

**STA. LUCIA EAST COMMERCIAL CORPORATION, PETITIONER, VS.
HON. SECRETARY OF LABOR AND EMPLOYMENT AND STA. LUCIA
EAST COMMERCIAL CORPORATION WORKERS ASSOCIATION (CLUP
LOCAL CHAPTER...***G.R. No. 162355. August 14, 2009*

Ponente: CARPIO, J.

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This is a petition for review[1] assailing the Decision[2] promulgated on 14 August 2003 as well as the Resolution[3] promulgated on 24 February 2004 of the Court of Appeals (appellate court) in CA-G.R. SP No. 77015. The appellate court denied Sta. Lucia East Commercial Corporation's (SLECC) petition for certiorari with prayer for writ of preliminary injunction and temporary restraining order. The appellate court further ruled that the Secretary of Labor and Employment (Secretary) was correct when she held that the subsequent negotiations and registration of a collective bargaining agreement (CBA) executed by SLECC with Samahang Manggagawa sa Sta. Lucia East Commercial (SMSLEC) could not bar Sta. Lucia East Commercial Corporation Workers Association's (SLECCWA) petition for direct certification.

The Facts

The Secretary narrated the facts as follows:

On 27 February 2001, Confederated Labor Union of the Philippines (CLUP), in behalf of its chartered local, instituted a petition for certification election among the regular rank-and-file employees of Sta. Lucia East Commercial Corporation and its Affiliates, docketed as Case No. RO400-0202-RU-007. The affiliate companies included in the petition were SLE Commercial, SLE Department Store, SLE Cinema, Robsan East Trading, Bowling Center, Planet Toys, Home Gallery and Essentials.

On 21 August 2001, Med-Arbiter Bactin ordered the dismissal of the petition due to inappropriateness of the bargaining unit. CLUP-Sta. Lucia East Commercial Corporation and its Affiliates Workers Union appealed the order of dismissal to this Office on 14 September 2001. On 20 November 2001, CLUP-Sta. Lucia East Commercial Corporation and its Affiliates Workers Union [CLUP-SLECC and its Affiliates Workers Union] moved for the withdrawal of the appeal. On 31 January 2002, this Office granted the motion and affirmed the dismissal of the petition.

In the meantime, on 10 October 2001, [CLUP-SLECC and its Affiliates Workers Union] reorganized itself and re-registered as CLUP-Sta. Lucia East Commercial Corporation Workers Association (herein appellant CLUP-SLECCWA), limiting its membership to the rank-and-file employees of Sta. Lucia East Commercial Corporation. It was issued Certificate of Creation of a Local Chapter No. RO400-0110-CC-004.

On the same date, [CLUP-SLECCWA] filed the instant petition. It alleged that [SLECC] employs about 115 employees and that more than 20% of employees belonging to the rank-and-file category are its members. [CLUP-SLECCWA] claimed that no certification election has been held among them within the last 12 months

prior to the filing of the petition, and while there is another union registered with DOLE-Regional Office No. IV on 22 June 2001 covering the same employees, namely [SMSLEC], it has not been recognized as the exclusive bargaining agent of [SLECC's] employees.

On 22 November 2001, SLECC filed a motion to dismiss the petition. It averred that it has voluntarily recognized [SMSLEC] on 20 July 2001 as the exclusive bargaining agent of its regular rank-and-file employees, and that collective bargaining negotiations already commenced between them. SLECC argued that the petition should be dismissed for violating the one year and negotiation bar rules under pars. (c) and (d), Section 11, Rule XI, Book V of the Omnibus Rules Implementing the Labor Code.

On 29 November 2001, a CBA between [SMSLEC] and [SLECC] was ratified by its rank-and-file employees and registered with DOLE-Regional Office No. IV on 9 January 2002.

In the meantime, on 19 December 2001, [CLUP-SLECCWA] filed its Opposition and Comment to [SLECC'S] Motion to Dismiss. It assailed the validity of the voluntary recognition of [SMSLEC] by [SLECC] and their consequent negotiations and execution of a CBA. According to [CLUP-SLECCWA], the same were tainted with malice, collusion and conspiracy involving some officials of the Regional Office. Appellant contended that Chief LEO Raymundo Agravante, DOLE Regional Office No. IV, Labor Relations Division should have not approved and recorded the voluntary recognition of [SMSLEC] by [SLECC] because it violated one of the major requirements for voluntary recognition, i.e., non-existence of another labor organization in the same bargaining unit. It pointed out that the time of the voluntary recognition on 20 July 2001, appellant's registration as [CLUP-SLECC and its Affiliates Workers Union], which covers the same group of employees covered by Samahang Manggagawa sa Sta. Lucia East Commercial, was existing and has neither been cancelled or abandoned. [CLUP-SLECCWA] also accused Med-Arbiter Bactin of malice, collusion and conspiracy with appellee company when he dismissed the petition for certification election filed by [SMSLEC] for being moot and academic because of its voluntary recognition, when he was fully aware of the pendency of [CLUP-SLECCWA's] earlier petition for certification election.

Subsequent pleadings filed by [CLUP-SLECCWA] and [SLECC] reiterated their respective positions on the validity and invalidity of the voluntary recognition. On 29 July 2002, Med-Arbiter Bactin issued the assailed Order.[4]

The Med-Arbiter's Ruling

In his Order dated 29 July 2002, Med-Arbiter Anastacio L. Bactin dismissed CLUP-SLECCWA's petition for direct certification on the ground of contract bar rule. The prior voluntary recognition of SMSLEC and the CBA between SLECC and SMSLEC bars the filing of CLUP-SLECCWA's petition for direct certification. SMSLEC is entitled to enjoy the rights, privileges, and obligations of an exclusive bargaining representative from the time of the recording of the voluntary recognition. Moreover, the duly registered CBA bars the filing of the petition for direct certification.

CLUP-SLECCWA filed a Memorandum of Appeal of the Med-Arbiter's Order before the Secretary.

The Ruling of the Secretary of Labor and Employment

In her Decision promulgated on 27 December 2002, the Secretary found merit in CLUP-SLECCWA's appeal. The Secretary held that the subsequent negotiations and registration of a CBA executed by SLECC with SMSLEC could not bar CLUP-SLECCWA's petition. CLUP-SLECC and its Affiliates Workers Union constituted a registered labor organization at the time of SLECC's voluntary recognition of SMSLEC. The dispositive portion of the Secretary's Decision reads:

WHEREFORE, the appeal is hereby GRANTED and the Order of the Med-Arbiter dated 29 July 2002 is REVERSED and SET ASIDE. Accordingly, let the entire records of the case be remanded to the Regional

Office of origin for the immediate conduct of a certification election, subject to the usual pre-election conference, among the regular rank-and-file employees of [SLECC], with the following choices:

- Sta. Lucia East Commercial Corporation Workers' Association - CLUP Local Chapter;
- Samahang Manggagawa sa Sta. Lucia East Commercial; and
- No Union.

Pursuant to Rule XI, Section II.1 of Department Order No. 9, appellee corporation is hereby directed to submit to the office of origin, within ten (10) days from receipt hereof, the certified list of its employees in the bargaining unit or when necessary a copy of its payroll covering the same employees for the last three (3) months preceding the issuance of this Decision.

Let a copy of this Decision be furnished the Bureau of Labor Relations and Labor Relations Division of Regional Office No. IV for the cancellation of the recording of voluntary recognition in favor of Samahang Manggagawa sa Sta. Lucia East Commercial and the appropriate annotation of re-registration of CLUP-Sta. Lucia East Commercial Corporation and its Affiliates Workers Union to Sta. Lucia East Commercial Corporation Workers Association-CLUP Local Chapter.

SO DECIDED.[5]

SLECC filed a motion for reconsideration which the Secretary denied for lack of merit in a Resolution dated 27 March 2003. SLECC then filed a petition for certiorari before the appellate court.

The Ruling of the Appellate Court

The appellate court affirmed the ruling of the Secretary and quoted extensively from the Secretary's decision. The appellate court agreed with the Secretary's finding that the workers sought to be represented by CLUP-SLECC and its Affiliates Workers Union included the same workers in the bargaining unit represented by SMSLEC. SMSLEC was not the only legitimate labor organization operating in the subject bargaining unit at the time of SMSLEC's voluntary recognition on 20 July 2001. Thus, SMSLEC's voluntary recognition was void and could not bar CLUP-SLECCWA's petition for certification election.

The Issue

SLECC raised only one issue in its petition. SLECC asserted that the appellate court committed a reversible error when it affirmed the Secretary's finding that SLECC's voluntary recognition of SMSLEC was done while a legitimate labor organization was in existence in the bargaining unit.

The Ruling of the Court

The petition has no merit. We see no reason to overturn the rulings of the Secretary and of the appellate court.

Legitimate Labor Organization

Article 212(g) of the Labor Code defines a labor organization as "any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment." Upon compliance with all the documentary requirements, the Regional Office or Bureau shall issue in favor of the applicant labor organization a certificate indicating that it is included in the roster of legitimate labor organizations.[6] Any applicant labor organization 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.[7]

Bargaining Unit

The concepts of a union and of a legitimate labor organization are different from, but related to, the concept of a bargaining unit. We explained the concept of a bargaining unit in *San Miguel Corporation v. Laguesma*,^[8] where we stated that:

A bargaining unit is a "group of employees of a given employer, comprised of all or less than all of the entire body of employees, consistent with equity to the employer, indicated to be the best suited to serve the reciprocal rights and duties of the parties under the collective bargaining provisions of the law."

The fundamental factors in determining the appropriate collective bargaining unit are: (1) the will of the employees (Globe Doctrine); (2) affinity and unity of the employees' interest, such as substantial similarity of work and duties, or similarity of compensation and working conditions (Substantial Mutual Interests Rule); (3) prior collective bargaining history; and (4) similarity of employment status.

Contrary to petitioner's assertion, this Court has categorically ruled that the existence of a prior collective bargaining history is neither decisive nor conclusive in the determination of what constitutes an appropriate bargaining unit.

However, employees in two corporations cannot be treated as a single bargaining unit even if the businesses of the two corporations are related.^[9]

A Legitimate Labor Organization Representing An Inappropriate Bargaining Unit

CLUP-SLECC and its Affiliates Workers Union's initial problem was that they constituted a legitimate labor organization representing a non-appropriate bargaining unit. However, CLUP-SLECC and its Affiliates Workers Union subsequently re-registered as CLUP-SLECCWA, limiting its members to the rank-and-file of SLECC. SLECC cannot ignore that CLUP-SLECC and its Affiliates Workers Union was a legitimate labor organization at the time of SLECC's voluntary recognition of SMSLEC. SLECC and SMSLEC cannot, by themselves, decide whether CLUP-SLECC and its Affiliates Workers Union represented an appropriate bargaining unit.

The inclusion in the union of disqualified employees is not among the grounds for cancellation of registration, unless such inclusion is due to misrepresentation, false statement or fraud under the circumstances enumerated in Sections (a) to (c) of Article 239 of the Labor Code.^[10] Thus, CLUP-SLECC and its Affiliates Workers Union, having been validly issued a certificate of registration, should be considered as having acquired juridical personality which may not be attacked collaterally. The proper procedure for SLECC is to file a petition for cancellation of certificate of registration^[11] of CLUP-SLECC and its Affiliates Workers Union and not to immediately commence voluntary recognition proceedings with SMSLEC.

SLECC's Voluntary Recognition of SMSLEC

The employer may voluntarily recognize the representation status of a union in unorganized establishments.^[12] SLECC was not an unorganized establishment when it voluntarily recognized SMSLEC as its exclusive bargaining representative on 20 July 2001. CLUP-SLECC and its Affiliates Workers Union filed a petition for certification election on 27 February 2001 and this petition remained pending as of 20 July 2001. Thus, SLECC's voluntary recognition of SMSLEC on 20 July 2001, the subsequent negotiations and resulting registration of a CBA executed by SLECC and SMSLEC are void and cannot bar CLUP-SLECCWA's present petition for certification election.

Employer's Participation in a Petition for Certification Election

We find it strange that the employer itself, SLECC, filed a motion to oppose CLUP-SLECCWA's petition for certification election. In petitions for certification election, the employer is a mere bystander and cannot oppose the petition or appeal the Med-Arbiter's decision. The exception to this rule, which happens when the employer is requested to bargain collectively, is not present in the case before us.[13]

WHEREFORE, we DENY the petition. We AFFIRM the Decision promulgated on 14 August 2003 as well as the Resolution promulgated on 24 February 2004 of the Court of Appeals in CA-G.R. SP No. 77015.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Chico-Nazario,[*] and Leonardo-De Castro, JJ., concur.

[*]Designated additional member per Raffle dated 3 August 2009.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 27-32. Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Elvi John S. Asuncion and Lucas P. Bersamin, concurring.

[3] Id. at 34.

[4] Id. at 51-52.

[5] Id. at 54-55.

[6] Section 3, Rule VI, Implementing Rules of Book V of the Labor Code (as amended by Department Order No. 9, 21 June 1997).

[7] Art. 234 of the Labor Code states that the following are required for the issuance of a certificate of registration:

(a) Fifty pesos (P50.00) registration fee;

(b) The names of its officers, their addresses, the principal address of the labor organization, 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 all the employees in the bargaining unit where it seeks to operate;

(d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; 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.

[8] G.R. No. 100485, 21 September 1994, 236 SCRA 595, 599 (citations omitted).

[9] *Diatagon Labor Federation Local 110 of the ULGWP v. Ople*, 189 Phil. 396 (1980).

[10] *Tagaytay Highlands International Golf Club Inc. v. Tagaytay Highlands Employees Union- PTGWO*, 443 Phil. 841 (2003).

[11] Rule VIII, Implementing Rules of Book V of the Labor Code (as amended by Department Order No. 9, 21 June 1997).

[12] Section 1, Rule X, Implementing Rules of Book V of the Labor Code (as amended by Department Order No.

9, 21 June 1997).

[13] Samahang Manggagawa sa Samma-Lakas sa Industriya ng Kapatirang Haligi ng Alyansa (Samma-Likha) v. Samma Corporation, G.R. No. 167141, 13 March 2009.

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