

ASSOCIATED LABOR UNIONS (ALU) AND PASAR EMPLOYEES ASSOCIATION (PEA-ALU), PETITIONERS, VS. SECRETARY LEONARDO A. QUISUMBING, NATIONAL FEDERATION OF LABOR UNION (NAFLU), AND PHILI...

G.R. No. 128192. April 14, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

This is a petition for certiorari under Rule 65 of the Revised Rules of Court seeking to annul the Resolutions, dated August 20, 1996 and January 3, 1997, respectively, of the Secretary of Labor and Employment in OS-A-3-64-96.

The facts that matter are as follows:

The respondent corporation, Philippine Associated Smelting and Refining Corporation ("PASAR"), and the petitioner, PASAR Employees Association-ALU ("PEA-ALU"), inked a Collective Bargaining Agreement[1] ("CBA"), on November 21, 1990, with a term ending on November 21, 1995.

On November 7, 1995, the private respondent, National Federation of Labor Unions ("NAFLU"), filed a petition for certification election[2] with the Med-Arbitration Unit, Region 8, Department of Labor and Employment ("DOLE"), which petition was granted by Med-Arbiter Rodolfo S. Milado ("Med-Arbiter Milado") in the Order[3] of November 29, 1995, to wit:

"Upon agreement of the parties to hold the certification election provided the petitioner shall furnish the compulsory intervenor its Constitution and By-Laws and other supporting papers, upon issuance of a certificate of registration by the industrial Relations Division, this Office, let the certification election among the one thousand one hundred (1,100) regular rank and file employees/workers of the respondent/employer be GRANTED.

ACCORDINGLY, the following unions shall participate in the certification election:

- National Federation of Labor Unions (NAFLU);
- Pasar Employees Associations Associated Labor Unions - Trade Unions Congress of the Philippines (PEA-ALU-TUCP); and
- No Union."

On December 7, 1995, PEA-ALU interposed a Motion to Dismiss[4] for failure of NAFLU to acquire for and in behalf of its local charter affiliate, (Concerned Organization of PASAR Progressive Employees for Reform, or "COPPER"), a legal personality as a legitimate labor organization, in connection with the aforesaid order of the Med-Arbiter.

On the same day, COPPER was issued by the DOLE a Certificate of Registration[5] as an independent registered labor organization under Registration Certificate No. R0800-95-12-UR-50. Private respondent NAFLU then furnished petitioner PEA-ALU with copies of the Constitution and By-Laws of COPPER-NAFLU through a Compliance with Manifestation[6] dated December 12, 1995.

In his Order[7] of January 26, 1996, Med-Arbiter Milado acted favorably on the Motion to Dismiss the petition for certification election, ruling thus:

"IN VIEW OF THE FOREGOING, this Office is hereby constrained to issue an Order considering the Order of this Office dated November 29, 1995 as vacated, cancelled and/or set aside, and dismissing the instant petition for the reason aforestated."

On February 2, 1996, NAFLU filed a memorandum of appeal with the Secretary of Labor, who, acting thereupon on August 26, 1996, resolved as follows:

"Most importantly, it is clear from the records that herein petitioner attained the status of a legitimate labor organization (local chapter) when it submitted the required documents on 1 December 1995 to the Regional Office and as an independently registered union when it was issued by the Department a registration certificate as independent union on 7 December 1995.

x x x

WHEREFORE, the instant appeal is hereby GRANTED. The Med-Arbiter's Order dated 26 January 1996 is hereby SET ASIDE and his previous Order dated 29 November 1995 ordering the conduct of certification election STANDS."

On September 21, 1996, PEA-ALU mailed its Motion for Reconsideration[8] of the said Resolution of the respondent Secretary but the same was denied in the Resolution[9] issued on January 3, 1997.

Petitioner PEA-ALU's Second Motion for Reconsideration, met the same fate. It was also denied.

Undaunted, petitioners have come to this Court for the reversal of the two Resolutions of respondent Secretary of Labor, aforementioned, raising as issues:

I

WHETHER OR NOT PUBLIC RESPONDENT SECRETARY OF LABOR AND EMPLOYMENT ACTED IN EXCESS OF JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HOLDING THAT PRIVATE RESPONDENT NAFLU'S PETITION FOR CERTIFICATION ELECTION WAS DULY FILED.

II

WHETHER OR NOT PUBLIC RESPONDENT SECRETARY OF LABOR AND EMPLOYMENT ACTED IN EXCESS OF JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION IN THE APPLICATION OF THE "DOCTRINE OF ESTOPPEL" AGAINST HEREIN PETITIONERS.

III

WHETHER OR NOT PUBLIC RESPONDENT SECRETARY OF LABOR AND EMPLOYMENT ACTED IN EXCESS OF JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION WHEN IT INVOKED AND MISAPPLIED FOR THE "FIRST TIME" IN THE RESOLUTION OF THE MOTION FOR RECONSIDERATION "NUNC PRO TUNC" RULING (AS LAID DOWN IN FUR-TUCP VS. LAGUESMA, ET AL, G.R. NO. 109251, 26 MAY 1993) WHICH IS NOT EVEN APPLICABLE TO THE INSTANT CASE.

On March 7, 1997, the Court resolved to "ISSUE the TEMPORARY RESTRAINING ORDER prayed for,

enjoining the public respondent or his authorized representative from proceeding with the certification election scheduled on March 10, 1997 in OS-A-3-64-96(ROVIII-11-10-97)x x x."

The issues posed are interrelated and will be discussed jointly. Pivotal to the issues raised are:

- The legal existence of COPPER at the time of filing of NAFLU's petition for certification election.
- The loss by PEA-ALU of its right to question the allowance of the petition for certification election on the grounds of estoppel and non-appeal.

Petitioners basically adhere to the view that the belated acquisition by NAFLU's affiliate, COPPER, of legal personality as a legitimate labor organization beyond the freedom period did not cure the factual and legal infirmities of NAFLU's petition for certification election. Stated differently, petitioners maintain that a petition for certification election may only be entertained during the freedom period[10] and must be filed by a duly existing labor organization.

To begin with, petitioner PEA-ALU is estopped from contesting the Order of Med-Arbiter Milado inasmuch as the holding of the certification election was "by agreement of the parties". It is worthy to note that the Order granting the petition for certification election, stated:

"Upon agreement of the parties to hold the certification election provided the petitioner shall furnish the compulsory intervenor its Constitution and By-Laws and other supporting papers, upon issuance of a certificate of registration by the Industrial Relations Division, this Office, let the certification election among the one thousand one hundred (1,100) regular rank and file employees/workers of the respondent/employer be GRANTED." (italics ours)

In *Merrill Lynch Futures, Inc. v. Court of Appeals*, [11] this court held that "a party is estopped to challenge the personality of a corporation after having acknowledged the same by entering into a contract with it." In the present case, petitioners acknowledged the legal existence of NAFLU's affiliate by entering into an agreement with NAFLU.

Petitioners aver that their agreement with NAFLU on the holding of a certification election was with a suspensive condition which was not complied with. Considering, however, that the private respondent was able to submit the documents required by the agreement, such compliance retroacted to the day when the agreement was signed[12] and it cured whatever defects the petition was initially tainted with.

The order of Med-Arbiter Milado granting the petition for certification election had become final in view of petitioners' failure to appeal therefrom. Under Article 259 of the Labor Code, a party has the right to appeal an order allowing or granting a petition for certification election:

"Any party to an election may appeal the order or results of the election as determined by the Med-Arbiter directly to the Secretary of Labor and Employment on the ground that the rules and regulations or parts thereof established by the Secretary of Labor and Employment for the conduct of the election have been violated. Such appeal shall be decided within fifteen (15) calendar days."

But the right of appeal may only be exercised within ten (10) calendar days from receipt of the order by the appellant, under Section 9, Rule V, Book V of the Omnibus Rules Implementing the Labor Code, which states:

"The appeal shall be filed within ten (10) calendar days from receipt of the order by the appellant. Any opposition thereto may be filed within ten (10) calendar days from receipt of the appeal. The Regional Director shall within five (5) calendar days forward the entire records of the case to the Office of the Secretary."

Thereunder, the petitioners lost the right of appeal by failing to take such recourse within ten (10) calendar days

from receipt of subject order of Med-Arbiter Milado, which order was issued on November 29, 1995. Instead of appealing the same, petitioners opted to present their Motion to Dismiss of December 14, 1995. Not having seasonably appealed the said order of the Med-Arbiter granting the petition for certification election, petitioners cannot now question the same Order which had already become final.

We discern no error in public respondent Secretary's Resolution denying PEA-ALU's appeal on the ground that:

"The fact that herein petitioner federation's local union attains the status of a legitimate labor organization only after the 60 days freedom period to our mind can not be used as a basis for the dismissal of the petition. The date of the submission by the petitioner of the required documents to the appropriate office, it must be stressed, retroacts to the date of the filing of the petition as ruled by the Supreme Court in the case of Federation of Unions of Rizal (FUR)-TUCP vs. Hon. Bienvenido Laguesma, et. al., (G.R. No. 109251, May 26, 1993), thus: "The Court also noted that on November 16, 1992, DAMBA submitted all the required documents to Regional Office No. IV, Bureau of Labor Relations, as provided for by applicable laws and regulations. We consider that this compliance may be deemed effective, nunc pro tunc, as of the time DAMBA filed its petition for certification election."

Thus, when COPPER submitted on December 1, 1995 to DOLE Regional Office No. 8 all the documents required for the registration of a legitimate labor organization, and the registration was found meritorious on December 7, 1995 with the issuance of its Certificate of Registration, it thereby attained the status of a legitimate labor organization, as of November 17, 1995, when the petition for certification election was filed by NAFLU. By fiction of law, COPPER was already a duly registered labor organization when the petition for certification election was filed and therefore, COPPER could then act as principal of NAFLU, contrary to the submission of petitioners that no "principal-agent" relationship existed, as no principal actually existed.

All things viewed in proper perspective, the ineluctable conclusion is that subject petition for certification election was duly filed and properly granted during the freedom period when the holding of a certification election was in order.

WHEREFORE, the petition is DISMISSED, and the Resolutions, dated August 20, 1996 and January 3, 1997, respectively, of respondent Secretary of Labor and Employment AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Romero, (Chairman), Vitug, and Gonzaga-Reyes, JJ., concur.
Panganiban, J., no part. Former partner of a party's counsel.

[1] Annex "D" of Petition, Rollo, pp. 47-48.

[2] Annex "C" of Petition, Rollo, pp. 43-46.

[3] Annex "E" of Petition, Rollo, pp. 49-50.

[4] Annex "F" of Petition, Rollo, pp. 51-60

[5] Annex "G" of Petition, Rollo, p. 61.

[6] Annex "A" of Comment, Rollo, pp. 166-168.

[7] Annex "H" of Petition, Rollo, pp. 62-63.

[8] Annex "I" of Petition, Rollo, pp. 64-77.

[9] Annex "B" of Petition, Rollo, pp. 40-42.

[10] Republic Planters Bank General Services Employees Union-NATU v. Langesma, 264 SCRA 637.

[11] 211 SCRA 824, 837.

[12] Art 1187 New Civil Code

"The effects of a conditional obligation to give, once the condition has been fulfilled, shall retroact to the day of the constitution of the obligation. xxx

In obligation to do and not to do, the court shall determine in each case, the retroactive effect of the condition that has been complied with".

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