

**COASTAL SUBIC BAY TERMINAL, INC., PETITIONER, VS.
DEPARTMENT OF LABOR AND EMPLOYMENT – OFFICE OF THE
SECRETARY, COASTAL SUBIC BAY TERMINAL, INC. SUPERVISORY
UNION-APSOTEU, AND C...**

G.R. NO. 157117. November 20, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Court of Appeals' Decision[1] dated August 31, 2001, in CA-G.R. SP No. 54128 and the Resolution[2] dated February 5, 2003, denying petitioner's motion for reconsideration. The Court of Appeals had affirmed the Decision[3] dated March 15, 1999 of the Secretary of the Department of Labor and Employment (DOLE) reversing the Mediator Arbiter's dismissal of private respondents' petitions for certification election.

The facts are as follows:

On July 8, 1998, private respondents Coastal Subic Bay Terminal, Inc. Rank-and-File Union (CSBTI-RFU) and Coastal Subic Bay Terminal, Inc. Supervisory Union (CSBTI-SU) filed separate petitions for certification election before Med-Arbiter Eladio de Jesus of the Regional Office No. III. The rank-and-file union insists that it is a legitimate labor organization having been issued a charter certificate by the Associated Labor Union (ALU), and the supervisory union by the Associated Professional, Supervisory, Office and Technical Employees Union (APSOTEU). Private respondents also alleged that the establishment in which they sought to operate was unorganized.

Petitioner Coastal Subic Bay Terminal, Inc. (CSBTI) opposed both petitions for certification election alleging that the rank-and-file union and supervisory union were not legitimate labor organizations, and that the proposed bargaining units were not particularly described.

Without ruling on the legitimacy of the respondent unions, the Med-Arbiter dismissed, without prejudice to refile, both petitions which had been consolidated. The Med-Arbiter held that the ALU and APSOTEU are one and the same federation having a common set of officers. Thus, the supervisory and the rank-and-file unions were in effect affiliated with only one federation.[4]

The Med-Arbiter ruled as follows:

Viewed in the light of all the foregoing, this Office finds the simultaneous filing of the instant petitions to be invalid and unwarranted. Consequently, this Office has no recourse but to dismiss both petitions without prejudice to the refile of either.

WHEREFORE, PREMISES CONSIDERED, let the instant petitions be, as they are hereby DISMISSED.

SO ORDERED.[5]

Both parties appealed to the Secretary of Labor and Employment, who reversed the decision of the Med-Arbiter. The Secretary thru Undersecretary R. Baldoz, ruled that CSBTI-SU and CSBTI-RFU have separate legal personalities to file their separate petitions for certification election. The Secretary held that APSOTEU is a legitimate labor organization because it was properly registered pursuant to the 1989 Revised Rules and Regulations implementing Republic Act No. 6715, the rule applicable at the time of its registration. It further ruled that ALU and APSOTEU are separate and distinct labor unions having separate certificates of registration from the DOLE. They also have different sets of locals. The Secretary declared CSBTI-RFU and CSBTI-SU as legitimate labor organizations having been chartered respectively by ALU and APSOTEU after submitting all the requirements with the Bureau of Labor Relations (BLR). Accordingly, the Secretary ordered the holding of separate certification election, viz:

WHEREFORE, the decision of the Med-Arbiter, Regional Office No. III is hereby REVERSED. Let separate certification elections be conducted immediately among the appropriate employees of CSBTI, after the usual pre-election conference, with the following choices:

I. For all rank and file employees of CSBTI:

- COASTAL SUBIC BAY TERMINAL, INC. RANK-AND-FILE UNION-ALU-TUCP; and
- NO UNION.

II. For all supervisory employees of CSBTI:

- COASTAL SUBIC BAY TERMINAL, INC. SUPERVISORY EMPLOYEES UNION-APSOTEU; and
- NO UNION.

The latest payroll of the employer, including its payrolls for the last three months immediately preceding the issuance of this decision, shall be the basis for determining the qualified list of voters.

SO DECIDED.[6]

The motion for reconsideration was also denied.[7]

On appeal, the Court of Appeals affirmed the decision of the Secretary.[8] It held that there was no grave abuse of discretion on the part of the Secretary; its findings are supported by evidence on record; and thus should be accorded with respect and finality.[9]

The motion for reconsideration was likewise denied.[10] Hence, the instant petition by the company anchored on the following grounds:

I

THE HONORABLE COURT OF APPEALS ERRED IN RELYING ON THE "1989 REVISED RULES AND REGULATIONS IMPLEMENTING RA 6715" AS BASIS TO RECOGNIZE PRIVATE RESPONDENT APSOTEU'S REGISTRATION BY THE DOLE REGIONAL DIRECTOR.

II

THE HONORABLE COURT OF APPEALS ERRED WHEN IT AFFIRMED PUBLIC RESPONDENT'S APPLICATION OF THE PRINCIPLE OF STARE DECISIS TO HASTILY DISPOSE OF THE LEGAL PERSONALITY ISSUE OF APSOTEU.

III

THE HONORABLE COURT OF APPEALS DID NOT DECIDE IN ACCORD WITH LAW AND

JURISPRUDENCE WHEN IT AFFIRMED PUBLIC RESPONDENT'S APPLICATION OF THE "UNION AUTONOMY" THEORY.

IV

IN AFFIRMING PUBLIC RESPONDENT'S FINDING THAT PRIVATE RESPONDENTS ARE "SEPARATE FEDERATIONS," THE HONORABLE COURT OF APPEALS:

(1) IGNORED JURISPRUDENCE RECOGNIZING THE BINDING NATURE OF A MED-ARBITER'S FACTUAL FINDINGS; AND

(2) DISREGARDED EVIDENCE ON RECORD OF "ILLEGAL COMMINGLING." [11]

Plainly, the issues are (1) Can the supervisory and the rank-and-file unions file separate petitions for certification election?; (2) Was the Secretary's decision based on stare decisis correct?; and (3) Were private respondents engaged in commingling?

The issue on the status of the supervisory union CSBTI-SU depends on the status of APSOTEU, its mother federation.

Petitioner argues that APSOTEU improperly secured its registration from the DOLE Regional Director and not from the BLR; that it is the BLR that is authorized to process applications and issue certificates of registration in accordance with our ruling in *Phil. Association of Free Labor Unions v. Secretary of Labor*; [12] that the certificates of registration issued by the DOLE Regional Director pursuant to the rules are questionable, and possibly even void ab initio for being ultra vires; and that the Court of Appeals erred when it ruled that the law applicable at the time of APSOTEU's registration was the 1989 Revised Implementing Rules and Regulations of Rep. Act No. 6715.

Petitioner insists that APSOTEU lacks legal personality, and its chartered affiliate CSBTI-SU cannot attain the status of a legitimate labor organization to file a petition for certification election. It relies on *Villar v. Inciong*; [13] where we held therein that Amigo Employees Union was not a duly registered independent union absent any record of its registration with the Bureau.

Pertinent is Article 235 [14] of the Labor Code which provides that applications for registration shall be acted upon by the Bureau. "Bureau" as defined under the Labor Code means the BLR and/or the Labor Relations Division in the Regional Offices of the Department of Labor. [15] Further, Section 2, Rule II, Book V of the 1989 Revised Implementing Rules of the Labor Code (Implementing Rules) provides that:

Section 2. Where to file application; procedure – Any national labor organization or labor federation or local union may file an application for registration with the Bureau or the Regional Office where the applicant's principal offices is located. The Bureau or the Regional Office shall immediately process and approve or deny the application. In case of approval, the Bureau or the Regional Office shall issue the registration certificate within thirty (30) calendar days from receipt of the application, together with all the requirements for registration as hereinafter provided. [16]

The Implementing Rules specifically Section 1, Rule III of Book V, as amended by Department Order No. 9, thus:

SECTION 1. Where to file applications. – The application for registration of any federation, national or industry union or trade union center shall be filed with the Bureau. Where the application is filed with the Regional Office, the same shall be immediately forwarded to the Bureau within forty-eight (48) hours from filing thereof, together with all the documents supporting the registration.

The applications for registration of an independent union shall be filed with and acted upon by the Regional

Office where the applicant's principal office is located

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The DOLE issued Department Order No. 40-03, which took effect on March 15, 2003, further amending Book V of the above implementing rules. The new implementing rules explicitly provide that applications for registration of labor organizations shall be filed either with the Regional Office or with the BLR.[17]

Even after the amendments, the rules did not divest the Regional Office and the BLR of their jurisdiction over applications for registration by labor organizations. The amendments to the implementing rules merely specified that when the application was filed with the Regional Office, the application would be acted upon by the BLR.

The records in this case showed that APSOTEU was registered on March 1, 1991. Accordingly, the law applicable at that time was Section 2, Rule II, Book V of the Implementing Rules, and not Department Order No. 9 which took effect only on June 21, 1997. Thus, considering further that APSOTEU's principal office is located in Diliman, Quezon City, and its registration was filed with the NCR Regional Office, the certificate of registration is valid.

The petitioner misapplied *Villar v. Inciong*.[18] In said case, there was no record in the BLR that Amigo Employees Union was registered.[19]

Did the Court of Appeals err in its application of *stare decisis* when it upheld the Secretary's ruling that APSOTEU is a legitimate labor organization and its personality cannot be assailed unless in an independent action for cancellation of registration certificate?[20]

We think not.

Section 5, Rule V, Book V of the Implementing Rules states:

Section 5. Effect of registration – The labor organization or workers' association shall be deemed registered and vested with legal personality on the date of issuance of its certificate of registration. Such legal personality cannot thereafter be subject to collateral attack, but maybe questioned only in an independent petition for cancellation in accordance with these Rules.[21]

Thus, APSOTEU is a legitimate labor organization and has authority to issue charter to its affiliates.[22] It may issue a local charter certificate to CSBTI-SU and correspondingly, CSBTI-SU is legitimate.

Are ALU, a rank-and-file union and APSOTEU, a supervisory union one and the same because of the commonalities between them? Are they commingled?

The petitioner contends that applying by analogy, the doctrine of piercing the veil of corporate fiction, APSOTEU and ALU are the same federation. Private respondents disagree.

First, as earlier discoursed, once a labor union attains the status of a legitimate labor organization, it continues as such until its certificate of registration is cancelled or revoked in an independent action for cancellation.[23] In addition, the legal personality of a labor organization cannot be collaterally attacked.[24] Thus, when the personality of the labor organization is questioned in the same manner the veil of corporate fiction is pierced, the action partakes the nature of a collateral attack. Hence, in the absence of any independent action for cancellation of registration against either APSOTEU or ALU, and unless and until their registrations are cancelled, each continues to possess a separate legal personality. The CSBTI-RFU and CSBTI-SU are therefore affiliated with distinct and separate federations, despite the commonalities of APSOTEU and ALU.

Under the rules implementing the Labor Code, a chartered local union acquires legal personality through the

charter certificate issued by a duly registered federation or national union, and reported to the Regional Office in accordance with the rules implementing the Labor Code.[25] A local union does not owe its existence to the federation with which it is affiliated. It is a separate and distinct voluntary association owing its creation to the will of its members. Mere affiliation does not divest the local union of its own personality, neither does it give the mother federation the license to act independently of the local union. It only gives rise to a contract of agency, where the former acts in representation of the latter.[26] Hence, local unions are considered principals while the federation is deemed to be merely their agent.[27] As such principals, the unions are entitled to exercise the rights and privileges of a legitimate labor organization, including the right to seek certification as the sole and exclusive bargaining agent in the appropriate employer unit.

A word of caution though, under Article 245 of the Labor Code,[28] supervisory employees are not eligible for membership in a labor union of rank-and-file employees. The supervisory employees are allowed to form their own union but they are not allowed to join the rank-and-file union because of potential conflicts of interest.[29] Further, to avoid a situation where supervisors would merge with the rank-and-file or where the supervisors' labor union would represent conflicting interests, a local supervisors' union should not be allowed to affiliate with the national federation of unions of rank-and-file employees where that federation actively participates in the union activity within the company.[30] Thus, the limitation is not confined to a case of supervisors wanting to join a rank-and-file union. The prohibition extends to a supervisors' local union applying for membership in a national federation the members of which include local unions of rank-and-file employees.[31] In *De La Salle University Medical Center and College of Medicine v. Laguesma*, we reiterated the rule that for the prohibition to apply, it is not enough that the supervisory union and the rank-and-file union are affiliated with a single federation. In addition, the supervisors must have direct authority over the rank-and-file employees.[32]

In the instant case, the national federations that exist as separate entities to which the rank-and-file and supervisory unions are separately affiliated with, do have a common set of officers. In addition, APSOTEU, the supervisory federation, actively participates in the CSBTI-SU while ALU, the rank-and-file federation, actively participates in the CSBTI-RFU, giving occasion to possible conflicts of interest among the common officers of the federation of rank-and-file and the federation of supervisory unions. For as long as they are affiliated with the APSOTEU and ALU, the supervisory and rank-and-file unions both do not meet the criteria to attain the status of legitimate labor organizations, and thus could not separately petition for certification elections.

The purpose of affiliation of the local unions into a common enterprise is to increase the collective bargaining power in respect of the terms and conditions of labor.[33] When there is commingling of officers of a rank-and-file union with a supervisory union, the constitutional policy on labor is circumvented. Labor organizations should ensure the freedom of employees to organize themselves for the purpose of leveling the bargaining process but also to ensure the freedom of workingmen and to keep open the corridor of opportunity to enable them to do it for themselves.

WHEREFORE, the petition is GRANTED. The Court of Appeals' Decision dated August 31, 2001, in CA-G.R. SP No. 54128 and the Resolution dated February 5, 2003 are SET ASIDE. The decision of the Med-Arbitrator is hereby AFFIRMED.

SO ORDERED.

Carpio, Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 51-64.

[2] Id. at 66.

[3] Id. at 154-158.

[4] Id. at 126-127.

[5] Id. at 127.

[6] Id. at 158.

[7] Id. at 171-172.

[8] Id. at 63.

[9] Id. at 62.

[10] Id. at 66.

[11] Id. at 23-24.

[12] No. L-22228, February 27, 1969, 27 SCRA 40.

[13] Nos. L-50283-84, April 20, 1983, 121 SCRA 444.

[14] ART. 235. Action on application. – The Bureau shall act on all applications for registration within thirty (30) days from filing.

All requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president.

[15] Article 212 (b).

[16] Rules and Regulations Implementing R.A. 6715, approved by Secretary of the Department of Labor and Employment Franklin Drilon on May 24, 1989.

[17] Rule III, Section 1 in relation to Rule I, Section 1(f).

Rule III, Section 1. Where to file. – Applications for registration of independent labor unions, chartered locals, workers' associations shall be filed with the Regional Office where the applicant principally operates. It shall be processed by the Labor Relations Division at the Regional Office in accordance with Sections 2-A, 2-C, and 2-E of this Rule.

Applications for registration of federations, national unions or workers' associations operating in more than one region shall be filed with the Bureau or the Regional Offices, but shall be processed by the Bureau in accordance with Sections 2-B and 2-D of this Rule.

[18] Supra note 13.

[19] LABOR CODE, Article 231.

ART 231. Registry of unions and file of collective agreements. - The Bureau shall keep a registry of legitimate labor organizations

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[20] Rollo, p. 156.

[21] Sec. 5, Rule V, Book V of the Implementing Rules of the Labor Code.

[22] Sec. 1, Rule VI, Book V of the Implementing Rules of the Labor Code.

[23] Supra note 21.

[24] See *Tagaytay Highlands International Golf Club, Incorporated v. Tagaytay Highlands Employees Union-PTGWO*, G.R. No. 142000, January 22, 2003, 395 SCRA 699, 707.

[25] Section 1(i), Rule I, Book V of the Implementing Rules of the Labor Code.

[26] *Alliance of Nationalist and Genuine Labor Org. v. Samahan ng mga Manggagawang Nagkakaisa sa Manila Bay Spinning Mills*, G.R. No.118562, July 5, 1996, 258 SCRA 371, 377.

[27] *De La Salle University Medical Center and College of Medicine v. Laguesma*, G.R. No. 102084, August 12, 1998, 294 SCRA 141, 149.

[28] 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 a labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own.

[29] *Atlas Lithographic Services, Inc. v. Laguesma*, G.R. No. 96566, January 6, 1992, 205 SCRA 12, 17.

[30] *Id.* at 19.

[31] *Id.*

[32] Supra note 27 at 150.

[33] *Id.* at 149 citing *Liberty Cotton Mills Workers Union v. Liberty Cotton Mills, Inc.*, No. L-33987, September 4, 1975, 66 SCRA 512, 519.

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