

**MARIWASA SIAM CERAMICS, INC., PETITIONER, VS. THE
SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT,
CHIEF OF THE BUREAU OF LABOR RELATIONS, DEPARTMENT OF
LABOR AND EMPLOYMENT...**

G.R. No. 183317. December 21, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court, seeking to annul the Decision[2] dated December 20, 2007 and the Resolution[3] dated June 6, 2008 of the Court of Appeals in CA-G.R. SP No. 98332.

The antecedent facts are as follows--

On May 4, 2005, respondent Samahan Ng Mga Manggagawa Sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent) was issued a Certificate of Registration[4] as a legitimate labor organization by the Department of Labor and Employment (DOLE), Region IV-A.

On June 14, 2005, petitioner Mariwasa Siam Ceramics, Inc. filed a Petition for Cancellation of Union Registration against respondent, claiming that the latter violated Article 234[5] of the Labor Code for not complying with the 20% requirement, and that it committed massive fraud and misrepresentation in violation of Article 239[6] of the same code. The case was docketed as Case No. RO400-0506-AU-004.

On August 26, 2005, the Regional Director of DOLE IV-A issued an Order granting the petition, revoking the registration of respondent, and delisting it from the roster of active labor unions.

Aggrieved, respondent appealed to the Bureau of Labor Relations (BLR).

In a Decision[7] dated June 14, 2006, the BLR granted respondent's appeal and disposed as follows--

WHEREFORE, premises considered, the appeal by Samahan ng Manggagawa sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent) is hereby GRANTED, and the Decision dated 26 August 2005 by DOLE-Region-IV-A Director Maximo B. Lim is hereby REVERSED and SET ASIDE. Samahan ng Manggagawa sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent), under Registration Certificate No. RO400-200505-UR-002, remains in the roster of legitimate labor organizations.

SO DECIDED.[8]

Petitioner filed a Motion for Reconsideration but the BLR denied it in a Resolution[9] dated February 2, 2007.

Petitioner sought recourse with the Court of Appeals (CA) through a Petition for Certiorari; but the CA denied the petition for lack of merit.

Petitioner's motion for reconsideration of the CA Decision was likewise denied, hence, this petition based on the

following grounds--

Review of the Factual Findings of the Bureau of Labor Relations, adopted and confirmed by the Honorable Court of Appeals is warranted[;]

The Honorable Court of Appeals seriously erred in ruling that the affidavits of recantation cannot be given credence[;]

The Honorable Court of Appeals seriously erred in ruling that private respondent union complied with the 20% membership requirement[; and]

The Honorable Court of Appeals seriously erred when it ruled that private respondent union did not commit misrepresentation, fraud or false statement.[10]

The petition should be denied.

The petitioner insists that respondent failed to comply with the 20% union membership requirement for its registration as a legitimate labor organization because of the disaffiliation from the total number of union members of 102 employees who executed affidavits recanting their union membership.

It is, thus, imperative that we peruse the affidavits appearing to have been executed by these affiants.

The affidavits uniformly state--

Ako, _____, Pilipino, may sapat na gulang, regular na empleyado bilang Rank & File sa Mariwasa Siam Ceramics, Inc., Bo. San Antonio, Sto. Tomas, Batangas, matapos na makapanumpa ng naaayon sa batas ay malaya at kusang loob na nagsasaad ng mga sumusunod:

1. Ako ay napilitan at nilinlang sa pagsapi sa Samahan ng mga Manggagawa sa Mariwasa Siam Ceramics, Inc. o SMMSC-Independent sa kabila ng aking pag-aalinlangan[;]
2. Aking lubos na pinagsisihan ang aking pagpirma sa sipi ng samahan, at handa ako[ng] tumalikod sa anumang kasulatan na aking nalagdaan sa kadahilanan na hindi angkop sa aking pananaw ang mga mungkahi o adhikain ng samahan.

SA KATUNAYAN NANG LAHAT, ako ay lumagda ng aking pangalan ngayong ika-____ ng _____, 2005 dito sa Lalawigan ng Batangas, Bayan ng Sto. Tomas.

Nagsasalaysay

Evidently, these affidavits were written and prepared in advance, and the pro forma affidavits were ready to be filled out with the employees' names and signatures.

The first common allegation in the affidavits is a declaration that, in spite of his hesitation, the affiant was forced and deceived into joining the respondent union. It is worthy to note, however, that the affidavit does not mention the identity of the people who allegedly forced and deceived the affiant into joining the union, much less the circumstances that constituted such force and deceit. Indeed, not only was this allegation couched in very general terms and sweeping in nature, but more importantly, it was not supported by any evidence whatsoever.

The second allegation ostensibly bares the affiant's regret for joining respondent union and expresses the desire to abandon or renege from whatever agreement he may have signed regarding his membership with respondent.

Simply put, through these affidavits, it is made to appear that the affiants recanted their support of respondent's application for registration.

In appreciating affidavits of recantation such as these, our ruling in *La Suerte Cigar and Cigarette Factory v. Director of the Bureau of Labor Relations*[11] is enlightening, viz.--

On the second issue--whether or not the withdrawal of 31 union members from NATU affected the petition for certification election insofar as the 30% requirement is concerned, We reserve the Order of the respondent Director of the Bureau of Labor Relations, it appearing undisputably that the 31 union members had withdrawn their support to the petition before the filing of said petition. It would be otherwise if the withdrawal was made after the filing of the petition for it would then be presumed that the withdrawal was not free and voluntary. The presumption would arise that the withdrawal was procured through duress, coercion or for valuable consideration. In other words, the distinction must be that withdrawals made before the filing of the petition are presumed voluntary unless there is convincing proof to the contrary, whereas withdrawals made after the filing of the petition are deemed involuntary.

The reason for such distinction is that if the withdrawal or retraction is made before the filing of the petition, the names of employees supporting the petition are supposed to be held secret to the opposite party. Logically, any such withdrawal or retraction shows voluntariness in the absence of proof to the contrary. Moreover, it becomes apparent that such employees had not given consent to the filing of the petition, hence the subscription requirement has not been met.

When the withdrawal or retraction is made after the petition is filed, the employees who are supporting the petition become known to the opposite party since their names are attached to the petition at the time of filing. Therefore, it would not be unexpected that the opposite party would use foul means for the subject employees to withdraw their support.[12]

In the instant case, the affidavits of recantation were executed after the identities of the union members became public, i.e., after the union filed a petition for certification election on May 23, 2005, since the names of the members were attached to the petition. The purported withdrawal of support for the registration of the union was made after the documents were submitted to the DOLE, Region IV-A. The logical conclusion, therefore, following jurisprudence, is that the employees were not totally free from the employer's pressure, and so the voluntariness of the employees' execution of the affidavits becomes suspect.

It is likewise notable that the first batch of 25 pro forma affidavits shows that the affidavits were executed by the individual affiants on different dates from May 26, 2005 until June 3, 2005, but they were all sworn before a notary public on June 8, 2005.

There was also a second set of standardized affidavits executed on different dates from May 26, 2005 until July 6, 2005. While these 77 affidavits were notarized on different dates, 56 of these were notarized on June 8, 2005, the very same date when the first set of 25 was notarized.

Considering that the first set of 25 affidavits was submitted to the DOLE on June 14, 2005, it is surprising why petitioner was able to submit the second set of affidavits only on July 12, 2005.

Accordingly, we cannot give full credence to these affidavits, which were executed under suspicious circumstances, and which contain allegations unsupported by evidence. At best, these affidavits are self-serving. They possess no probative value.

A retraction does not necessarily negate an earlier declaration. For this reason, retractions are looked upon with disfavor and do not automatically exclude the original statement or declaration based solely on the recantation. It is imperative that a determination be first made as to which between the original and the new statements should be given weight or accorded belief, applying the general rules on evidence. In this case, inasmuch as they remain bare allegations, the purported recantations should not be upheld.[13]

Nevertheless, even assuming the veracity of the affidavits of recantation, the legitimacy of respondent as a labor organization must be affirmed. While it is true that the withdrawal of support may be considered as a resignation from the union, the fact remains that at the time of the union's application for registration, the affiants were members of respondent and they comprised more than the required 20% membership for purposes of registration as a labor union. Article 234 of the Labor Code merely requires a 20% minimum membership during the application for union registration. It does not mandate that a union must maintain the 20% minimum membership requirement all throughout its existence.[14]

Respondent asserts that it had a total of 173 union members at the time it applied for registration. Two names were repeated in respondent's list and had to be deducted, but the total would still be 171 union members. Further, out of the four names alleged to be no longer connected with petitioner, only two names should be deleted from the list since Diana Motilla and T.W. Amutan resigned from petitioner only on May 10, 2005 and May 17, 2005, respectively, or after respondent's registration had already been granted. Thus, the total union membership at the time of registration was 169. Since the total number of rank-and-file employees at that time was 528, 169 employees would be equivalent to 32% of the total rank-and-file workers complement, still very much above the minimum required by law.

For the purpose of de-certifying a union such as respondent, it must be shown that there was 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; or, in connection with the election of officers, the minutes of the election of officers, the list of voters, or failure to submit these documents together with the list of the newly elected-appointed officers and their postal addresses to the BLR.[15]

The bare fact that two signatures appeared twice on the list of those who participated in the organizational meeting would not, to our mind, provide a valid reason to cancel respondent's certificate of registration. The cancellation of a union's registration doubtless has an impairing dimension on the right of labor to self-organization. For fraud and misrepresentation to be grounds for cancellation of union registration under 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.

In this case, we agree with the BLR and the CA that respondent could not have possibly committed misrepresentation, fraud, or false statements. The alleged failure of respondent to indicate with mathematical precision the total number of employees in the bargaining unit is of no moment, especially as it was able to comply with the 20% minimum membership requirement. Even if the total number of rank-and-file employees of petitioner is 528, while respondent declared that it should only be 455, it still cannot be denied that the latter would have more than complied with the registration requirement.

WHEREFORE, the petition is DENIED. The assailed December 20, 2007 Decision and the June 6, 2008 Resolution of the Court of Appeals are AFFIRMED. Costs against petitioner.

SO ORDERED.

Corona, (Chairperson), Velasco, Jr., Peralta, and Del Castillo,[*] JJ., concur.

[*] Additional member per Special Order No. 805 dated December 4, 2009.

[1] Rollo, pp. 14-34.

[2] Penned by Associate Justice Celia C. Librea-Leagogo, with Associate Justices Regalado E. Maambong and

Sixto C. Marella, Jr., concurring; id. at 354-374.

[3] Id. at 388-389.

[4] Rollo, p. 110.

[5] ART. 234. REQUIREMENTS OF REGISTRATION

Any applicant labor organization, association or group of unions or workers 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. (Emphasis supplied.)

[6] ART. 239. GROUNDS FOR CANCELLATION OF UNION REGISTRATION

The following shall constitute grounds for cancellation of union registration:

(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;

x x x x

(c) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, the list of voters, or failure to submit these documents together with the list of the newly-elected/appointed officers and their postal addresses within thirty (30) days from election. (Emphasis supplied.)

[7] Rollo, pp. 70-77.

[8] Id. at 77.

[9] Id. at 67-68.

[10] Id. at 22, 26, 29, and 31.

[11] G.R. No. L-55674, July 25, 1983, 123 SCRA 679.

[12] Id. at 707-708.

[13] *Philippine Long Distance Company v. The Late Romeo F. Bolso*, G.R. No. 159701, August 17, 2007, 530 SCRA 550.

[14] However, this does not prevent another union within the same company from challenging the status of the union as the legitimate labor organization authorized to represent the interests of the employees with the management.

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

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