

S.S. VENTURES INTERNATIONAL, INC., PETITIONER, VS. S.S. VENTURES LABOR UNION (SSVLU) AND DIR. HANS LEO CACDAC, IN HIS CAPACITY AS DIRECTOR OF THE BUREAU OF LABOR RELATIONS (BLR)...

G.R. No. 161690. July 23, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

Petitioner S.S. Ventures International, Inc. (Ventures), a PEZA- registered export firm with principal place of business at Phase I-PEZA- Bataan Export Zone, Mariveles, Bataan, is in the business of manufacturing sports shoes. Respondent S.S. Ventures Labor Union (Union), on the other hand, is a labor organization registered with the Department of Labor and Employment (DOLE) under Certificate of Registration No. RO300-00-02-UR-0003.

On March 21, 2000, the Union filed with DOLE-Region III a petition for certification election in behalf of the rank-and-file employees of Ventures. Five hundred forty two (542) signatures, 82 of which belong to 2008.

terminated Ventures employees, appeared on the basic documents supporting the petition.

On August 21, 2000, Ventures filed a Petition[1] to cancel the Union's certificate of registration invoking the grounds set forth in Article 239(a) of the Labor Code.[2] Docketed as Case No. RO300-0008-CP-002 of the same DOLE regional office, the petition alleged the following:

(1) The Union deliberately and maliciously included the names of more or less 82 former employees no longer connected with Ventures in its list of members who attended the organizational meeting and in the adoption/ratification of its constitution and by-laws held on January 9, 2000 in Mariveles, Bataan; and the Union forged the signatures of these 82 former employees to make it appear they took part in the organizational meeting and adoption and ratification of the constitution;

(2) The Union maliciously twice entered the signatures of three persons namely: Mara Santos, Raymond Balangbang, and Karen Agunos;

(3) No organizational meeting and ratification actually took place; and

(4) The Union's application for registration was not supported by at least 20% of the rank-and-file employees of Ventures, or 418 of the total 2,197- employee complement. Since more or less 82 of the 500[3] signatures were forged or invalid, then the remaining valid signatures would only be 418, which is very much short of the 439 minimum (2197 total employees x 20% = 439.4) required by the Labor Code.[4]

In its Answer with Motion to Dismiss,[5] the Union denied committing the imputed acts of fraud or forgery and alleged that: (1) the organizational meeting actually took place on January 9, 2000 at the Shoe City basketball court in Mariveles; (2) the 82 employees adverted to in Ventures' petition were qualified Union members for,

although they have been ordered dismissed, the one-year prescriptive period to question their dismissal had not yet lapsed; (3) it had complied with the 20%-member registration requirement since it had 542 members; and (4) the "double" signatures were inadvertent human error.

In its supplemental reply memorandum[6] filed on March 20, 2001, with attachments, Ventures cited other instances of fraud and misrepresentation, claiming that the "affidavits" executed by 82 alleged Union members show that they were deceived into signing paper minutes or were harassed to signing their attendance in the organizational meeting. Ventures added that some employees signed the "affidavits" denying having attended such meeting.

In a Decision dated April 6, 2001, Regional Director Ana C. Dione of DOLE- Region III found for Ventures, the dispositive portion of which reads:

Viewed in the light of all the foregoing, this office hereby grants the petition. WHEREFORE, this office resolved to CANCEL Certificate of Registration No. [RO300-00-02-UR-0003] dated 28 February 2000 of respondent S.S. Ventures Labor Union-Independent.

So Ordered.[7]

Aggrieved, the Union interposed a motion for reconsideration, a recourse which appeared to have been forwarded to the Bureau of Labor Relations (BLR). Although it would later find this motion to have been belatedly filed, the BLR, over the objection of Ventures which filed a Motion to Expunge, gave it due course and treated it as an appeal.

Despite Ventures' motion to expunge the appeal,[8] the BLR Director rendered on October 11, 2002 a decision[9] in BLR-A-C-60-6-11-01, granting the Union's appeal and reversing the decision of Dione. The fallo of the BLR's decision reads:

WHEREFORE, the appeal is hereby GRANTED. The Decision of Director Ana C. Dione dated 6 April 2001 is hereby REVERSED and SET ASIDE. S.S. Ventures Labor Union-Independent shall remain in the roster of legitimate labor organizations.

SO ORDERED.[10]

Ventures sought reconsideration of the above decision but was denied by the BLR.

Ventures then went to the Court of Appeals (CA) on a petition for certiorari under Rule 65, the recourse docketed as CA-G.R. SP No. 74749. On October 20, 2003, the CA rendered a Decision,[11] dismissing Ventures' petition. Ventures' motion for reconsideration met a similar fate.[12]

Hence, this petition for review under Rule 45, petitioner Ventures raising the following grounds:

I.

PUBLIC RESPONDENT ACTED RECKLESSLY AND IMPRUDENTLY, GRAVELY ABUSED ITS DISCRETION AND EXCEEDED ITS JURISDICTION IN DISREGARDING THE SUBSTANTIAL AND OVERWHELMING EVIDENCE ADDUCED BY THE PETITIONER SHOWING THAT RESPONDENT UNION PERPETRATED FRAUD, FORGERY, MISREPRESENTATION AND MISSTATEMENTS IN CONNECTION WITH THE ADOPTION AND RATIFICATION OF ITS CONSTITUTION AND BY-LAWS, AND IN THE PREPARATION OF THE LIST OF MEMBERS WHO TOOK PART IN THE ALLEGED ORGANIZATIONAL MEETING BY HOLDING THAT:

A.THE 87 AFFIDAVITS OF ALLEGED UNION MEMBERS HAVE NO EVIDENTIARY WEIGHT.

B.

THE INCLUSION OF THE 82 EMPLOYEES IN THE LIST OF ATTENDEES TO THE JANUARY 9, 2000 MEETING IS AN INTERNAL MATTER WITHIN THE AMBIT OF THE WORKER'S RIGHT TO SELF-ORGANIZATION AND OUTSIDE THE SPHERE OF INFLUENCE (OF) THIS OFFICE (PUBLIC RESPONDENT IN THIS CASE) AND THE PETITIONER.

II.

PUBLIC RESPONDENT ACTED RECKLESSLY AND IMPRUDENTLY, GRAVELY ABUSED ITS DISCRETION AND EXCEEDED ITS JURISDICTION IN IGNORING AND DISREGARDING THE BLATANT PROCEDURAL LAPSES OF THE RESPONDENT UNION IN THE FILING OF ITS MOTION FOR RECONSIDERATION AND APPEAL.

A.

BY GIVING DUE COURSE TO THE MOTION FOR RECONSIDERATION FILED BY THE RESPONDENT UNION DESPITE THE FACT THAT IT WAS FILED BEYOND THE REGLEMENTARY PERIOD.

B.

BY ADMITTING THE APPEAL FILED BY ATTY. ERNESTO R. ARELLANO AND HOLDING THAT THE SAME DOES NOT CONSTITUTE FORUM SHOPPING UNDER SUPREME COURT CIRCULAR NO. 28-91.

III.

PUBLIC RESPONDENT ACTED RECKLESSLY AND IMPRUDENTLY, GRAVELY ABUSED ITS DISCRETION AND EXCEEDED ITS JURISDICTION IN INVOKING THE CONSTITUTIONAL RIGHT TO SELF- ORGANIZATION AND ILO CONVENTION NO. 87 TO JUSTIFY THE MASSIVE FRAUD, MISREPRESENTATION, MISSTATEMENTS AND FORGERY COMMITTED BY THE RESPONDENT UNION.[13]

The petition lacks merit.

The right to form, join, or assist a union is specifically protected by Art. XIII, Section 3[14] of the Constitution and such right, according to Art. III, Sec. 8 of the Constitution and Art. 246 of the Labor Code, shall not be abridged. Once registered with the DOLE, a union is considered a legitimate labor organization endowed with the right and privileges granted by law to such organization. While a certificate of registration confers a union with legitimacy with the concomitant right to participate in or ask for certification election in a bargaining unit, the registration may be canceled or the union may be decertified as the bargaining unit, in which case the union is divested of the status of a legitimate labor organization.[15] Among the grounds for cancellation is the commission of any of the acts enumerated in Art. 239(a)[16] of the Labor Code, such as fraud and misrepresentation in connection with the adoption or ratification of the union's constitution and like documents. The Court, has in previous cases, said that to decertify a union, it is not enough to show that the union includes ineligible employees in its membership. It must also be shown that there was misrepresentation, false statement, or fraud in connection with the application for registration and the supporting documents, such as the adoption or ratification of the constitution and by-laws or amendments thereto and the minutes of ratification of the constitution or by-laws, among other documents. [17]

Essentially, Ventures faults both the BLR and the CA in finding that there was no fraud or misrepresentation on the part of the Union sufficient to justify cancellation of its registration. In this regard, Ventures makes much of, first, the separate hand-written statements of 82 employees who, in gist, alleged that they were unwilling or harassed signatories to the attendance sheet of the organizational meeting.

We are not persuaded. As aptly noted by both the BLR and CA, these mostly undated written statements submitted by Ventures on March 20, 2001, or seven months after it filed its petition for cancellation of registration, partake of the nature of withdrawal of union membership executed after the Union's filing of a petition for certification election on March 21, 2000. We have in precedent cases^[18] said that the employees' withdrawal from a labor union made before the filing of the petition for certification election is presumed voluntary, while withdrawal after the filing of such petition is considered to be involuntary and does not affect the same. Now then, if a withdrawal from union membership done after a petition for certification election has been filed does not vitiate such petition, is it not but logical to assume that such withdrawal cannot work to nullify the registration of the union? Upon this light, the Court is inclined to agree with the CA that the BLR did not abuse its discretion nor gravely err when it concluded that the affidavits of retraction of the 82 members had no evidentiary weight.

It cannot be over-emphasized that the registration or the recognition of a labor union after it has submitted the corresponding papers is not ministerial on the part of the BLR. Far from it. After a labor organization has filed the necessary registration documents, it becomes mandatory for the BLR to check if the requirements under Art. 234^[19] of the Labor Code have been sedulously complied with. ^[20] If the union's application is infected by falsification and like serious irregularities, especial those appearing on the face of the application and its attachments, a union should be denied recognition as a legitimate labor organization. Prescinding from these considerations, the issuance to the Union of Certificate of Registration No. RO300-00-02-UR-0003 necessarily implies that its application for registration and the supporting documents thereof are prima facie free from any vitiating irregularities.

Second, Ventures draws attention to the inclusion of 82 individuals to the list of participants in the January 9, 2000 organizational meeting. Ventures submits that the 82, being no longer connected with the company, should not have been counted as attendees in the meeting and the ratification proceedings immediately afterwards.

The assailed inclusion of the said 82 individuals to the meeting and proceedings adverted to is not really fatal to the Union's cause for, as determined by the BLR, the allegations of falsification of signatures or misrepresentation with respect to these individuals are without basis.^[21] The Court need not delve into the question of whether these 82 dismissed individuals were still Union members qualified to vote and affix their signature on its application for registration and supporting documents. Suffice it to say that, as aptly observed by the CA, the procedure for acquiring or losing union membership and the determination of who are qualified or disqualified to be members are matters internal to the union and flow from its right to self-organization.

To our mind, the relevancy of the 82 individuals' active participation in the Union's organizational meeting and the signing ceremonies thereafter comes in only for purposes of determining whether or not the Union, even without the 82, would still meet what Art. 234(c) of the Labor Code requires to be submitted, to wit:

Art. 234. Requirements of Registration. -- Any applicant labor organization x x x shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

x x x x

(c) The names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate.

The BLR, based on its official records, answered the poser in the affirmative. Wrote the BLR:

It is imperative to look into the records of respondent union with this Bureau pursuant to our role as a central

registry of union and CBA records under Article 231 of the Labor Code and Rule XVII of the rules implementing Book V of the Labor Code, as amended x x x.

In its union records on file with this Bureau, respondent union submitted the names of [542] members x x x. This number easily complied with the 20% requirement, be it 1,928 or 2,202 employees in the establishment. Even subtracting the 82 employees from 542 leaves 460 union members, still within 440 or 20% of the maximum total of 2,202 rank-and-file employees.

Whatever misgivings the petitioner may have with regard to the 82 dismissed employees is better addressed in the inclusion-exclusion proceedings during a pre-election conference x x x. The issue surrounding the involvement of the 82 employees is a matter of membership or voter eligibility. It is not a ground to cancel union registration. (Emphasis added.)

The bare fact that three signatures twice appeared on the list of those who participated in the organizational meeting would not, to our mind, provide a valid reason to cancel Certificate of Registration No. RO300-00-02-UR-0003. As the Union tenably explained without rebuttal from Ventures, the double entries are no more than "normal human error," effected without malice. Even the labor arbiter who found for Ventures sided with the Union in its explanation on the absence of malice.[22]

The cancellation of a union's registration doubtless has an impairing dimension on the right of labor to self-organization. Accordingly, we can accord concurrence to the following apt observation of the BLR: "[F]or fraud and misrepresentation [to be grounds for] cancellation of union registration under Article 239 [of the Labor Code], the nature of the fraud and misrepresentation must be grave and compelling enough to vitiate the consent of a majority of union members." [23]

In its Comment, the Union points out that for almost seven (7) years following the filing of its petition, no certification election has yet been conducted among the rank-and-file employees. If this be the case, the delay has gone far enough and can no longer be allowed to continue. The CA is right when it said that Ventures should not interfere in the certification election by actively and persistently opposing the certification election of the Union. A certification election is exclusively the concern of employees and the employer lacks the legal personality to challenge it.[24] In fact, jurisprudence frowns on the employer's interference in a certification election for such interference unduly creates the impression that it intends to establish a company union. [25]

Ventures' allegations on forum shopping and the procedural lapse supposedly committed by the BLR in allowing a belatedly filed motion for reconsideration need not detain us long. Suffice it to state that this Court has consistently ruled that the application of technical rules of procedure in labor cases may be relaxed to serve the demands of substantial justice.[26] So it must be in this case.

WHEREFORE, the petition is DENIED. The Decision and Resolution dated October 20, 2003 and January 19, 2004, respectively, of the CA are AFFIRMED. S.S. Ventures Labor Union shall remain in the roster of legitimate labor organizations, unless it has in the meantime lost its legitimacy for causes set forth in the Labor Code. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Ynares-Santiago, Carpio Morales, and Tinga, JJ., concur.

[1] Rollo, pp. 68-77.

[2] Art. 239. GROUNDS FOR CANCELLATION OF UNION REGISTRATION. x x x (a) Misrepresentation,

false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification.

[3] Per the Union, 542 union members signed the petition for certification election.

[4] Rollo, p. 71.

[5] Id. at 78-82.

[6] Id. at 118-120.

[7] Id. at 127.

[8] Id. at 144-145.

[9] Id. at 146-154.

[10] Id. at 86.

[11] Id. at 52-59. Penned by Associate Justice Eliezer R. De Los Santos and concurred in by Associate Justices B.A. Adefuin-De La Cruz (now retired) and Jose C. Mendoza.

[12] Per CA Resolution dated January 19, 2004.

[13] Rollo, pp. 11-12.

[14] Sec. 3. The State shall afford full protection to labor x x x organized and unorganized x x x. It shall guarantee the rights of all workers in self- organization, collective bargaining and negotiation, and peaceful concerted activities x x x.

[15] 2 Azucena, The Labor Code 197-198 (6th ed., 2007).

[16] Supra note 2.

[17] Air Philippines Corporation v. Bureau of Labor Relations , G.R. No. 155395, June 22, 2006, 492 SCRA 243, 250.

[18] Oriental Tin Can Labor Union v. Secretary of Labor and Employment, G.R. Nos. 116751 & 116779, August 28, 1998, 294 SCRA 640; La Suerte Cigar and Cigarette Factory v. Director of Bureau of Labor Relations, No. L-55674, July 25, 1983, 123 SCRA 679.

[19] Art. 234. Requirements of registration.--Any applicant labor organization x x x shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements: (a) Fifty pesos (P50.00) registration fee; (b) The names of its officers, x x x the minutes of the organizational meetings and the list of the workers who participated in such meetings; (c) the names of all its members comprising at least twenty percent (20%) of the employees in the bargaining unit where it seeks to operate; (d) x x x; and (e) Four (4) copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.

[20] Progressive Development Corp.-Pizza Hut v. Laguesma, G.R. No. 115077, April 18, 1977, 271 SCRA 593, 599.

[21] Rollo, pp. 153-154.

[22] Id. at 127.

[23] Id. at 152.

[24] Oriental Tin Can Labor Union, *supra* note 18, at 650.

[25] San Miguel Foods, Inc.-Cebu B-Meg Feed Plant v. Laguesma, G.R. No. 116172, October 10, 1996, 263 SCRA 68, 82.

[26] Fiel v. Kris Security Systems, Inc., G.R. No. 155875, April 3, 2003, 400 SCRA 533, 536; El Toro Security Agency, Inc. v. NLRC, G.R. No. 114308, April 18, 1996, 256 SCRA 363, 366.

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