

BUKLURAN NG MANGGAGAWA SA CLOTHMAN KNITTING CORPORATION – SOLIDARITY OF UNIONS IN THE PHILIPPINES FOR EMPOWERMENT AND REFORMS (BMC-SUPER) AND RAYMOND TOMAROY, ROEL SARDONIDOS, J...

G.R. No. 158158. January 17, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review of the Resolutions[1] of the Court of Appeals (CA) in CA-G.R. SP No. 73353 filed by the Bukluran ng Manggagawa sa Clothman Knitting Corporation – Solidarity of Unions in the Philippines for Empowerment and Reforms (the petitioner union) and Raymond Tomaroy, Roel Sardonidos, Joseph Sederio, Maritchu Javellana, Enrique Omadto, Efren Mogar, Francisco Bertulfo, Judy Roquero, Paterno Silvestre, Cayetano Palmon, Teodoro Ocop and Joseph Estifano.

Respondent Clothman Knitting Corporation (CKC) is a domestic corporation engaged in knitting/textiles.[2] It has approximately one hundred forty-four (144) rank-and-file employees. The petitioner union is a legitimate labor organization of rank-and-file employees therein. The petitioners were rank-and-file employees of the respondent and were also members and officers of the petitioner union.

In the year 2001, the rank-and-file employees at the CKC banded together and formed the petitioner union. It was registered with the Department of Labor and Employment (DOLE) on February 23, 2001. In reaction thereto, the respondent, headed by its President, Paul U. Lee, gathered the employees and advised them not to listen to outsiders.[3]

Meanwhile, another group of rank-and-file employees banded together and formed the Nagkakaisang Lakas ng Manggagawa sa Clothman Corporation – Katipunan (NLM-Katipunan). The NLM-Katipunan was issued a certificate of registration on April 23, 2001 by the DOLE.[4] A petition for certification election was later filed by the petitioner union with the Bureau of Labor Relations (BLR).

Pending the resolution of the petition for certification election, the respondent issued a Memorandum[5] dated March 2, 2001, informing the employees of the change in the schedule brought about by the decrease in the orders from the customers.

On March 10, 2001, another Memorandum[6] was issued by the respondent informing its employees at the Dyeing and Finishing Division that a temporary shutdown of the operations therein would be effected for one week, from March 12 to 17, 2001. The employees were advised to go on vacation leave, and were asked to verify any changes in the schedule from the Human Resources Division on March 17, 2001.

Unable to solve its financial problems, the respondent decided to temporarily shutdown its operations at the Dyeing and Finishing Division effective the next day, scheduled to resume until further notice. It notified the DOLE of the said shutdown on May 26, 2001.[7] The operations of the other divisions of the CKC remained

normal.

For its reduced dyeing and finishing needs, the respondent brought the textiles to Crayons, Inc., a sister company. On June 11, 2001, while the respondent's service truck with plate number TBK-158 was to deliver fabrics in Bulacan, the group of petitioner Raymond Tomaroy and some companions approached the truck as it made its way towards Don Pedro Street and blocked its way. As a result, the driver of the service truck decided to return to the respondent's compound. Later that day, petitioner Tomaroy, with sixteen (16) members of the petitioner union, staged a picket in front of the respondent's compound, carrying placards with slogans that read:

- Itigil ang sabwatan ng KATIPUNAN (FABIAN GROUP) at management BMC-SUPER.
- Mr. Paul Lee – Huwag mong ipitin ang mid-year, 13th month pay ng mga manggagawa sa CKC. BMC-SUPER.
- Ibalik ang pasok sa Finishing Department.
- Mr. Paul Lee – Magagara ang sasakyan mo, Montero, BMW, Pajero pero kaunting benepisyo ng manggagawa ay di mo maibigay. BMC-SUPER.
- Kilalanin ang karapatan ng manggagawa na magtatag ng unyon. BMC-SUPER.[8]

On June 14, 2001, twenty-three (23) members of the petitioner union gathered in front of the respondent's compound carrying the same placards. Later that day, petitioner Tomaroy agreed to talk to the management with the following priority demands: (a) resumption of work; and (b) 13th month pay.[9] The next day, members of the petitioner union and their supporters gathered in front of the respondent's compound.[10] From June 16, 2001 up to June 18, 2001, the members, as well as supporters of the union, gathered again in front of the company's compound.[11]

On June 25, 2001, the respondent filed a petition to declare the strike illegal before the arbitration branch of the National Labor Relations Commission (NLRC), docketed as NLRC-NCR 06-03332-2001.[12] The respondent alleged that the picket of the members of the union from June 11, 2001 to June 18, 2001 in front of the company's compound constituted an illegal strike. It cited the following reasons:

- a) The strikers/picketers did not conduct a strike vote and no cooling-off period was observed;
- b) The strikers/picketers did not file a notice of strike;
- c) The reasons for the strike/picket involve a non-strikeable issue;
- d) The work slowdown/picket caused damages to the petitioner in the sum of FIVE MILLION PESOS (P5,000,000.00);
- e) The illegal acts of respondents constrained petitioner to seek the services of undersigned counsel for an attorney's fee of P50,000.00 and P2,000.00 per appearance.[13]

In a Decision dated October 18, 2001, the Labor Arbiter granted the petition, declared the strike illegal and the employment status of the union officers who participated therein as terminated:

WHEREFORE, in view of the foregoing, the petition filed by the petitioner is hereby GRANTED.

The strike conducted by the respondents is hereby declared as illegal.

Consequently, due to their illegal activities, the respondents namely: RAYMOND TOMAROY, President, ROEL SARDONIDOS, Vice-President, JOSEPH SEDERIO, Secretary, MARITCHU JAVELLANA, Treasurer, ENRIQUE OMADTO, Auditor, EFREN MOGAR, P.R.O., and FRANCISCO BERTULFO, P.R.O.

and Board of Directors: JUDY ROQUERO, PATERNO SILVESTRE, CAYETANO PALMON, TEODORO OCOP and JOSEPH ESTIFANO are hereby declared to have lost their employment status with the petitioner.[14]

The Labor Arbiter found that the continued decline in job prompted the respondent to implement a reduced working day from the original six (6) days to three (3) days per week because of the continued decrease of job orders, which further led to its decision to temporarily stop the operation in its Dyeing and Finishing Division for one (1) week – March 12 to 17, 2001. The affected employees were then requested to utilize their vacation leaves and were, thereafter, admitted back to work. However, Tomaroy and members of the union staged a strike, and the labor unrest resulted in the cancellation of job orders amounting to P6,380,817.50. The aforesaid losses prompted the petitioner to close and stop the business operations of its Dyeing and Finishing Division.

It is worthy to note that the whole company did not cease to operate and that it was only the workers in the Dyeing and Finishing Division who were affected by the temporary lay-off. Thus, when the respondents conducted a picket in front of the company's premises, the whole business operations of the respondent was affected. As borne out by the records, the Labor Arbiter found that the petitioners therein failed to comply with the requirements for a valid strike, to wit:

- It was not based on a valid factual ground, either based on Collective Bargaining Deadlock and/or Unfair Labor Practice;
- No notice of strike was filed with the National Conciliation and Mediation Board of the DOLE;
- There was no strike-vote taken by the majority members of the union;
- There was no strike-vote report submitted to the DOLE at least seven (7) days before the intended date of the strike;
- The cooling-off period prescribed by law was not observed; and
- The 7-day visiting period after submission of the strike vote report was not fully observed.[15]

Thus, the Labor Arbiter ruled that the strike staged by the petitioner union was illegal; hence, the union officers who knowingly participated in an illegal strike, already lost their employment status.[16]

Aggrieved, the petitioner union interposed an appeal before the NLRC, docketed as NLRC-CA-030216-01. In a Resolution promulgated on May 10, 2002, the NLRC dismissed the appeal and affirmed the decision of the Labor Arbiter:

WHEREFORE, in view of the foregoing, and finding no cogent reason to disturb the finding of the Labor Arbiter a quo, the assailed decision is hereby AFFIRMED.[17]

The NLRC reasoned that it found no instances and/or situation befitting grave abuse of discretion on the part of the Labor Arbiter.

Dissatisfied, the petitioner union filed a motion for reconsideration which was denied in a Resolution[18] dated July 24, 2002.

The petitioner union filed a petition for certiorari before the CA, docketed as CA-G.R. SP No. 73353, raising the following error:

- PUBLIC RESPONDENTS, THE HONORABLE LABOR ARBITER AND THE COMMISSIONERS OF THE NATIONAL LABOR RELATIONS COMMISSION COMMITTED PATENT GRAVE ABUSE (SIC) OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN THEY FAILED TO

APPRECIATE FACTS AND EVIDENCES, APPLICABLE LAWS AND EXISTING JURISPRUDENCE AND, IF NOT CORRECTED, WOULD CAUSE IRREPARABLE DAMAGE TO HEREIN RESPONDENTS.[19]

In a Resolution[20] dated October 25, 2002, the CA dismissed the petition. The CA found that, contrary to Section 3, Rule 46 of the 1997 Rules of Civil Procedure, the petition for certiorari filed by the petitioner union did not contain the full names and actual addresses of all the petitioners and the respondents, as the petition merely mentioned “BMC-SUPER, et al.” as the petitioners. Further, the petition and the certification on non-forum shopping were signed by Raymond P. Tomaroy, who claimed to be the union president/authorized representative of petitioners without, however, any such authorization from the labor union and the other petitioners covered by the abbreviation et al. Moreover, the petition was not verified as required by Section 1, Rule 65 of the 1997 Rules of Civil Procedure; hence, did not produce legal effect as provided for in Section 4, Rule 7 of the Rules of Court.

In addition, the petition was signed by petitioner Raymond P. Tomaroy in his capacity as union president/authorized representative, assisted by Enrique T. Belarmino, Legal Head of Solidarity of Unions in the Philippines for Empowerment and Reforms, neither of whom was a duly authorized member of the Integrated Bar of the Philippines. Hence, according to the appellate court, neither of them had authority to conduct litigation before the CA.[21] A motion for reconsideration was filed by the petitioner union which was similarly denied in a Resolution[22] dated April 21, 2003. The CA reasoned that, contrary to the petitioners’ insistence that the verification was signed by Raymond P. Tomaroy, page 16 of the petition filed before it did not bear such signature. Moreover, the special power of attorney attached to the motion for reconsideration was subscribed and sworn to by the signatories therein before Notary Public Orlando C. Dy only on November 20, 2002, i.e., more than one (1) month after the filing of the petition on October 15, 2002. Consequently, the special power of attorney did not cure the defect in the certification against forum shopping signed by Raymond Tomaroy, which was, likewise, not accompanied by proof that he was authorized to file the petition on behalf of the petitioner union.

The CA clarified that the authority of non-lawyers to represent the labor organization or members thereof applies only to proceedings before the NLRC or Labor Arbiters, as provided for in Article 222 of the Labor Code. On the other hand, a non-lawyer may appear before it only if he is a party-litigant. However, Raymond P. Tomaroy did not appear to be a party in the case before the CA as his name was not mentioned in the caption nor in the body of the petition.[23]

Aggrieved, the petitioners filed the instant petition contending that:

I

PUBLIC RESPONDENT COURT OF APPEALS ERRED WHEN IT DISMISSED THE PETITIONERS’ APPEAL ON GROUNDS OF TECHNICALITIES.

II

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ERRED [WHEN] IT AFFIRMED THE FINDINGS OF THE HONORABLE LABOR ARBITER THAT PETITIONERS COMMITTED ILLEGAL STRIKE.[24]

On the first ground, the petitioners allege that they complied with Section 3, Rule 46 and Section 7, Rule 3 of the Rules of Court. They contend that the petition filed before the CA by the petitioner union’s president was sanctioned by Article 242 of the Labor Code, and the cases of *Liberty Manufacturing Workers Union v. CFI of Bulacan*,[25] *Davao Free Workers Front v. CIR*,[26] and *La Carlota Sugar Central v. CIR*. [27] The petitioner union insists that it would be illogical for the union, as an entity, to require all its members to sign the said petition

and the certificate of non-forum shopping. It avers that a labor union is a judicial entity which functions thru its officers. Thus, the president, as an officer of the union, needed no special power of attorney to sign for the union. It stresses that it did not violate Section 34, Rule 138 of the Rules of Court.

The petitioner union further invokes the policy that the “rules of technicality must yield to the broader interest of substantial justice;” when the rules strictly applied resulting in technicalities that tend to frustrate rather than promote justice, this Court is empowered to support the rules.

The petitioners argue that they did not stage a strike, much more an illegal strike. They explain that a strike means work stoppage. Considering that the Dyeing and Finishing Division of the respondent was shutdown, it could not have caused a work stoppage. The union members merely picketed in front of the respondent’s factory to urge the respondent to open and order the resumption of the operations in its Dyeing and Finishing Division. There was, thus, no need to comply with the requirements laid down by Article 263 of the Labor Code and its implementing rules.

For its part, the respondent prayed that the petition be dismissed on the ground that the petition filed before the CA failed to comply with Section 1 of Rule 65, Section 3 of Rule 46, and Section 7 of Rule 3 of the Rules of Court, and that the requirement as to the signatories in the petition failed to comply with Section 3, Rule 7 of the Rules of Court. The respondent reiterates that the petitioners staged an illegal strike, and that as officers of the union who participated therein, the petitioners are deemed to have lost their employment status.

The contention of the petitioners is erroneous. They are of the erroneous impression that the only respondent in the NLRC was the petitioner union and that it was sued in its representative capacity. The fact of the matter is that the respondent sued not only the petitioner union as respondent, but also its officers and members of its Board of Directors as principal respondents, and sought the termination of the employment of the said officers. The Labor Arbiter rendered judgment against all the respondents therein and declared the officers to have lost their employment status. The NLRC affirmed the decision on appeal. It was not only the union that assailed the decision of the NLRC in the CA, but also the dismissed officers. The petitioners (respondents therein) prayed for the reversal thereof and that another judgment be rendered as prayed for by them in their position paper in the NLRC, thus:

WHEREFORE, premises considered, it is respectfully prayed to this Honorable Labor Arbiter that, after submission of this Position Paper, the above entitled case be considered submitted for resolution, and the decision be rendered in favor of the respondents employees:

1. Declaring Petitioners guilty of illegal reduction of working days, shutdown and UNFAIR LABOR PRACTICES against individual respondents;
2. Ordering petitioners be, jointly and severally, liable to pay respondents actual damages, payment of MORAL and EXEMPLARY DAMAGES in the amount of not less than P50,000.00 each individual employees and 10% of the total monetary award for the Office of BMC-SUPER plus P10,000.00 litigation expenses;
3. Ordering that Petitioner Paul Lee be in contempt of court and be fined to pay individual respondents in the amount of P50,000.00 each or imprisonment of Two (2) to Four (4) Years or both.

Other relief and remedies equitable in the premises are, likewise, prayed for.[28]

Under Section 3 of Rule 46 in relation to Section 1, Rule 65 of the Rules of Court, the petition for certiorari shall contain the full names and actual addresses of all the petitioners and the respondents, and that the failure of the petitioners to comply with the said requirement shall be sufficient ground for the dismissal of their petition:

Sec. 3. Contents and filing of petition; effect of non-compliance with requirements. – The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case and the grounds relied upon for the relief prayed for.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof, such material portions of the record as are referred to therein and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

The petitioner shall also submit together with the petition a sworn certification that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and if he should, thereafter, learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.

The petitioner shall pay the corresponding docket and other lawful fees to the clerk of court and deposit the amount of P500.00 for costs at the time of the filing of the petition.

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.

Moreover, under Section 1, Rule 7 of the Rules of Court, the title of the action indicates the names of the parties who shall be named in the original petition:

Section 1. Caption. – The caption sets forth the name of the court, the title of the action, and the docket number, if assigned.

The title of the action indicates the names of the parties. They shall all be named in the original complaint or petition; but in subsequent pleadings, it shall be sufficient if the name of the first party on each side be stated with an appropriate indication when there are other parties.

Their respective participation in the case shall be indicated.

In this case, the title of the petition for certiorari filed in the CA does not contain the names of the petitioners officers of the petitioner BMC-SUPER and of the members of the Board of Directors; even the petition itself does not contain the full names and addresses of the said officers and members of the Board of Directors of the petitioner union. We quote the title of the petition and the averments thereof having reference to the parties-petitioners:

BUKLURAN NG MANGGAGAWA SA CLOTHMAN KNITTING CORPORATION – SOLIDARITY OF UNIONS IN THE PHILIPPINES FOR EMPOWERMENT AND REFORMS (BMC-SUPER), ET AL.,

Petitioner,

-vs-

CLOTHMAN KNITTING CORPORATION,

Respondents.[29]

...

Petitioners, BUKLURAN NG MANGGAGAWA SA CLOTHMAN – SOLIDARITY OF UNIONS FOR EMPOWERMENT AND REFORMS (BMC-SUPER), et al., is a legitimate labor organization with Charter Certificate No. S-102, can be served with summons and other processes at 4th Floor Perlas Building, 646 Quezon Avenue, Quezon City.

Private Respondent, CLOTHMAN KNITTING CORPORATION, is a domestic corporation organized and existing under and by virtue of Philippine Laws engaged in textile industry with principal place of business at No. 57 Don Pedro Street, Don Pedro Village, Marulas, Valenzuela City.

Public Respondents, National Labor Relations Commission, Second Division, herein impleaded as the tribunal exercising judicial functions who issued the assailed decision in NLRC Case No. 05-03332-2001.[30]

The petitioners' reliance on the ruling of this Court in *Davao Free Workers Front v. CIR*[31] is misplaced. In the said case, the Court held that the failure to specify the details regarding the number and names of the striking members of a labor union in the decision or in the complaint was of no consequence. This is due to the fact that it was established that all the union members went on strike as a result of the unfair labor practice of the employer, in consonance with the rule that it is precisely the function of a labor union to carry the representation of its members, particularly against the employer's unfair labor practices against it and its members, and to file an action for their benefit and behalf without joining each and every member as a separate party.

Significantly, the full names and addresses of the officers and members of the Board of Directors of the petitioner union are set forth in their petition at bench; proof that, indeed, there is a need for the full names and addresses of all the petitioners to be stated in the title of the petition and in the petition itself. We quote the title of the petition and the allegation therein having reference to the parties-petitioners:

BUKLURAN NG MANGGAGAWA SA CLOTHMAN KNITTING CORPORATION – SOLIDARITY OF UNIONS IN THE PHILIPPINES FOR EMPOWERMENT AND REFORMS (BMC-SUPER), AND RAYMOND TOMAROY, ROEL SARDONIDOS, JOSEPH SEDERIO, MARITCHU JAVELLANA, ENRIQUE OMADTO, EFREN MOGAR, FRANCISCO BERTULFO, JUDY ROQUERO, PATERNO SILVESTRE, CAYETANO PALMON, TEODORO OCOP AND JOSEPH ESTIFANO,

Petitioners.[32]

...

1. Petitioners, BUKLURAN NG MANGGAGAWA SA CLOTHMAN – SOLIDARITY OF UNIONS FOR EMPOWERMENT AND REFORMS (BMC-SUPER), ROEL SARDONIDOS, JOSEPH SEDERIO, MARITCHU JAVELLANA, ENRIQUE OMADTO, EFREN MOGAR, FRANCISCO BERTULFO, JUDY ROQUERO, PATERNO SILVESTRE, CAYETANO PALMON, TEODORO OCOP AND JOSEPH ESTIFANO, the former is a legitimate labor organization with Charter Certificate No. S-102, and the latter are members of the former; they can be served with summons and other processes of this Honorable Court at c/o H.O. VICTORIA AND ASSOCIATES LAW OFFICES, Unit 305 Web-Jet Building, 64 Quezon Avenue cor. BMA Avenue, Quezon City.[33]

On the other hand, Section 5, Rule 7 of the Rules of Court reads:

Sec. 5. Certification against forum shopping. – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not, therefore, commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no

such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should, thereafter, learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

As gleaned from the petition for certiorari in the CA, only the petitioner Raymond P. Tomaroy signed the certification of non-forum shopping in his capacity as the president of the petitioner union. The officers and members of the Board of Directors, who were, likewise, principal petitioners, did not execute any certification of non-forum shopping as mandated by the said Rule. The rule is that the certification of non-forum shopping must be signed by all the petitioners and that the signing by only one of them is insufficient.[34] Although petitioner Tomaroy was authorized by virtue of his position as president of the petitioner union to execute the certification for and in its behalf, he had no authority to do so for and in behalf of its petitioners-officers, as well as the members of the Board of Directors thereof. The execution by the individual petitioners of a special power of attorney subsequent to the dismissal of the petition by the CA authorizing petitioner Tomaroy to execute the requisite certification does not cure the fatal defect in their petition.[35]

The respondent alleges that the petition for certiorari filed before the CA was correctly dismissed as it was not signed by counsel. The respondent noted that petitioner Tomaroy was not a lawyer and that petitioner Enrique Belarmino did not manifest in the petition that he was the lawyer. The respondent, thus, contends that Tomaroy and Belarmino engaged in the illegal practice of law, in violation of Section 34, Rule 138 of the Rules of Court.

We do not agree.

Section 3, Rule 7 of the Rules of Court provides that every pleading must be signed by the party or counsel representing him.[36] Considering that the union is one of the petitioners, Tomaroy, as its president, may sign the pleading. For this reason alone, the CA cannot dismiss the petition.

Even if we glossed over the procedural lapses of the petitioners and resolved the petition on its merits, we find that the petitioner union, along with its supporters, staged a strike without complying with the requirements laid down in Article 263 of the Labor Code and its Implementing Rules.

The petitioner union alleges that it could not have staged a strike because the operations at the Dyeing and Finishing Division were temporarily stopped. It insists that it merely protested the unjustified closing of the respondent's Dyeing and Finishing Division by forming a picket in front of the respondent's compound to urge the re-opening thereof.

We do not agree.

A strike is any temporary stoppage of work by the concerted action of employees as a result of an industrial or labor dispute.[37] A labor dispute includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.[38]

The members and the supporters of the petitioner union, headed by petitioner Tomaroy, thru concerted action, caused a temporary stoppage of work as a result of an industrial dispute. This is evidenced in the June 13, 2001 spot report of the Atlantic Security & Investigation Agency:

On or about 1445H of June 11, 2001, Mr. Jojo Flores and Mr. Rene Fabian were about to deliver fabrics in Bulacan with service truck TBK-158. Upon reaching the corner of Don Pedro St. and McArthur Highway, they gave way to a big truck turning to Don Pedro St. and at the same time the group of Mr. Raymond Tomaroy, the leader of BUKLURAN NG MANGGAGAWA SA CLOTHMAN – SOLIDARITY OF UNIONS IN THE PHILIPPINES FOR EMPOWERMENT AND REFORMS – BMC SUPER were on their way to CKC compound. Seeing the group, Mr. Fabian greeted them by giving a quick forward motion of his head. But instead, according to Mr. Fabian, Mr. Tomaroy with finger pointing on to Mr. Fabian accusing him as the one responsible for the delay of their 13th month pay. Mr. Fabian just told the group BMC-SUPER to read the Memorandum of the HRD dated June 8, 2001. Mr. Flores and Mr. Fabian returned to CKC, Don Pedro St., Marulas, Valenzuela, to report the matter.

At about 1517H of same date, Mr. Tomaroy with 16 members of BMC SUPER staged a rally and/or gathered in front of Clothman Knitting Corporation gate carrying placards with slogan read as follows:

- Itigil ang sabwatan ng KATIPUNAN (FABIAN GROUP) at management BMC-SUPER;
- Mr. Paul Lee – Huwag mong ipitin ang mid-year, 13th month pay ng mga manggagawa sa CKC. BMC-SUPER;
- Ibalik ang pasok sa Finishing Department;
- Mr. Paul Lee – Magagara ang sasakyan mo, Montero, BMW, Pajero pero kaunting benepisyo ng manggagawa ay di mo maibigay BMC-SUPER;
- Kilalanin ang karapatan ng manggagawa na magtatag ng unyon BMC-SUPER.

On or about 1640H at the same date, a PNP-Valenzuela Mobil car had SPO1 Palma, PO2 Manresa and PO1 Isip on board. The police with the BMC-SUPER.

The Valenzuela Police left at about 1727H.

At about 1810H of the same date, the group of BMC-SUPER abandoned the area.[39]

The subsequent Reports dated June 14, 15, 16 and 18, 2001 of the same agency further stated that members of the petitioner union, along with other employees particularly from the knitting department, joined in the picket.[40] It is, thus, apparent that the concerted effort of the members of the petitioner union and its supporters caused a temporary work stoppage. The allegation that there can be no work stoppage because the operation in the Dyeing and Finishing Division had been shutdown is of no consequence. It bears stressing that the other divisions were fully operational. There is nothing on record showing that the union members and the supporters who formed a picket line in front of the respondent's compound were assigned to the finishing department. As can be clearly inferred from the spot reports, employees from the knitting department also joined in picket. The blockade of the delivery of trucks and the attendance of employees from the other departments of the respondent meant work stoppage. The placards that the picketers caused to be displayed arose from matters concerning terms or conditions of employment as well as the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment.

Clearly, the petitioner union, its officers, members and supporters staged a strike. In order for a strike to be valid, the following requirements laid down in paragraphs (c) and (f) of Article 263 of the Labor Code must be complied with: (a) a notice of strike must be filed; (b) a strike-vote must be taken; and (c) the results of the strike-vote must

be reported to the DOLE.[41] It bears stressing that these requirements are mandatory, meaning, non-compliance therewith makes the strike illegal. The evident intention of the law in requiring the strike notice and strike-vote report is to reasonably regulate the right to strike, which is essential to the attainment of legitimate policy objectives embodied in the law.[42]

Considering that the petitioner union failed to comply with the aforesaid requirements, the strike staged on June 11 to 18, 2001 is illegal. Consequently, the officers of the union who participated therein are deemed to have lost their employment status.[43]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The Resolutions of the Court of Appeals in CA-G.R. SP No. 73353 are AFFIRMED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Marina L. Buzon, with Associate Justices Renato C. Dacudao and Mario L. Guariña III, concurring; Rollo, pp. 51-53.

[2] Rollo, p. 112.

[3] Id. at 125.

[4] Id. at 131.

[5] Id. at 126.

[6] Id. at 130.

[7] Id. at 132.

[8] Id. at 154.

[9] Id. at 156.

[10] Id. at 157.

[11] Id. at 158-159.

[12] Id. at 142-159.

[13] Id. at 144-145.

[14] Id. at 100.

[15] Id. at 99.

[16] Id. at 91-100.

[17] Id. at 107.

[18] Id. at 109.

[19] Id. at 205.

[20] Id. at 82-84.

[21] Id. at 83-84.

[22] Id. at 55-57.

[23] Id. at 56-57.

[24] Id. at 19.

[25] 48 SCRA 273 (1972).

[26] 60 SCRA 408 (1974).

[27] 64 SCRA 78 (1975).

[28] CA Rollo, pp. 89-90.

[29] CA Rollo, p. 2.

[30] Id. at 4.

[31] Supra at note 27.

[32] Rollo, p. 3.

[33] Id. at 6.

[34] Docena v. Lapesura, 355 SCRA 658 (2001).

[35] Shippside, Incorporated v. Court of Appeals, 352 SCRA 334 (2001).

[36] Sec. 3. Signature and address. – Every pleading must be signed by the party or counsel representing him, stating in either case his address which should not be a post office box.

The signature of counsel constitute a certificate by him that he has read the pleading; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

An unsigned pleading produces no legal effect. However, the court may, in its discretion, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading, or signs a pleading in violation of this Rule or alleges scandalous or indecent matter therein, or fails to promptly report to the court a change of his address, shall be subject to appropriate disciplinary action.

[37] Article 212(o) of the Labor Code.

[38] Article 212(l) of the Labor Code.

[39] Rollo, p. 154.

[40] Id. at 156-159.

[41] Grand Boulevard Hotel v. Genuine Labor Organization of Workers in Hotel Restaurant and Allied Industries (GLOWHRAIN), 406 SCRA 688 (2003).

[42] Stamford Marketing Corporation v. Josephine Julian, et al., G.R. No. 145496, February 24, 2004.

[43] Article 264(a) of the Labor Code.

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