

SAN MIGUEL FOODS, INCORPORATED, PETITIONER, VS. SAN MIGUEL CORPORATION SUPERVISORS AND EXEMPT UNION, RESPONDENT.*G.R. No. 146206. August 01, 2011*

Ponente: PERALTA, J.

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The issues in the present case, relating to the inclusion of employees in supervisor levels 3 and 4 and the exempt employees in the proposed bargaining unit, thereby allowing their participation in the certification election; the application of the “community or mutuality of interests” test; and the determination of the employees who belong to the category of confidential employees, are not novel.

In G.R. No. 110399, entitled *San Miguel Corporation Supervisors and Exempt Union v. Laguesma*,^[1] the Court held that even if they handle confidential data regarding technical and internal business operations, supervisory employees 3 and 4 and the exempt employees of petitioner San Miguel Foods, Inc. (SMFI) are not to be considered confidential employees, because the same do not pertain to labor relations, particularly, negotiation and settlement of grievances. Consequently, they were allowed to form an appropriate bargaining unit for the purpose of collective bargaining. The Court also declared that the employees belonging to the three different plants of San Miguel Corporation Magnolia Poultry Products Plants in Cabuyao, San Fernando, and Otis, having “community or mutuality of interests,” constitute a single bargaining unit. They perform work of the same nature, receive the same wages and compensation, and most importantly, share a common stake in concerted activities. It was immaterial that the three plants have different locations as they did not impede the operations of a single bargaining representative.^[2]

Pursuant to the Court's decision in G.R. No. 110399, the Department of Labor and Employment – National Capital Region (DOLE-NCR) conducted pre-election conferences.^[3] However, there was a discrepancy in the list of eligible voters, i.e., petitioner submitted a list of 23 employees for the San Fernando plant and 33 for the Cabuyao plant, while respondent listed 60 and 82, respectively.^[4]

On August 31, 1998, Med-Arbitrator Agatha Ann L. Daquigan issued an Order^[5] directing Election Officer Cynthia Tolentino to proceed with the conduct of certification election in accordance with Section 2, Rule XII of Department Order No. 9.

On September 30, 1998, a certification election was conducted and it yielded the following results,^[6] thus:

Cabuyao Plant

San Fernando Plant

Total

Yes

23

23

46

No

0

0

0

Spoiled

2

0

2

Segregated

41

35

76

Total Votes

Cast

66

58

124

On the date of the election, September 30, 1998, petitioner filed the Omnibus Objections and Challenge to Voters,[7] questioning the eligibility to vote by some of its employees on the grounds that some employees do not belong to the bargaining unit which respondent seeks to represent or that there is no existence of employer-employee relationship with petitioner. Specifically, it argued that certain employees should not be allowed to vote as they are: (1) confidential employees; (2) employees assigned to the live chicken operations, which are not covered by the bargaining unit; (3) employees whose job grade is level 4, but are performing managerial work and scheduled to be promoted; (4) employees who belong to the Barrio Ugong plant; (5) non-SMFI employees; and (6) employees who are members of other unions.

On October 21, 1998, the Med-Arbiter issued an Order directing respondent to submit proof showing that the employees in the submitted list are covered by the original petition for certification election and belong to the bargaining unit it seeks to represent and, likewise, directing petitioner to substantiate the allegations contained in its Omnibus Objections and Challenge to Voters.[8]

In compliance thereto, respondent averred that (1) the bargaining unit contemplated in the original petition is the Poultry Division of San Miguel Corporation, now known as San Miguel Foods, Inc.; (2) it covered the operations in Calamba, Laguna, Cavite, and Batangas and its home base is either in Cabuyao, Laguna or San Fernando, Pampanga; and (3) it submitted individual and separate declarations of the employees whose votes were challenged in the election.[9]

Adding the results to the number of votes canvassed during the September 30, 1998 certification election, the final tally showed that: number of eligible voters – 149; number of valid votes cast – 121; number of spoiled ballots - 3; total number of votes cast – 124, with 118 (i.e., 46 + 72 = 118) “Yes” votes and 3 “No” votes.[10]

The Med-Arbiter issued the Resolution[11] dated February 17, 1999 directing the parties to appear before the Election Officer of the Labor Relations Division on March 9, 1999, 10:00 a.m., for the opening of the segregated ballots. Thereafter, on April 12, 1999, the segregated ballots were opened, showing that out of the 76 segregated votes, 72 were cast for “Yes” and 3 for “No,” with one “spoiled” ballot.[12]

Based on the results, the Med-Arbiter issued the Order[13] dated April 13, 1999, stating that since the “Yes” vote received 97% of the valid votes cast, respondent is certified to be the exclusive bargaining agent of the supervisors and exempt employees of petitioner's Magnolia Poultry Products Plants in Cabuyao, San Fernando, and Otis.

On appeal, the then Acting DOLE Undersecretary, in the Resolution[14] dated July 30, 1999, in OS-A-2-70-91 (NCR-OD-M-9010-017), affirmed the Order dated April 13, 1999, with modification that George C. Matias, Alma Maria M. Lozano, Joannabel T. Delos Reyes, and Marilyn G. Pajaron be excluded from the bargaining unit which respondent seeks to represent. She opined that the challenged voters should be excluded from the bargaining unit, because Matias and Lozano are members of Magnolia Poultry Processing Plants Monthly Employees Union, while Delos Reyes and Pajaron are employees of San Miguel Corporation, which is a separate and distinct entity from petitioner.

Petitioner’s Partial Motion for Reconsideration[15] dated August 14, 1999 was denied by the then Acting DOLE Undersecretary in the Order[16] dated August 27, 1999.

In the Decision[17] dated April 28, 2000, in CA-G.R. SP No. 55510, entitled San Miguel Foods, Inc. v. The Honorable Office of the Secretary of Labor, Bureau of Labor Relations, and San Miguel Corporation Supervisors and Exempt Union, the Court of Appeals (CA) affirmed with modification the Resolution dated July 30, 1999 of the DOLE Undersecretary, stating that those holding the positions of Human Resource Assistant and Personnel Assistant are excluded from the bargaining unit.

Petitioner’s Motion for Partial Reconsideration[18] dated May 23, 2000 was denied by the CA in the Resolution[19] dated November 28, 2000.

Hence, petitioner filed this present petition raising the following issues:

I.

WHETHER THE COURT OF APPEALS DEPARTED FROM JURISPRUDENCE WHEN IT EXPANDED THE SCOPE OF THE BARGAINING UNIT DEFINED BY THIS COURT'S RULING IN G.R. NO. 110399.

II.

WHETHER THE COURT OF APPEALS DEPARTED FROM JURISPRUDENCE - SPECIFICALLY, THIS COURT'S DEFINITION OF A “CONFIDENTIAL EMPLOYEE” - WHEN IT RULED FOR THE INCLUSION OF THE “PAYROLL MASTER” POSITION IN THE BARGAINING UNIT.

III.

WHETHER THIS PETITION IS A “REHASH” OR A “RESURRECTION” OF THE ISSUES RAISED IN G.R. NO. 110399, AS ARGUED BY PRIVATE RESPONDENT.

Petitioner contends that with the Court's ruling in G.R. No. 110399[20] identifying the specific employees who

can participate in the certification election, i.e., the supervisors (levels 1 to 4) and exempt employees of San Miguel Poultry Products Plants in Cabuyao, San Fernando, and Otis, the CA erred in expanding the scope of the bargaining unit so as to include employees who do not belong to or who are not based in its Cabuyao or San Fernando plants. It also alleges that the employees of the Cabuyao, San Fernando, and Otis plants of petitioner's predecessor, San Miguel Corporation, as stated in G.R. No. 110399, were engaged in "dressed" chicken processing, i.e., handling and packaging of chicken meat, while the new bargaining unit, as defined by the CA in the present case, includes employees engaged in "live" chicken operations, i.e., those who breed chicks and grow chickens.

Respondent counters that petitioner's proposed exclusion of certain employees from the bargaining unit was a rehashed issue which was already settled in G.R. No. 110399. It maintains that the issue of union membership coverage should no longer be raised as a certification election already took place on September 30, 1998, wherein respondent won with 97% votes.

Petitioner's contentions are erroneous. In G.R. No. 110399, the Court explained that the employees of San Miguel Corporation Magnolia Poultry Products Plants of Cabuyao, San Fernando, and Otis constitute a single bargaining unit, which is not contrary to the one-company, one-union policy. An appropriate bargaining unit is defined as a group of employees of a given employer, comprised of all or less than all of the entire body of employees, which the collective interest of all the employees, consistent with equity to the employer, indicate to be best suited to serve the reciprocal rights and duties of the parties under the collective bargaining provisions of the law.[21]

In *National Association of Free Trade Unions v. Mainit Lumber Development Company Workers Union – United Lumber and General Workers of the Phils.*,[22] the Court, taking into account the "community or mutuality of interests" test, ordered the formation of a single bargaining unit consisting of the Sawmill Division in Butuan City and the Logging Division in Zapanta Valley, Kitcharao, Agusan [Del] Norte of the Mainit Lumber Development Company. It held that while the existence of a bargaining history is a factor that may be reckoned with in determining the appropriate bargaining unit, the same is not decisive or conclusive. Other factors must be considered. The test of grouping is community or mutuality of interest. This is so because the basic test of an asserted bargaining unit's acceptability is whether or not it is fundamentally the combination which will best assure to all employees the exercise of their collective bargaining rights.[23] Certainly, there is a mutuality of interest among the employees of the Sawmill Division and the Logging Division. Their functions mesh with one another. One group needs the other in the same way that the company needs them both. There may be differences as to the nature of their individual assignments, but the distinctions are not enough to warrant the formation of a separate bargaining unit.[24]

Thus, applying the ruling to the present case, the Court affirms the finding of the CA that there should be only one bargaining unit for the employees in Cabuyao, San Fernando, and Otis[25] of Magnolia Poultry Products Plant involved in "dressed" chicken processing and Magnolia Poultry Farms engaged in "live" chicken operations. Certain factors, such as specific line of work, working conditions, location of work, mode of compensation, and other relevant conditions do not affect or impede their commonality of interest. Although they seem separate and distinct from each other, the specific tasks of each division are actually interrelated and there exists mutuality of interests which warrants the formation of a single bargaining unit.

Petitioner asserts that the CA erred in not excluding the position of Payroll Master in the definition of a confidential employee and, thus, prays that the said position and all other positions with access to salary and compensation data be excluded from the bargaining unit.

This argument must fail. Confidential employees are defined as those who (1) assist or act in a confidential capacity, in regard (2) to persons who formulate, determine, and effectuate management policies in the field of labor relations.[26] The two criteria are cumulative, and both must be met if an employee is to be considered a confidential employee - that is, the confidential relationship must exist between the employee and his supervisor, and the supervisor must handle the prescribed responsibilities relating to labor relations. The exclusion from bargaining units of employees who, in the normal course of their duties, become aware of management policies relating to labor relations is a principal objective sought to be accomplished by the "confidential employee rule." [27]

A confidential employee is one entrusted with confidence on delicate, or with the custody, handling or care and protection of the employer's property.[28] Confidential employees, such as accounting personnel, should be excluded from the bargaining unit, as their access to confidential information may become the source of undue advantage.[29] However, such fact does not apply to the position of Payroll Master and the whole gamut of employees who, as perceived by petitioner, has access to salary and compensation data. The CA correctly held that the position of Payroll Master does not involve dealing with confidential labor relations information in the course of the performance of his functions. Since the nature of his work does not pertain to company rules and regulations and confidential labor relations, it follows that he cannot be excluded from the subject bargaining unit.

Corollarily, although Article 245[30] of the Labor Code limits the ineligibility to join, form and assist any labor organization to managerial employees, jurisprudence has extended this prohibition to confidential employees or those who by reason of their positions or nature of work are required to assist or act in a fiduciary manner to managerial employees and, hence, are likewise privy to sensitive and highly confidential records.[31] Confidential employees are thus excluded from the rank-and-file bargaining unit. The rationale for their separate category and disqualification to join any labor organization is similar to the inhibition for managerial employees, because if allowed to be affiliated with a union, the latter might not be assured of their loyalty in view of evident conflict of interests and the union can also become company-denominated with the presence of managerial employees in the union membership.[32] Having access to confidential information, confidential employees may also become the source of undue advantage. Said employees may act as a spy or spies of either party to a collective bargaining agreement.[33]

In this regard, the CA correctly ruled that the positions of Human Resource Assistant and Personnel Assistant belong to the category of confidential employees and, hence, are excluded from the bargaining unit, considering their respective positions and job descriptions. As Human Resource Assistant,[34] the scope of one's work necessarily involves labor relations, recruitment and selection of employees, access to employees' personal files and compensation package, and human resource management. As regards a Personnel Assistant,[35] one's work includes the recording of minutes for management during collective bargaining negotiations, assistance to management during grievance meetings and administrative investigations, and securing legal advice for labor issues from the petitioner's team of lawyers, and implementation of company programs. Therefore, in the discharge of their functions, both gain access to vital labor relations information which outrightly disqualifies them from union membership.

The proceedings for certification election are quasi judicial in nature and, therefore, decisions rendered in such proceedings can attain finality.[36] Applying the doctrine of *res judicata*, the issue in the present case pertaining to the coverage of the employees who would constitute the bargaining unit is now a foregone conclusion.

It bears stressing that a certification election is the sole concern of the workers; hence, an employer lacks the personality to dispute the same. The general rule is that an employer has no standing to question the process of certification election, since this is the sole concern of the workers.[37] Law and policy demand that employers

take a strict, hands-off stance in certification elections. The bargaining representative of employees should be chosen free from any extraneous influence of management. A labor bargaining representative, to be effective, must owe its loyalty to the employees alone and to no other.[38] The only exception is where the employer itself has to file the petition pursuant to Article 258[39] of the Labor Code because of a request to bargain collectively.[40]

With the foregoing disquisition, the Court writes finis to the issues raised so as to forestall future suits of similar nature.

WHEREFORE, the petition is DENIED. The Decision dated April 28, 2000 and Resolution dated November 28, 2000 of the Court of Appeals, in CA-G.R. SP No. 55510, which affirmed with modification the Resolutions dated July 30, 1999 and August 27, 1999 of the Secretary of Labor, are AFFIRMED.

SO ORDERED.

Carpio,[*] Velasco, (Chairperson), Abad, and Sereno,**] JJ., concur.

[*] Designated as an additional member in lieu of Associate Justice Jose Catral Mendoza, per Special Order No. 1056a dated July 27, 2011.

[**] Designated as an a additional member, per Special Order No. 1028 dated June 21, 2011.

[1] 343 Phil. 143 (1997).

[2] Id. at 151, 153-154.

[3] Per petitioner's Reply to Comment dated January 6, 2004, its Otis Plant is no longer operational.

[4] See CA Decision dated April 28, 2000, p. 5; rollo, p. 15.

[5] Rollo, pp. 127-130.

[6] Supra note 4.

[7] Rollo, pp. 131-133.

[8] See Resolution dated July 30, 1999 of then Acting DOLE Undersecretary Rosalinda Dimapilis-Baldoz, id. at 84.

[9] Id.

[10] Id.

[11] Rollo, pp. 142-150.

[12] Supra note 8.

[13] Rollo, pp. 88-89.

[14] Per then Acting DOLE Undersecretary Rosalinda Dimapilis-Baldoz, id. at 83-86.

[15] CA rollo, pp. 130-141.

[16] Rollo, p. 87.

[17] Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Corona Ibay-Somera and

Elvi John S. Asuncion, concurring; id. at 11-26.

[18] CA rollo, pp. 437-449.

[19] Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Elvi John S. Asuncion and Eliezer R. Delos Santos, concurring, rollo, pp. 28-29.

[20] San Miguel Corporation Supervisors and Exempt Employees Union v. Laguesma, supra note 1.

[21] Id. at 153, citing University of the Philippines v. Calleja-Ferrer, 211 SCRA 464 (1992), which cited Rothenberg on Labor Relations, p. 482.

[22] G.R. No. 79526, December 21, 1990, 192 SCRA 598.

[23] Id. at 602, citing Democratic Labor Association v. Cebu Stevedoring Company, Inc., et al., 103 Phil 1103 (1958).

[24] Id.

[25] See note 3.

[26] Sugbuanon Rural Bank, Inc., v. Laguesma, G.R. No. 381 Phil. 414, 424 (2000), citing San Miguel Corp. Supervisors and Exempt Employees Union v. Laguesma, supra note 1, at 374, which cited Westinghouse Electric Corp. v. NLRB (CA6) 398 F2d. 689 (1968), Ladish Co., 178 NLRB 90 (1969) and B.F. Goodrich Co., 115 NLRB 722 (1956).

[27] Tunay na Pagkakaisa ng Manggagawa sa Asia Brewery v. Asia Brewery, Inc., G.R. 162025, August 3, 2010, 626 SCRA 376, 387, citing San Miguel Corp. Supervisors and Exempt Employees Union v. Laguesma, supra note 1, at 374-375, which cited Westinghouse Electric Corp. v. NLRB, id., Ladish Co., id., and B.F. Goodrich Co., id.

[28] Pepsi-Cola Products Philippines, Inc. v. Secretary of Labor, G.R. No. 103300, August 10, 1999, 312 SCRA 104, 116.

[29] Golden Farms, Inc. v. Ferrer-Calleja, 256 Phil. 903, 909 (1989), cited in Standard Chartered Bank Employees Union (SCBEU-NUBE) v. Standard Chartered Bank, G.R. No. 161933, April 22, 2008, 552 SCRA 284, 291-292 and Philips Industrial Development, Inc. v. NLRC, G.R. No. 88957, June 25, 1992, 210 SCRA 339, 348.

[30] Art. 245. Ineligibility of managerial employees to join any labor organization; right of supervisory employees. - Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in the collective bargaining unit of the rank-and-file employees but may join, assist or form separate collective bargaining units and/or legitimate labor organizations of their own. The rank-and-file union and the supervisor's union operating within the supervisors' union operating within the same establishment may join the same federation or national union.

[31] Tunay na Pagkakaisa ng Manggagawa sa Asia Brewery v. Asia Brewery, Inc., supra note 27, at 381, citing Metrolab Industries, Inc. v. Roldan-Confesor, G.R. No. 108855, February 28, 1996, 254 SCRA 182, 197.

[32] Id. at 381-382, citing Bulletin Publishing Corporation v. Sanchez, 228 Phil. 600, 608-609 (1986).

[33] Id. at 382, citing Golden Farms, Inc. v. Ferrer-Calleja, supra note 29.

[34] Human Resource Assistant: To support the human resources objectives of the MPPP, MPF this position shall provide coordination, advice, information and assistance to the plant personnel manager in the following duties:

MANPOWER PLANNING (PROCESS[ING] AND LIVE)

- 1.1. Assists and participates in the studies on manning and manpower forecasts needed to meet the current and future personnel requirements of processing, live operations.
- 1.2. Checks plans for the implementation of staff movements such as transfers, promotions and separations of both processing [and] live operations.
- 1.3 Coordinates with all department[s] for the consolidation of manpower cost budget and its complement.
- 1.4 Provides updated organization to the plant management.

COMPENSATION ADMINISTRATION (PROCESSING AND LIVE)

- 2.1 Initially evaluates and classifies all positions.
- 2.2 Prepares salary analyses and recommendations for consultation with compensation dept.
- 2.3 Develops/updates compensation packages for specific personnel when the need arises.
- 2.4 Administers compensation-related benefits, such as extra time worked allowance, special allowance, supplementary allowance, housing assistance, per diem, relocation expense reimbursement, etc.
- 2.5 Provide the Personnel Manager Officer and Compensation Department with the records related to Compensation such as salary profiles per classification used negotiations.

RECRUITMENT (PROCESSING, LIVE)

- 3.1 Conducts preliminary interview of applicants before giving tests.
- 3.2 Coordinates with Dept. Heads/Managers pertaining to internal recruitment selection and hiring of qualified applicants.
- 3.3. Checks all pre-employment papers of the applicants to ensure its completeness such as the requisition, approved Plantilla, applicant's SSS number and TIN, etc. (CA rollo, pp. 66-67) (Emphasis supplied.)

[35] Personnel Assistant:

LABOR RELATIONS

1. Records minutes during Labor Management Cooperation dialogues and CBA negotiations meeting and facilitates the same when requested.
2. Coordinates Grievance Meeting officially submitted by the Union to Management and feedbacks PPM on schedules and results.
3. Provides support to departments in recording of minutes and schedule of Administrative Investigations.
4. Consults and coordinates with SMB Legal Group to seek legal clarification or opinion on certain labor issues and reports to PPM for action.
5. Performs and maintains liaison with union representative on certain issues to minimize courses of action.
6. Ensures timely preparation and submission of DOLE monthly and quarterly reportorial requirements.

EMPLOYEE RELATIONS

1. Facilitates timely implementation of Corporate Special Programs in discussion with the PPM aligned with budgeted costs and Management thrust.
2. Coordinates with local unions for participation/support in the activities of program implementation and reports to PPM on results of meetings.
3. Maintains regular dialogues and liaisoning activities with employees on concern affecting them and provides feedback to PPM. (Id. at 69-70) (Emphasis supplied.)

[36] United Pepsi-Cola Supervisory Union (UPSU) v. Laguesma, 351 Phil. 244, 261 (1998) citing B.F. Goodrich Philippines, Inc. v. B.F. Goodrich (Marikina Factory) Confidential & Salaried Employees Union-NATU, 151 Phil. 585 (1973).

[37] Barbizon Philippines, Inc. v. Nagkakaisang Supervisor ng Barbizon Philippines, Inc. - 330 Phil. 472, 493 (1996), citing Golden Farms, Inc. v. Secretary of Labor, G.R. No. 102130, July 26, 1994, 234 SCRA 517, 523; National Association of Trade Unions - Republic Planters Bank Supervisors Chapter v. Torres, G.R. No. 93468, December 29, 1994, 239 SCRA 546, 551; Philippine Telegraph and Telephone Corp. v. Laguesma, G.R. No. 101730, June 17, 1993, 223 SCRA 452, 456-457.

[38] Barbizon Philippines, Inc. v. Nagkakaisang Supervisor ng Barbizon Philippines, Inc. - NAFLU, supra, citing Golden Farms, Inc. v. Secretary of Labor, supra.

[39] Art. 258. When an employer may file petition. - When requested to bargain collectively, an employer may petition the Bureau for an election. If there is no existing certified collective bargaining agreement in the unit, the Bureau shall, after hearing, order a certification election.

All certification election cases shall be decided within twenty (20) days.

The Bureau shall conduct a certification election within twenty (20) days in accordance with the rules and regulations prescribed by the Secretary of Labor.

[40] National Association of Trade Unions - Republic Planters Bank Supervisors Chapter v. Torres, supra note 37.

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