PHILIPPINE AIRLINES EMPLOYEES ASSOCIATION (PALEA), HEREIN REPRESENTED BY ALEXANDER O. BARRIENTOS, PETITIONER, VS. HON. HANS LEO J. CACDAC (DIRECTOR OF BUREAU OF LABOR RELATIONS)...

G.R. No. 155097. September 27, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

The Philippine Airlines Employees Association (PALEA), represented by its hold-over president Alexander O. Barrientos, appeals the decision rendered on September 5, 2002 by the Court of Appeals (CA) in C.A.-G.R. No. 69889, dismissing its petition for certiorari for lack of merit.[1]

Antecedents

PALEA was the sole and exclusive bargaining representative of all regular rank-and-file employees of Philippine Air Lines. Due to the expiration of the five-year term of its set of officers elected in 1995, PALEA held a general election for its new officers on February 17, 21, 23 and 24, 2000 through a commission on elections (Comelec) composed of a chairman and two members appointed by the incumbent president with the concurrence of three-fourths of all the members of the Board of Directors. After the casting of votes, the Comelec canvassed the votes and proclaimed the winners.

In a resolution dated June 15, 2000 issued in NCR-OD-0003-010-LRD, however, the Regional Director of the Bureau of Labor Relations (BLR), acting upon the petition of some of the presidential candidates as well as some members of PALEA, nullified the general election and the proclamation of the winners on the ground that the general election was found to be riddled with fraud and irregularities; and ordered the holding of another general election under the direct supervision of the Department of Labor and Employment (DOLE).[2]

On appeal, the BLR Director of the National Capital Region issued a resolution on July 28, 2000 affirming the decision of the BLR Regional Director.

Thereafter, Jose Peñas III, who had been proclaimed as the winning candidate for president in the nullified general election, filed a petition for certiorari in the CA to annul the resolution dated July 28, 2000 (C.A.-G.R. SP No. 60886). On March 28, 2001, however, the CA dismissed the petition for certiorari and upheld the order for the conduct of another general election in order to settle the leadership issue in PALEA once and for all.[3]

Subsequently, DOLE carried out pre-election proceedings and designated Cynthia J. Tolentino to head the Comelec.

During the pre-election proceedings, some PALEA members assigned in the PAL Cargo Sub-department filed with the BLR Regional Director a petition to conduct a plebiscite to amend the PALEA Constitution and By-Laws in order that they would have a representative in the PALEA Board of Directors. The filing of the petition caused

the BLR to suspend the conduct of the pre-election conference until the issue on the amendment of the PALEA Constitution and By-Laws was resolved.

On February 15, 2002, the BLR Regional Director dismissed the petition to conduct a plebiscite to amend the PALEA Constitution and By-Laws and directed the immediate conduct of the general election.[4]

The order of February 15, 2002 was appealed.

Through his letter dated February 27, 2002,[5] respondent BLR Director denied the appeal because the assailed order was not appealable for being interlocutory in nature pursuant to Section 5, Rule XXV of Department Order No. 9 of DOLE,[6] considering that the petition to conduct the plebiscite to amend the PALEA Constitution and By-Laws was merely incidental to the issue of the conduct of election. He opined that "[a]bsent final election results as certified by DOLE-NCR, this Office cannot take cognizance of the appeal." He thus informed PALEA that his office was remanding "the entire records of the case to the Regional Office of origin for the continuation of the proceedings."[7]

Nonetheless, PALEA, represented by its holdover president, elevated the denial of the appeal of the February 15, 2002 order to respondent BLR Director.

In the meanwhile, on March 8, 2002, the Comelec went through with the pre-election conference and adopted the election guidelines and mechanics. The general election was set on April 5, 2002, from 7:00 am to 5:00 pm.

PALEA, through its holdover president, filed a petition for certiorari,[8] docketed as C.A.-G.R. SP No. 69889, ascribing grave abuse of discretion to the Regional Director and the BLR Director for issuing the February 15, 2002 order and the February 27, 2002 letter; and praying that a temporary restraining order (TRO) be issued to restrain the holding of the general election scheduled on April 5, 2002.

The CA issued a TRO on the day of the general election, but the Comelec received the TRO only after the close of the polls and the canvass of the ballots was about to start.

In the end, the CA dismissed the petition for certiorari in C.A.-G.R. SP No. 69889, and ordered the Comelec to complete the canvass of the results of the April 5, 2002 election and to proclaim the winners. The CA observed that the petition for certiorari was clearly intended to forestall the implementation of the already final and executory judgment rendered on March 28, 2001 in C.A.-G.R. SP No. 60886 (upholding the resolution dated July 28, 2000 of the BLR Director directing the immediate conduct of election of PALEA). The decretal portion of the decision reads:

> WHEREFORE, the instant petition is hereby DISMISSED for utter lack of merit. Public respondents are hereby ordered to complete the canvass of the results of the 5 April 2002 election of PALEA officers and thereafter to proclaim the winners in the said election.[9]

Hence, this appeal of PALEA, claiming that the CA erred:

> - In granting the affirmative reliefs sought by the private respondents, despite categorically ruling that it had no jurisdiction over the petition;
>
> - In holding that it had no jurisdiction to rule on the issue presented for its resolution by the petitioners;
>
> - In considering the election of PALEA union officers as valid not on the basis of any specific findings of fact but on the totally wrong perception that the petition was filed clearly to forestall the implementation of the already final and executory judgment that directed the immediate conduct of election of PALEA union officers;

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> - In considering the election of PALEA union officers held on April 5, 2002 as valid, although the election was conducted not in accordance with the Constitution and By-Laws or the applicable rule on election of officers of labor organizations embodied in the rules implementing the Labor Code.[10]

Ruling

The petition lacks merit.

In relation to the first and second specification of errors, the CA held:[11]

> Emphatically, a cursory reading of the petition for certiorari, memorandum and rejoinder, would reveal that they did not delve on the matters resolved by the assailed Order and letter. These pleadings never raised the issue of the propriety of the dismissal of the petition to conduct plebiscite to amend the Constitution and By-Laws of PALEA. Likewise, they never argued against the holding of election of PALEA officers under the supervision of the DOLE, but conformably to PALEA's Constitution and By-Laws. Rather, petitioners took a different turn by questioning the manner in which the conduct of the election of PALEA officers was implemented. This is clear when they posed the issue: "How shall the PALEA election of its union officers be conducted?" Corollarily, petitioners argued that the PALEA election of its officers was conducted by the DOLE contrary to the : 1) Constitution and By-Laws of the PALEA; 2) Rules and Regulations Implementing the Labor Code; and 3) Supreme Court Ruling in the case of University of Santo Tomas Faculty Union vs. Dir. Benedicto Ernesto R. Bitonio, et al.. Considering that the election of PALEA officers was actually held on 5 April 2002 as casting of votes was completed and almost seventy percent (70%) of the votes were already canvassed, the petitioners now prayed: 1) That said election be considered null and void; and 2) that this Court issue an order that will permanently enjoin the PALEA elections held on 5 April 2002 as conducted by the DOLE; and 3) that this Court direct the DOLE to supervise the new PALEA election of officers and appoint the chairman of the Committee on Elections to take charge of the same.
>
> Be it noted that the holding of the election on 5 April 2002 was but an implementation of the Resolution of the BLR dated 28 July 2000 which was affirmed by the Court of Appeals in CA- G.R. SP-60886 in the already final and executory judgment dated 28 March 2001. The nullification of the February 2000 election in the aforesaid decision dated 28 March 2001 gave way to the holding of the pre-election conferences by the DOLE. Upon the filing of the petition to conduct plebiscite to amend the Constitution and By-Laws of PALEA, petitioners Romasanta and other PALEA members sought "to enjoin the implementation or enforcement of the Decision ordering the conduct of a new election of PALEA Officers" pending the resolution of the petition. Thus, the NCR-DOLE issued an Order on 25 January 2002 suspending the pre-election conferences which were then being conducted by the Bureau of Labor Relations preparatory to the holding of a new election. Subsequently, the petition to conduct plebiscite to amend the Constitution and By-Laws was dismissed for lack of merit. Thus, the lifting of said Order dated 25 January 2002 and directing of the continuation of the election proceedings in the questioned Order was merely incidental to the dismissal of the petition to amend.
>
> We thus agree with respondents that the present petition for certiorari was actually filed to prevent the conduct of the election of PALEA union officers scheduled on 5 April 2002. (emphasis supplied)

As the foregoing excerpt clearly indicates, the CA found that PALEA had assailed the February 15, 2002 order of the Regional Director and the February 27, 2002 letter of the BLR Director (dismissing the petition to amend the PALEA Constitution and By-Laws for lack of merit), but the arguments PALEA advanced in its petition for certiorari and its other pleadings did not at all touch on the supposed subject matter and assailed only the manner by which the April 5, 2002 election had been conducted.

In view of its rationalization of its dismissal of the petition for certiorari, the CA acted properly and correctly considering that PALEA was unjustified in commencing its special civil action for certiorari.

Indeed, relief in a special civil action for certiorari is available only when the following essential requisites

concur: (a) the petition must be directed against a tribunal, board, or officer exercising judicial or quasi-judicial functions; (b) the tribunal, board, or officer must have acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (c) there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.[12] There is no concurrence of the requisites in C.A.-G.R. SP No. 69889. Firstly, PALEA should have first waited for the final election results as certified by DOLE-NCR before filing the petition for certiorari. As the BLR Director pointed out in the letter dated February 27, 2002, the petition for the plebiscite to amend PALEA's Constitution and By-Laws was merely incidental to the conduct of the general election pursuant to the final and executory decision of the BLR. As such, the recourse open to PALEA was not to forthwith file the petition for certiorari to assail such denial, but to first await the final election results as certified by DOLE-NCR. That PALEA did not so wait signified that it ignored the character of certiorari as an extraordinary recourse to resort to when there is no plain, speedy and adequate remedy in the ordinary course of law. And, secondly, the Regional Director and the BLR Director were definitely not exercising judicial or quasi-judicial functions in respectively issuing the February 15, 2002 order and the February 27, 2002 letter. Instead, they were thereby performing the purely ministerial act of enforcing the already final and executory BLR resolution dated July 28, 2000 directing the conduct of the general election (which the CA had affirmed in CA-G.R. SP-60886 through its final and executory judgment dated March 28, 2001).

Nor are we persuaded by the submission of PALEA that the CA erroneously granted affirmative reliefs prayed for by the private respondents despite dismissing PALEA's petition.

PALEA ignores that, one, the canvass of the April 5, 2002 election was suspended and DOLE was restrained from implementing the order of February 15, 2002 for the immediate conduct of the election as the result of the CA's TRO issued at PALEA's instance; and, two, as the necessary and logical consequence of its dismissal of PALEA's petition for certiorari, the CA directed the completion of the canvass of the election results suspended by the TRO. It should simply be plain that the CA did not unduly abuse its discretion.

Also, contrary to PALEA's urging, the CA did not unduly rule on the validity of the conduct of the election. The statements on the validity of the election the CA made were obiter dicta, or mere expressions of its opinion that were not necessary to its decision to dismiss the petition for certiorari.

IN VIEW OF THE FOREGOING, we deny the petition for review on certiorari, and affirm the decision dated September 5, 2002 rendered by the Court of Appeals in C.A.-G.R. No. 69889.

SO ORDERED.

Carpio Morales, (Chairperson), Peralta,[*] Villarama, Jr., and Sereno, JJ., concur.

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[*] Additional member per Special Order No. 885 dated September 1, 2010.

[1] Rollo, pp. 64-75; penned by Associate Justice Bienvenido L. Reyes, with Associate Justice Roberto A. Barrios (deceased) and Associate Justice Edgardo F. Sundiam (deceased) concurring.

[2] Id., pp. 66-67.

[3] CA Rollo, pp. 120-130.

[4] Rollo, pp. 76-85.

[5] Id., pp. 86-87.

[6] Section 5. Incidental motions will not be given due course. - In all proceedings at all levels, motions for

dismissals or any other incidental motions shall not be given due course, but shall remain as part of the records for whatever purpose they may be worth when the case is decided on the merits.

[7] Rollo, p. 87.

[8] CA Rollo, pp. 2-17.

[9] Rollo, p. 75.

[10] Petition, pp. 12-13; Rollo, pp. 23-24.

[11] Id., pp. 72-73.

[12] Section 1, Rule 65, Rules of Court; Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission, G.R. No. 144322, February 6, 2007, 514 SCRA 346.

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