

SAMAHANG MANGGAGAWA SA CHARTER CHEMICAL SOLIDARITY OF UNIONS IN THE PHILIPPINES FOR EMPOWERMENT AND REFORMS (SMCC-SUPER), ZACARRIAS JERRY VICTORIO – UNION PRESIDENT, PETITIONER,...

G.R. No. 169717. March 16, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The right to file a petition for certification election is accorded to a labor organization provided that it complies with the requirements of law for proper registration. The inclusion of supervisory employees in a labor organization seeking to represent the bargaining unit of rank-and-file employees does not divest it of its status as a legitimate labor organization. We apply these principles to this case.

This Petition for Review on Certiorari seeks to reverse and set aside the Court of Appeal's March 15, 2005 Decision[1] in CA-G.R. SP No. 58203, which annulled and set aside the January 13, 2000 Decision[2] of the Department of Labor and Employment (DOLE) in OS-A-6-53-99 (NCR-OD-M-9902-019) and the September 16, 2005 Resolution[3] denying petitioner union's motion for reconsideration.

Factual Antecedents

On February 19, 1999, Samahang Manggagawa sa Charter Chemical Solidarity of Unions in the Philippines for Empowerment and Reforms (petitioner union) filed a petition for certification election among the regular rank-and-file employees of Charter Chemical and Coating Corporation (respondent company) with the Mediation Arbitration Unit of the DOLE, National Capital Region.

On April 14, 1999, respondent company filed an Answer with Motion to Dismiss[4] on the ground that petitioner union is not a legitimate labor organization because of (1) failure to comply with the documentation requirements set by law, and (2) the inclusion of supervisory employees within petitioner union.[5]

Med-Arbiter's Ruling

On April 30, 1999, Med-Arbiter Tomas F. Falconitin issued a Decision[6] dismissing the petition for certification election. The Med-Arbiter ruled that petitioner union is not a legitimate labor organization because the Charter Certificate, "Sama-samang Pahayag ng Pagsapi at Authorization," and "Listahan ng mga Dumalo sa Pangkalahatang Pulong at mga Sumang-ayon at Nagratipika sa Saligang Batas" were not executed under oath and certified by the union secretary and attested to by the union president as required by Section 235 of the Labor Code[7] in relation to Section 1, Rule VI of Department Order (D.O.) No. 9, series of 1997. The union registration was, thus, fatally defective.

The Med-Arbiter further held that the list of membership of petitioner union consisted of 12 batchman, mill operator and leadman who performed supervisory functions. Under Article 245 of the Labor Code, said

supervisory employees are prohibited from joining petitioner union which seeks to represent the rank-and-file employees of respondent company.

As a result, not being a legitimate labor organization, petitioner union has no right to file a petition for certification election for the purpose of collective bargaining.

Department of Labor and Employment's Ruling

On July 16, 1999, the DOLE initially issued a Decision[8] in favor of respondent company dismissing petitioner union's appeal on the ground that the latter's petition for certification election was filed out of time. Although the DOLE ruled, contrary to the findings of the Med-Arbiter, that the charter certificate need not be verified and that there was no independent evidence presented to establish respondent company's claim that some members of petitioner union were holding supervisory positions, the DOLE sustained the dismissal of the petition for certification after it took judicial notice that another union, i.e., Pinag-isang Lakas Manggagawa sa Charter Chemical and Coating Corporation, previously filed a petition for certification election on January 16, 1998. The Decision granting the said petition became final and executory on September 16, 1998 and was remanded for immediate implementation. Under Section 7, Rule XI of D.O. No. 9, series of 1997, a motion for intervention involving a certification election in an unorganized establishment should be filed prior to the finality of the decision calling for a certification election. Considering that petitioner union filed its petition only on February 14, 1999, the same was filed out of time.

On motion for reconsideration, however, the DOLE reversed its earlier ruling. In its January 13, 2000 Decision, the DOLE found that a review of the records indicates that no certification election was previously conducted in respondent company. On the contrary, the prior certification election filed by Pinag-isang Lakas Manggagawa sa Charter Chemical and Coating Corporation was, likewise, denied by the Med-Arbiter and, on appeal, was dismissed by the DOLE for being filed out of time. Hence, there was no obstacle to the grant of petitioner union's petition for certification election, viz:

WHEREFORE, the motion for reconsideration is hereby GRANTED and the decision of this Office dated 16 July 1999 is MODIFIED to allow the certification election among the regular rank-and-file employees of Charter Chemical and Coating Corporation with the following choices:

1. Samahang Manggagawa sa Charter Chemical-Solidarity of Unions in the Philippines for Empowerment and Reform (SMCC-SUPER); and
2. No Union.

Let the records of this case be remanded to the Regional Office of origin for the immediate conduct of a certification election, subject to the usual pre-election conference.

SO DECIDED.[9]

Court of Appeal's Ruling

On March 15, 2005, the CA promulgated the assailed Decision, viz:

WHEREFORE, the petition is hereby GRANTED. The assailed Decision and Resolution dated January 13, 2000 and February 17, 2000 are hereby [ANNULLED] and SET ASIDE.

SO ORDERED.[10]

In nullifying the decision of the DOLE, the appellate court gave credence to the findings of the Med-Arbiter that petitioner union failed to comply with the documentation requirements under the Labor Code. It, likewise, upheld

the Med-Arbiter's finding that petitioner union consisted of both rank-and-file and supervisory employees. Moreover, the CA held that the issues as to the legitimacy of petitioner union may be attacked collaterally in a petition for certification election and the infirmity in the membership of petitioner union cannot be remedied through the exclusion-inclusion proceedings in a pre-election conference pursuant to the ruling in *Toyota Motor Philippines v. Toyota Motor Philippines Corporation Labor Union*.^[11] Thus, considering that petitioner union is not a legitimate labor organization, it has no legal right to file a petition for certification election.

Issues

I

Whether x x x the Honorable Court of Appeals committed grave abuse of discretion tantamount to lack of jurisdiction in granting the respondent [company's] petition for certiorari (CA G.R. No. SP No. 58203) in spite of the fact that the issues subject of the respondent company[s] petition was already settled with finality and barred from being re-litigated.

II

Whether x x x the Honorable Court of Appeals committed grave abuse of discretion tantamount to lack of jurisdiction in holding that the alleged mixture of rank-and-file and supervisory employee[s] of petitioner [union's] membership is [a] ground for the cancellation of petitioner [union's] legal personality and dismissal of [the] petition for certification election.

III

Whether x x x the Honorable Court of Appeals committed grave abuse of discretion tantamount to lack of jurisdiction in holding that the alleged failure to certify under oath the local charter certificate issued by its mother federation and list of the union membership attending the organizational meeting [is a ground] for the cancellation of petitioner [union's] legal personality as a labor organization and for the dismissal of the petition for certification election.^[12]

Petitioner Union's Arguments

Petitioner union claims that the litigation of the issue as to its legal personality to file the subject petition for certification election is barred by the July 16, 1999 Decision of the DOLE. In this decision, the DOLE ruled that petitioner union complied with all the documentation requirements and that there was no independent evidence presented to prove an illegal mixture of supervisory and rank-and-file employees in petitioner union. After the promulgation of this Decision, respondent company did not move for reconsideration, thus, this issue must be deemed settled.

Petitioner union further argues that the lack of verification of its charter certificate and the alleged illegal composition of its membership are not grounds for the dismissal of a petition for certification election under Section 11, Rule XI of D.O. No. 9, series of 1997, as amended, nor are they grounds for the cancellation of a union's registration under Section 3, Rule VIII of said issuance. It contends that what is required to be certified under oath by the local union's secretary or treasurer and attested to by the local union's president are limited to the union's constitution and by-laws, statement of the set of officers, and the books of accounts.

Finally, the legal personality of petitioner union cannot be collaterally attacked but may be questioned only in an independent petition for cancellation pursuant to Section 5, Rule V, Book IV of the Rules to Implement the Labor Code and the doctrine enunciated in *Tagaytay Highlands International Golf Club Incorporated v. Tagaytay Highlands Employees Union-PTGWO*.^[13]

Respondent Company's Arguments

Respondent company asserts that it cannot be precluded from challenging the July 16, 1999 Decision of the DOLE. The said decision did not attain finality because the DOLE subsequently reversed its earlier ruling and, from this decision, respondent company timely filed its motion for reconsideration.

On the issue of lack of verification of the charter certificate, respondent company notes that Article 235 of the Labor Code and Section 1, Rule VI of the Implementing Rules of Book V, as amended by D.O. No. 9, series of 1997, expressly requires that the charter certificate be certified under oath.

It also contends that petitioner union is not a legitimate labor organization because its composition is a mixture of supervisory and rank-and-file employees in violation of Article 245 of the Labor Code. Respondent company maintains that the ruling in *Toyota Motor Philippines vs. Toyota Motor Philippines Labor Union*[14] continues to be good case law. Thus, the illegal composition of petitioner union nullifies its legal personality to file the subject petition for certification election and its legal personality may be collaterally attacked in the proceedings for a petition for certification election as was done here.

Our Ruling

The petition is meritorious.

The issue as to the legal personality of petitioner union is not barred by the July 16, 1999 Decision of the DOLE.

A review of the records indicates that the issue as to petitioner union's legal personality has been timely and consistently raised by respondent company before the Med-Arbiter, DOLE, CA and now this Court. In its July 16, 1999 Decision, the DOLE found that petitioner union complied with the documentation requirements of the Labor Code and that the evidence was insufficient to establish that there was an illegal mixture of supervisory and rank-and-file employees in its membership. Nonetheless, the petition for certification election was dismissed on the ground that another union had previously filed a petition for certification election seeking to represent the same bargaining unit in respondent company.

Upon motion for reconsideration by petitioner union on January 13, 2000, the DOLE reversed its previous ruling. It upheld the right of petitioner union to file the subject petition for certification election because its previous decision was based on a mistaken appreciation of facts.[15] From this adverse decision, respondent company timely moved for reconsideration by reiterating its previous arguments before the Med-Arbiter that petitioner union has no legal personality to file the subject petition for certification election.

The July 16, 1999 Decision of the DOLE, therefore, never attained finality because the parties timely moved for reconsideration. The issue then as to the legal personality of petitioner union to file the certification election was properly raised before the DOLE, the appellate court and now this Court.

The charter certificate need not be certified under oath by the local union's secretary or treasurer and attested to by its president.

Preliminarily, we must note that Congress enacted Republic Act (R.A.) No. 9481[16] which took effect on June 14, 2007.[17] This law introduced substantial amendments to the Labor Code. However, since the operative facts in this case occurred in 1999, we shall decide the issues under the pertinent legal provisions then in force (i.e., R.A. No. 6715,[18] amending Book V of the Labor Code, and the rules and regulations[19] implementing R.A.

No. 6715, as amended by D.O. No. 9,[20]

series of 1997) pursuant to our ruling in *Republic v. Kawashima Textile Mfg., Philippines, Inc.*[21]

In the main, the CA ruled that petitioner union failed to comply with the requisite documents for registration under Article 235 of the Labor Code and its implementing rules. It agreed with the Med-Arbiter that the Charter Certificate, Sama-samang Pahayag ng Pagsapi at Authorization, and Listahan ng mga Dumalo sa Pangkalahatang Pulong at mga Sumang-ayon at Nagratipika sa Saligang Batas were not executed under oath. Thus, petitioner union cannot be accorded the status of a legitimate labor organization.

We disagree.

The then prevailing Section 1, Rule VI of the Implementing Rules of Book V, as amended by D.O. No. 9, series of 1997, provides:

Section 1. Chartering and creation of a local chapter -- A duly registered federation or national union may directly create a local/chapter by submitting to the Regional Office or to the Bureau two (2) copies of the following:

- (a) A charter certificate issued by the federation or national union indicating the creation or establishment of the local/chapter;
- (b) The names of the local/chapter's officers, their addresses, and the principal office of the local/chapter; and
- (c) The local/chapter's constitution and by-laws provided that where the local/chapter's constitution and by-laws [are] the same as [those] of the federation or national union, this fact shall be indicated accordingly.

All the foregoing supporting requirements shall be certified under oath by the Secretary or the Treasurer of the local/chapter and attested to by its President.

As readily seen, the Sama-samang Pahayag ng Pagsapi at Authorization and Listahan ng mga Dumalo sa Pangkalahatang Pulong at mga Sumang-ayon at Nagratipika sa Saligang Batas are not among the documents that need to be submitted to the Regional Office or Bureau of Labor Relations in order to register a labor organization. As to the charter certificate, the above-quoted rule indicates that it should be executed under oath. Petitioner union concedes and the records confirm that its charter certificate was not executed under oath. However, in *San Miguel Corporation (Mandaue Packaging Products Plants) v. Mandaue Packing Products Plants-San Miguel Corporation Monthlies Rank-and-File Union-FFW (MPPP-SMPP-SMAMRFU-FFW)*,[22] which was decided under the auspices of D.O. No. 9, Series of 1997, we ruled -

In *San Miguel Foods-Cebu B-Meg Feed Plant v. Hon. Laguesma*, 331 Phil. 356 (1996), the Court ruled that it was not necessary for the charter certificate to be certified and attested by the local/chapter officers. *Id.* While this ruling was based on the interpretation of the previous Implementing Rules provisions which were supplanted by the 1997 amendments, we believe that the same doctrine obtains in this case. Considering that the charter certificate is prepared and issued by the national union and not the local/chapter, it does not make sense to have the local/chapter's officers x x x certify or attest to a document which they had no hand in the preparation of.[23] (Emphasis supplied)

In accordance with this ruling, petitioner union's charter certificate need not be executed under oath. Consequently, it validly acquired the status of a legitimate labor organization upon submission of (1) its charter certificate,[24] (2) the names of its officers, their addresses, and its principal office,[25] and (3) its constitution and by-laws[26]-- the last two requirements having been executed under oath by the proper union officials as borne out by the records.

The mixture of rank-and-file and supervisory employees in petitioner union does not nullify its legal personality as a legitimate labor organization.

The CA found that petitioner union has for its membership both rank-and-file and supervisory employees. However, petitioner union sought to represent the bargaining unit consisting of rank-and-file employees. Under Article 245[27] of the Labor Code, supervisory employees are not eligible for membership in a labor organization of rank-and-file employees. Thus, the appellate court ruled that petitioner union cannot be considered a legitimate labor organization pursuant to *Toyota Motor Philippines v. Toyota Motor Philippines Corporation Labor Union*[28] (hereinafter *Toyota*).

Preliminarily, we note that petitioner union questions the factual findings of the Med-Arbiter, as upheld by the appellate court, that 12 of its members, consisting of batchman, mill operator and leadman, are supervisory employees. However, petitioner union failed to present any rebuttal evidence in the proceedings below after respondent company submitted in evidence the job descriptions[29] of the aforesaid employees. The job descriptions indicate that the aforesaid employees exercise recommendatory managerial actions which are not merely routinary but require the use of independent judgment, hence, falling within the definition of supervisory employees under Article 212(m)[30] of the Labor Code. For this reason, we are constrained to agree with the Med-Arbiter, as upheld by the appellate court, that petitioner union consisted of both rank-and-file and supervisory employees.

Nonetheless, the inclusion of the aforesaid supervisory employees in petitioner union does not divest it of its status as a legitimate labor organization. The appellate court's reliance on *Toyota* is misplaced in view of this Court's subsequent ruling in *Republic v. Kawashima Textile Mfg., Philippines, Inc.*[31] (hereinafter *Kawashima*). In *Kawashima*, we explained at length how and why the *Toyota* doctrine no longer holds sway under the altered state of the law and rules applicable to this case, viz:

R.A. No. 6715 omitted specifying the exact effect any violation of the prohibition [on the co-mingling of supervisory and rank-and-file employees] would bring about on the legitimacy of a labor organization.

It was the Rules and Regulations Implementing R.A. No. 6715 (1989 Amended Omnibus Rules) which supplied the deficiency by introducing the following amendment to Rule II (Registration of Unions):

"Sec. 1. Who may join unions. - x x x Supervisory employees and security guards 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; Provided, that those supervisory employees who are included in an existing rank-and-file bargaining unit, upon the effectivity of Republic Act No. 6715, shall remain in that unit x x x. (Emphasis supplied)

and Rule V (Representation Cases and Internal-Union Conflicts) of the Omnibus Rules, viz:

"Sec. 1. Where to file. - A petition for certification election may be filed with the Regional Office which has jurisdiction over the principal office of the employer. The petition shall be in writing and under oath.

Sec. 2. Who may file. - Any legitimate labor organization or the employer, when requested to bargain collectively, may file the petition.

The petition, when filed by a legitimate labor organization, shall contain, among others:

x x x x

(c) description of the bargaining unit which shall be the employer unit unless circumstances otherwise require; and provided further, that the appropriate bargaining unit of the rank-and-file employees shall not include supervisory employees and/or security guards. (Emphasis supplied)

By that provision, any questioned mingling will prevent an otherwise legitimate and duly registered labor organization from exercising its right to file a petition for certification election.

Thus, when the issue of the effect of mingling was brought to the fore in *Toyota*, the Court, citing Article 245 of the Labor Code, as amended by R.A. No. 6715, held:

"Clearly, based on this provision, a labor organization composed of both rank-and-file and supervisory employees is no labor organization at all. It cannot, for any guise or purpose, be a legitimate labor organization. Not being one, an organization which carries a mixture of rank-and-file and supervisory employees cannot possess any of the rights of a legitimate labor organization, including the right to file a petition for certification election for the purpose of collective bargaining. It becomes necessary, therefore, anterior to the granting of an order allowing a certification election, to inquire into the composition of any labor organization whenever the status of the labor organization is challenged on the basis of Article 245 of the Labor Code.

x x x x

In the case at bar, as respondent union's membership list contains the names of at least twenty-seven (27) supervisory employees in Level Five positions, the union could not, prior to purging itself of its supervisory employee members, attain the status of a legitimate labor organization. Not being one, it cannot possess the requisite personality to file a petition for certification election." (Emphasis supplied)

In *Dunlop*, in which the labor organization that filed a petition for certification election was one for supervisory employees, but in which the membership included rank-and-file employees, the Court reiterated that such labor organization had no legal right to file a certification election to represent a bargaining unit composed of supervisors for as long as it counted rank-and-file employees among its members.

It should be emphasized that the petitions for certification election involved in *Toyota* and *Dunlop* were filed on November 26, 1992 and September 15, 1995, respectively; hence, the 1989 Rules was applied in both cases.

But then, on June 21, 1997, the 1989 Amended Omnibus Rules was further amended by Department Order No. 9, series of 1997 (1997 Amended Omnibus Rules). Specifically, the requirement under Sec. 2(c) of the 1989 Amended Omnibus Rules - that the petition for certification election indicate that the bargaining unit of rank-and-file employees has not been mingled with supervisory employees - was removed. Instead, what the 1997 Amended Omnibus Rules requires is a plain description of the bargaining unit, thus:

Rule XI

Certification Elections

x x x x

Sec. 4. Forms and contents of petition. - The petition shall be in writing and under oath and shall contain, among others, the following: x x x (c) The description of the bargaining unit.

In *Pagpalain Haulers, Inc. v. Trajano*, the Court had occasion to uphold the validity of the 1997 Amended Omnibus Rules, although the specific provision involved therein was only Sec. 1, Rule VI, to wit:

"Section. 1. Chartering and creation of a local/chapter.- A duly registered federation or national union may directly create a local/chapter by submitting to the Regional Office or to the Bureau two (2) copies of the following: a) a charter certificate issued by the federation or national union indicating the creation or

establishment of the local/chapter; (b) the names of the local/chapter's officers, their addresses, and the principal office of the local/chapter; and (c) the local/ chapter's constitution and by-laws; provided that where the local/chapter's constitution and by-laws is the same as that of the federation or national union, this fact shall be indicated accordingly.

All the foregoing supporting requirements shall be certified under oath by the Secretary or the Treasurer of the local/chapter and attested to by its President."

which does not require that, for its creation and registration, a local or chapter submit a list of its members.

Then came *Tagaytay Highlands Int'l. Golf Club, Inc. v. Tagaytay Highlands Employees Union-PGTWO* in which the core issue was whether mingling affects the legitimacy of a labor organization and its right to file a petition for certification election. This time, given the altered legal milieu, the Court abandoned the view in *Toyota* and *Dunlop* and reverted to its pronouncement in *Lopez* that while there is a prohibition against the mingling of supervisory and rank-and-file employees in one labor organization, the Labor Code does not provide for the effects thereof. Thus, the Court held that after a labor organization has been registered, it may exercise all the rights and privileges of a legitimate labor organization. Any mingling between supervisory and rank-and-file employees in its membership cannot affect its legitimacy for that is not among the grounds for cancellation of its registration, unless such mingling was brought about by misrepresentation, false statement or fraud under Article 239 of the Labor Code.

In *San Miguel Corp. (Mandaue Packaging Products Plants) v. Mandaue Packing Products Plants-San Miguel Packaging Products-San Miguel Corp. Monthlies Rank-and-File Union-FFW*, the Court explained that since the 1997 Amended Omnibus Rules does not require a local or chapter to provide a list of its members, it would be improper for the DOLE to deny recognition to said local or chapter on account of any question pertaining to its individual members.

More to the point is *Air Philippines Corporation v. Bureau of Labor Relations*, which involved a petition for cancellation of union registration filed by the employer in 1999 against a rank-and-file labor organization on the ground of mixed membership; the Court therein reiterated its ruling in *Tagaytay Highlands* that the inclusion in a union of disqualified employees is not among the grounds for cancellation, unless such inclusion is due to misrepresentation, false statement or fraud under the circumstances enumerated in Sections (a) and (c) of Article 239 of the Labor Code.

All said, while the latest issuance is R.A. No. 9481, the 1997 Amended Omnibus Rules, as interpreted by the Court in *Tagaytay Highlands*, *San Miguel* and *Air Philippines*, had already set the tone for it. *Toyota* and *Dunlop* no longer hold sway in the present altered state of the law and the rules.^[32] [Underline supplied]

The applicable law and rules in the instant case are the same as those in *Kawashima* because the present petition for certification election was filed in 1999 when D.O. No. 9, series of 1997, was still in effect. Hence, *Kawashima* applies with equal force here. As a result, petitioner union was not divested of its status as a legitimate labor organization even if some of its members were supervisory employees; it had the right to file the subject petition for certification election.

The legal personality of petitioner union cannot be collaterally attacked by respondent company in the certification election proceedings.

Petitioner union correctly argues that its legal personality cannot be collaterally attacked in the certification election proceedings. As we explained in *Kawashima*:

Except when it is requested to bargain collectively, an employer is a mere bystander to any petition for certification election; such proceeding is non-adversarial and merely investigative, for the purpose thereof is to determine which organization will represent the employees in their collective bargaining with the employer. The choice of their representative is the exclusive concern of the employees; the employer cannot have any partisan interest therein; it cannot interfere with, much less oppose, the process by filing a motion to dismiss or an appeal from it; not even a mere allegation that some employees participating in a petition for certification election are actually managerial employees will lend an employer legal personality to block the certification election. The employer's only right in the proceeding is to be notified or informed thereof.

The amendments to the Labor Code and its implementing rules have buttressed that policy even more.[33]

WHEREFORE, the petition is GRANTED. The March 15, 2005 Decision and September 16, 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 58203 are REVERSED and SET ASIDE. The January 13, 2000 Decision of the Department of Labor and Employment in OS-A-6-53-99 (NCR-OD-M-9902-019) is REINSTATED.

No pronouncement as to costs.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ., concur.

[1] Rollo, pp. 29-36; penned by Associate Justice Estela M. Perlas-Bernabe and concurred in by Associate Justices Elvi John S. Asuncion and Hakim S. Abdulwahid.

[2] Id. at 74-75.

[3] Id. at 38.

[4] Id. at 214-223.

[5] Id. at 215-220.

[6] Id. at 40-50.

[7] Presidential Decree No. 442, as amended.

[8] Rollo, pp. 52-54.

[9] Id. at 75.

[10] Id. at 36.

[11] 335 Phil. 1045 (1997).

[12] Rollo, pp. 12-13.

[13] 443 Phil. 841 (2003).

[14] Supra note 11.

[15] Upon reconsideration, the DOLE noted that the other union which allegedly filed a prior petition for certification election was prevented from doing so because its petition for certification election was filed out of time. Thus, there was no obstacle to the conduct of a certification election in respondent company.

[16] "An Act Strengthening the Workers' Constitutional Right to Self-Organization, Amending for the Purpose Presidential Decree No. 442, as Amended, Otherwise Known as the Labor Code of the Philippines."

[17] Republic v. Kawashima Textile Mfg., Philippines, Inc., G.R. No. 160352, July 23, 2008, 559 SCRA 386, 396.

[18] "An Act to Extend Protection to Labor, Strengthen the Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, and Foster Industrial Peace and Harmony." Effective March 21, 1989.

[19] Approved on May 24, 1989.

[20] Effective: June 21, 1997.

[21] Supra note 17 at 396-397.

[22] 504 Phil. 376 (2005).

[23] Id. at 400.

[24] DOLE records, p. 51.

[25] Id. at 43-44.

[26] Id. at 25-40.

[27] Article 245. Ineligibility of Managerial Employees to Join Any Labor Organization; Right of Supervisory Employees.-- x x x Supervisory employees shall not be eligible for membership in the collective bargaining unit of the rank-and-file employees but may join, assist or form separate collective bargaining units and/or legitimate labor organizations of their own. x x x

[28] Supra note 11.

[29] Respondent company claimed that the batchman, mill operator and leadman perform, among others, the following functions:

Prepares, coordinates and supervises work schedules and activities of subordinates or helpers in their respective area of responsibility.

1. Recommends the reduction, increase, transfer and number of employees assigned to them.
2. Sees to it that daily production schedules and outputs are carried on time.
3. Coordinates with their respective managers the needed raw materials and the quality of finished products. (Rollo, p. 220)

[30] Article 212(m) of the Labor Code, states in part: "Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. x x x"

[31] Supra note 17.

[32] Id. at 402-407.

[33] Id. at 408.

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