

DONG SEUNG INCORPORATED, PETITIONER, VS. BUREAU OF LABOR RELATIONS, HANS LEO J. CACDAC, DIRECTOR AND NAMAWU LOCAL 188 – DONG SEUNG WORKERS UNION, RESPONDENTS.

G.R. No. 162356. April 14, 2008

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-162356/>

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the September 26, 2003 Decision[1] of the Court of Appeals (CA), which affirmed the dismissal of the petition of Dong Seung Incorporated (petitioner) for cancellation of the registration of NAMAWU Local 188-Dong Seung Workers Union (respondent union); and the February 23, 2004 CA Resolution[2] which denied petitioner's motion for reconsideration.

The facts now in dispute are as follows:

On July 10, 2000, petitioner filed with the Department of Labor and Employment (DOLE), Region IV a Petition[3] for cancellation of the union registration of respondent union on the grounds that the List of Officers and Constitution and By-laws which the respondent union attached to its application for union registration contain the union secretary's certification but the same is not under oath, contrary to Section 1, Rule VI of the Implementing Rules of Book V of the Labor Code, as amended by Department Order No. 9, series of 1997;[4] and that, as shown in a Sinumpaang Petisyon,[5] 148 out of approximately 200 employees-members have since denounced respondent union for employing deceit in obtaining signatures to support its registration application.[6]

After hearing the petition, DOLE (Region IV) Regional Director Ricardo Martinez, Sr. issued an Order dated December 1, 2000, to wit:

WHEREFORE, premises considered, herein petition is granted. Likewise, Charter Certificate [of] NAMAWU-Local 188 is hereby delisted from the roster of legitimate labor organization[s] in this jurisdiction.

SO ORDERED.[7]

Respondent union appealed to the Bureau of Labor Relations (BLR) on March 27, 2001.[8] Petitioner filed a Motion to Dismiss[9] the appeal on the ground that, as respondent union received copy of the December 1, 2000 DOLE Region IV Order on December 8, 2000, its appeal, filed only on March 27, 2001, was already beyond the appeal period.

The BLR gave due course to the appeal and granted the same in a Decision dated August 19, 2002, viz:

WHEREFORE, premises considered, the appeal is hereby GRANTED. The Order of the Regional Director, DOLE-Region IV dated 01 December 2000 is hereby REVERSED AND SET ASIDE. The NAMAWU LOCAL 188 - DONG SEUNG WORKERS' UNION, shall remain in the roster of legitimate labor organizations. NAMAWU Local 188 - Dong Seung Workers' Union, however, is required to submit its constitution and by-laws, updated list of officers and members, their addresses and the principal office of the

local/chapter as certified under oath by the Secretary or the Treasurer and attested to by the President, within thirty (30) days from finality of this decision.

SO RESOLVED.[10]

After its motion for reconsideration[11] was denied by the BLR,[12] petitioner filed with the CA a Petition for Certiorari,[13] insisting that the BLR acted with grave abuse of discretion in giving due course to respondent union's appeal despite its having been filed out of time. To prove its claim, petitioner attached a Certification dated February 8, 2001 issued by Acting Postmaster Edwin O. Mendoza, stating that "registered letter x x x no. 1062 addressed to Jeorge [sic] Villamarin was received on December 8, 2000 and delivered on December 8, 2000 and received by Evelyn Villamarin;"[14] showing that the latter had only until December 18, 2000 to appeal.

The CA dismissed the petition in its herein assailed September 26, 2003 Decision and denied petitioner's motion for reconsideration in its February 23, 2004 Resolution.

Hence, the present petition.

The Court gave due course to the petition and, in compliance with its Resolution dated March 16, 2005, parties submitted their respective memoranda.

As may be gleaned from its Memorandum, petitioner assails the CA Decision and Resolution on the grounds that:

I.

The CA erred in affirming the BLR when it gave due course to respondent's belated appeal;[15]

II.

The CA erred in not finding that the BLR acted with bias;[16] and

III.

The CA erred in sustaining the BLR when it declared respondent's union registration valid.[17]

The Court finds no such reversible error in the CA Decision and Resolution.

On the timeliness of respondent union's appeal to the BLR

The BLR found respondent union's appeal tardy yet gave due course to it on account of its inherent merit.[18] The CA found respondent union's appeal to have "substantially complied with the requirements provided by law." [19]

Petitioner insists that, based on the Certification of Acting Postmaster Mendoza, respondent union had only until December 18, 2000 to appeal for it received the December 1, 2000 DOLE Region IV Order as early as December 8, 2000.[20]

The timeliness of an appeal is a factual issue as it requires a review or evaluation of evidence on when the judgment was actually received and the appeal filed. The Court cannot entertain such factual issue in a proceeding under Rule 45 for it does not try facts nor evaluate evidence,[21] much less in the present case where the only evidence submitted by petitioner on the issue of timeliness consists of a certification by Acting Postmaster Mendoza which is of dubious authenticity as it is a plain photocopy, completely devoid of any marking or note of

authentication. Moreover, the certification is woefully lacking in material details - such as the exact nature and origin of the letter that was purportedly sent to Jorge Villamarin and the date it was received by Evelyn Villamarin - that it could not be reasonably concluded that what was sent and received was actually the December 1, 2000 DOLE Region IV Order. Therefore, the certification alone cannot serve as basis for the reversal of the findings of the CA.[22]

On the alleged bias of the BLR

Without elaborating, petitioner also criticizes what it claims to be the personal bias and self-interest of BLR as shown by its "hasty" resolution of respondent union's appeal.[23] The Court fails to see why the BLR's speedy resolution of an appeal should be taken against it. For as long as the BLR observes due process, its proceedings cannot be impugned merely for being expeditious.[24] It is of record that the BLR allowed petitioner every opportunity to be heard. In fact, the latter was able to file a motion to dismiss the appeal and a motion for reconsideration of the August 19, 2002 BLR Decision. Clearly, although the BLR took expeditious action on the appeal, it did not sacrifice petitioner's right to due process.

On the validity of respondent union's registration

Petitioner insists that the BLR erred in its interpretation of the requirement that the union secretary's certification of all the documents for union registration be under oath.[25]

The requirement that the union secretary certify under oath all documents and papers filed in support of an application for union registration is imposed by Article 235 of the Labor Code, to wit:

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.

DOLE Region IV cancelled the registration of respondent union on the ground that the secretary's certification of the correctness of the List of Officers and the Constitution and By-laws attached to the application is not under oath, viz:

Considering that the respondent union failed to submit its answer or comment to the petition to controvert the allegations that although it submitted the list of union officers and Constitution and By laws which was attested to by the president but not duly sworn and subscribed under oath by the Secretary or Treasurer is a fatal defect that would warrant the withholding of status of legitimacy to the local union or chapter as held by the Supreme Court in the case of *Progressive Development Corp. vs. Honorable Secretary of Labor and Employment*. [26] (Emphasis supplied)

In reversing DOLE Region IV, the BLR cited its Advisory,[27] dated October 14, 1998, which interprets the requirement under Article 235, to wit:

Pursuant to Rule XVII, Section 1 of Department Order No. 09, Series of 1997 x x x. [T]he Bureau of Labor Relations is empowered, consistent with the State policy to promote unionism, to "devise or prescribe such forms as are necessary to facilitate the process of registration of labor organizations x x x," including the chartering of locals or chapters. Accordingly, the Bureau has devised and transmitted to the Regional Offices the appropriate official registration forms, particularly the following:

x x x x

5. BLR Reg. Form No. 5-LOC-LO. S. 1998 For Chartering Locals/ Chapters

x x x x

Part I of each of the first seven forms is a space provided for the notarization of the application x x x. However, considering that applicants are not yet fully familiar with the forms in spite of orientation and seminar conducted, some applications have been submitted without using the forms prescribed by the Bureau. In lieu of submitting a notarized application using the official forms, some applicants comply with the requirements by having their supporting documents separately notarized.

To prevent inconvenience to the public, particularly to the applicants, the Regional Offices are hereby advised that applications submitted with supporting documents which are separately notarized need not comply with the notarization requirement under Part I or Part II, as the case may be, of the prescribed forms. x x x

Accordingly, the absence of notarization under Part I or Part II of the appropriate forms shall not be a basis for denying applications where it appears that all the required supporting documents have already been notarized or attested. (Emphasis supplied)

The BLR explained that under the foregoing Advisory, the certification issued by respondent union's secretary may be notarized either separately or along with the main application. The BLR noted that respondent union correctly availed of the second option:

A perusal of the registration records of the [respondent] revealed that respondent's registration application was sufficient in form and substance, having been notarized as provided in the BLR official forms. (Atty. Manuel E. Robles notarized such application on 8 February 1999 at Cavite City.) All the other supporting documents to the charter certificate issued by the National Mines and Allied Workers Union were certified true and correct by the secretary and attested to by the president.

Thus, from the standpoint of compliance, [respondent] x x x submitted all the documentary requirements for the creation of a local/chapter in accordance with Section 1, Rule VI, D.O. 9 series of 1997.[28] (Emphasis supplied)

Indeed, all that Article 235 requires is that the secretary's certification be under oath. It does not prescribe a specific manner of its notarization. Based on its interpretation of Article 235, the BLR, in its October 14, 1998 Advisory, allows for the wholesale notarization of a union's application for registration and recognizes the effects thereof even on the attachments, including the secretary's certification. This is a reasonable interpretation considering that the form of notarization contemplated in said Advisory adequately serves the purpose of Article 235, which is to forestall fraud and misrepresentation. More importantly, such interpretation of the BLR is accorded great weight by the Court for it is said agency which is vested with authority and endowed with expertise to implement the law in question.[29]

Petitioner cannot rely on the ruling of the Court in *Progressive Development Corporation v. DOLE Secretary*[30] as said case is hardly germane to the present case. For one, *Progressive Development Corporation* involved a petition for certification of election, and not a petition for cancellation of union registration. Thus, the Court merely restrained action on the petition for certification filed by the local union whose legitimacy was under question, but did not cancel the registration of said union. Moreover, the defect in the registration of the said union consisted of the utter lack of a secretary's certification under oath. On the other hand, in the present case, the documents filed by respondent union contain the requisite secretary's certification which, along with the entire application, was found by the BLR to have been duly notarized.

The second ground cited by DOLE Region IV in canceling the registration of respondent union is that the latter allegedly committed misrepresentation in securing the signatures of its members:

Considering further that the respondent failed to refute the "Sinumpaang Petisyon" executed by 148 out of 200

employees of the petitioner company that they were made to sign a blank sheet of paper purportedly to be used to request a dialogue with the president of the company which turned out later the signatures were misused and misrepresented to form a local union under NAMAWU constitute grave misrepresentation in violation of par. (A) of Article 239 of the Labor Code as amended, a valid ground for cancellation of union registration.[31]

The CA and BLR, on the other hand, assign no credence to the Sinumpaang Petisyon for it is a mere photocopy,[32] the genuineness and due execution of which cannot be reasonably ascertained. Moreover, citing *Oriental Tin Can Labor Union v. Secretary of Labor*,[33] the BLR held that it has reason to be wary of the Sinumpaang Petisyon for the withdrawal of support by the alleged signatories to the petition may have been "procured through duress, coercion, or for a valuable consideration."

The Court adopts the foregoing observations of the CA and BLR.

Another factor which militates against the veracity of the allegations in the Sinumpaang Petisyon is the lack of particularities on how, when and where respondent union perpetrated the alleged fraud on each member.[34] Such details are crucial for in the proceedings for cancellation of union registration on the ground of fraud or misrepresentation, what needs to be established is that the specific act or omission of the union deprived the complaining employees-members of their right to choose.

WHEREFORE, the petition is DENIED.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Roberto A. Barrios and Arsenio J. Magpale; rollo, p. 27.

[2] Id. at 30.

[3] CA rollo, p. 16.

[4] Id.

[5] Id. at 32.

[6] Id. at 18

[7] Id. at 43.

[8] Id. at 60.

[9] Id. at 53.

[10] Id. at 62.

[11] Id. at 63.

[12] Id. at 68.

[13] Id. at 2.

[14] Id. at 56.

[15] Memorandum, rollo, pp. 142-143.

[16]Id. at 144-145.

[17] Id. at 140-141.

[18]BLR Decision, CA rollo, p. 61.

[19] Memorandum, rollo, p. 135.

[20] Id. at 17.

[21] National Power Corporation v. Degamo, G.R. No. 164602, February 28, 2005, 452 SCRA 634, 642.

[22] Verceles v. Bureau of Labor Relations-Department of Labor and Employment-National Capital Region, G.R. No. 152322, February 15, 2005, 451 SCRA 338, 354; St. James School of Quezon City v. Samahang Manggagawa sa St. James School of Quezon City, G.R. No. 151326, November 23, 2005, 476 SCRA 12, 19.

[23]Petition, rollo, p. 20.

[24] Sarapat v. Salanga, G.R. No. 154110, November 23, 2007.

[25] Memorandum, rollo, p. 141.

[26]DOLE Region IV Order, CA rollo, p. 42.

[27] Id. at 51.

[28] Id. at 51-52.

[29] Eastern Telecommunications Philippines, Inc. v. International Communication Corporation, G.R. No. 135992, January 31, 2006, 481 SCRA 163, 166-167; Cemco Holdings, Inc. v. National Life Insurance Company of the Philippines, Inc., G.R. No. 171815, August 7, 2007, 529 SCRA 355, 372.

[30] G.R. No. 96425, February 4, 1992, 205 SCRA 802.

[31] Rollo, pp. 76-77.

[32]CA rollo, pp. 32-39.

[33] 356 Phil. 141 (1998).

[34] Toyota Autoparts, Phils., Inc. v. The Director of the Bureau of Labor Relations, 363 Phil. 437, 445 (1999).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.