued on 8 June 1993 a resolution "calling for the immediate conduct of a certification election x x x x with PISCOR Workers Union-Anglo and No Union as the choices.[3] He ruled that --

Petitioner-appellant has complied with the requirements of the law on organization of a local after it was shown that it has submitted duly certified copies of its constitution and by-laws, list of officers and charter certificate x x x x

Anent the minutes of organizational meeting, it is obvious that the same is not required to be submitted by the union to establish its legitimacy. Questions are, however, being raised on the veracity of its contents and doubts on its due execution are expressed for the purpose of putting across the message that in truth and in fact there was no organizational meeting that took place.

Suffice it to say that said doubts should be resolved in favor of its regularity and not as adversely affecting the legal standing of petitioner. For as earlier stated, having complied with all the requirements aforementioned, technicalities may not be allowed to stand in the way of certification election. After all, respondent's reservations will definitely be resolved thru the certification election where the workers could freely express their will.

As to the alleged inconsistency in the date of the execution of the petition as contained in the body thereof, in relation to the notarization of the said pleading, we are convinced that the same was the result of oversight which likewise could not be used to defeat the petition for certification election and petitioner's right to choose its representative for collective bargaining purposes.[4]

In this recourse the Solicitor General filed a Manifestation and Motion in Lieu of Comment[5] supporting petitioner's stand that private respondent PISCOR-ANGLO has no personality to file a petition for certification election it not being a legitimate labor organization; that said Union failed to comply with the attestation and certification requirements for the attainment of a legitimate status with respect to certain documents submitted with the Bureau of Labor Relations (BLR); and, that the dismissal of such requirements as mere technicalities by Undersecretary of Labor Bienvenido E. Laguesma, acting in behalf of the Secretary of Labor, directly contradicts the categorical pronouncement in *Progressive Development Corporation v. Secretary of Labor*[6] that the failure of a labor union to certify under oath the required documents submitted with the BLR is fatal to the attainment of a legitimate status. Hence, the Solicitor General recommends that the assailed Resolution dated 8 June 1993 of respondent Secretary of Labor, acting through Undersecretary Laguesma, be reversed and set aside.

Thereafter, public respondent Secretary of Labor through the Legal Service of the Department of Labor and Employment, Legal Representation Division, filed his comment on 16 March 1994, while private respondent PISCOR-ANGLO filed its own on 23 November 1994.

On 10 August 1994 we gave due course to the petition and required the parties to file their memoranda. On 24 August 1994 we issued a temporary restraining order to enjoin the enforcement of the assailed resolution.

We agree with petitioner Phoenix Iron and Steel Corporation and the Solicitor General that our ruling in

Progressive applies in this case, to wit:

A local or chapter x x x becomes a legitimate labor organization only upon submission of the following to the BLR:

- 1) A charter certificate, within 30 days from its issuance by the labor federation or national union, and
- 2) The constitution and by-laws, a statement on the set of officers, and the books of accounts all of which are certified under oath by the secretary or treasurer, as the case may be, of such local or chapter, and attested to by its president.

Absent compliance with these mandatory requirements, the local or chapter does not become a legitimate labor organization.

In the case at bar, the failure of the secretary of PDEU-Kilusan to certify the required documents under oath is fatal to its acquisition of a legitimate status.

The mandatory nature of the requirement is also exhaustively explained in the same case -

In the case of union registration, the rationale for requiring that the submitted documents and papers be certified under oath by the secretary or treasurer, as the case may be, and attested to by the president is apparent. The submission of the required documents (and payment of P50.00 registration fee) becomes the Bureau's basis for approval of the application for registration. Upon approval, the labor union acquires legal personality and is entitled to all the rights and privileges granted by the law to a legitimate labor organization. The employer naturally needs assurance that the union it is dealing with is a bona-fide organization, one which has not submitted false statements or misrepresentations to the Bureau. The inclusion of the certification and attestation requirements will in a marked degree allay these apprehensions of management. Not only is the issuance of any false statement and misrepresentation a ground for cancellation of registration (see Article 239 (a), (c) and (d)); it is also a ground for a criminal charge of perjury.

The certification and attestation requirements are preventive measures against the commission of fraud. They likewise afford a measure of protection to unsuspecting employees who may be lured into joining unscrupulous or fly-by-night unions whose sole purpose is to control union funds or to use the union for dubious ends.

In the case of union affiliation with a federation, the documentary requirements are found in Rule II, Section 3(e), Book V of the Implementing Rules, which we again quote as follows: '(c) The local or chapter of a labor federation or national union shall have and maintain a constitution and by-laws, set of officers and books of accounts. For reporting purposes, the procedure governing the reporting of independently registered unions, federations or national unions shall be observed' (italics supplied).

Since the 'procedure governing the reporting of independently registered unions' refers to the certification and attestation requirements contained in Article 235, paragraph 2, it follows that the constitution and by-laws, set of officers and books of accounts submitted by the local and chapter must likewise comply with these requirements. The same rationale for requiring the submission of duly subscribed documents upon union registration exists in the case of union affiliation. Moreover, there is greater reason to exact compliance with the certification and attestation requirements because, as previously mentioned, several requirements applicable to independent union registration are no longer required in the case of the formation of a local or chapter. The policy of the law in conferring greater bargaining power upon labor unions must be balanced with the policy of providing preventive measures against the commission of fraud.[7]

Compared with what happened in the Progressive case, this situation before us now is even worse. There are no

books of account filed before the BLR, the constitution, by-laws and the list of members who supposedly ratified the same were not attested to by the union president, and the constitution and by-laws were not verified under oath.

WHEREFORE, the instant petition is GRANTED and the assailed resolution dated 8 June 1993 of public respondent Secretary of Labor acting through Undersecretary Bienvenido E. Laguesma is SET ASIDE. The decision of the Med-Arbiter dated 19 January 1993 dismissing the petition for certification election is REINSTATED and the restraining order we issued on 24 August 1994 is made permanent.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Quiason, JJ., concur.
Kapunan, J., on official leave.

[1] G.R. No. 96425, 4 February 1992, 205 SCRA 802.

[2] Rollo, pp. 76-79.

[3] Id., p. 85.

[4] Rollo, pp. 83-85.

[5] Id., pp. 129-141.

[6] See Note 1.

[7] See Note 1, pp. 811-812.

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