

JUANITO TABIGUE, ALEX BIBAT, JECHRIS DASALLA, ANTONIO TANGON, ROLANDO PEDRIGAL, DANTE MAUL, ALFREDO IDUL, EDGAR RAMOS, RODERICK JAVIER, NOEL PONAYO, ROMEL ORAPA, REY JONE, ALMA ...

G.R. No. 183335. December 23, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Petitioner Juanito Tabigue and his 19 co-petitioners, all employees of respondent International Copra Export Corporation (INTERCO), filed a Notice of Preventive Mediation with the Department of Labor and Employment - National Conciliation and Mediation Board (NCMB), Regional Branch No. XI, Davao City against respondent, for violation of Collective Bargaining Agreement (CBA) and failure to sit on the grievance conference/meeting.[1]

As the parties failed to reach a settlement before the NCMB, petitioners requested to elevate the case to voluntary arbitration. The NCMB thus set a date for the parties to agree on a Voluntary Arbitrator.

Before the parties could finally meet, respondent presented before the NCMB a letter[2] of Genaro Tan (Tan), president of the INTERCO Employees/Laborers' Union (the union) of which petitioners are members, addressed to respondent's plant manager Engr. Paterno C. Tangente (Tangente), stating that petitioners "are not duly authorized by [the] board or the officers to represent the union, [hence] . . . all actions, representations or agreements made by these people with the management will not be honored or recognized by the union." Respondent thus moved to dismiss petitioners' complaint for lack of jurisdiction.[3]

Petitioners soon sent union president Tan and respondent's plant manager Tangente a Notice to Arbitrate, citing the "Revised Guidelines" in the Conduct of Voluntary Arbitration Procedure vis a vis Section 3, Article XII of the CBA, furnishing the NCMB with a copy[4] thereof, which notice respondent opposed.[5]

The parties having failed to arrive at a settlement,[6] NCMB Director Teodorico O. Yosores wrote petitioner Alex Bibat and respondent's plant manager Tangente of the lack of willingness of both parties to submit to voluntary arbitration, which willingness is a pre-requisite to submit the case thereto; and that under the CBA forged by the parties, the union is an indispensable party to a voluntary arbitration but that since Tan informed respondent that the union had not authorized petitioners to represent it, it would be absurd to bring the case to voluntary arbitration.

The NCMB Director thus concluded that "the demand of [petitioners] to submit the issues . . . to voluntary arbitration CAN NOT BE GRANTED." He thus advised petitioners to avail of the compulsory arbitration process to enforce their rights.[7]

On petitioners' Motion for Reconsideration,[8] the NCMB Director, by letter of April 11, 2007 to petitioners' counsel, stated that the NCMB "has no rule-making power to decide on issues [as it] only facilitates settlement

among the parties to . . . labor disputes."

Petitioners thus assailed the NCMB Director's decision via Petition for Review before the Court of Appeals[9] which dismissed it by Resolution[10] of October 24, 2007 in this wise:

x x x x

Considering that NCMB is not a quasi-judicial agency exercising quasi-judicial functions but merely a conciliatory body for the purpose of facilitating settlement of disputes between parties, its decisions or that of its authorized officer cannot be appealed either through a petition for review under Rule 43 or under Rule 65 of the Revised Rules of Court.

Further perusal of the petition reveals the following infirmities:

- Payment of the docket fees and other legal fees is short by One Thousand Pesos (Php 1,000.00);
- Copy of the assailed "Decision" of the Regional Director of the National Conciliation and Mediation Board has not been properly certified as the name and designation of the certifying officer thereto are not indicated; and
- Not all of the petitioners named in the petition signed the verification and non-forum shopping.[11] (emphasis and underscoring supplied)

Their Motion for Reconsideration[12] having been denied,[13] petitioners filed the present Petition for Review on Certiorari,[14] raising the following arguments:

THIS PARTICULAR CASE XXX FALLS SQUARELY WITHIN THE PURVIEW OF SECTION 6, RULE IV, IN RELATION TO PARAGRAPH 3, SUB-PARAGRAPH 3.2, SECTION 4, RULE IV, ALL OF THE REVISED PROCEDURAL GUIDELINES IN THE CONDUCT OF VOLUNTARY ARBITRATION PROCEEDINGS.[15]

THE NCMB, WHEN EXERCISING ADJUDICATIVE POWERS, ACTS AS A QUASI-JUDICIAL AGENCY.[16]

FINAL JUDGMENTS, DECISIONS, RESOLUTIONS, ORDERS, OR AWARDS OF REGIONAL TRIAL COURTS AND QUASI-JUDICIAL BOARDS, LIKE THE NCMB, COMMISSIONS, AGENCIES, INSTRUMENTALITIES, ARE APPEALABLE BY PETITION FOR REVIEW TO THE COURT OF APPEALS.[17] (emphasis in the original)

LABOR CASES, AS A GENERAL RULE, ARE NEVER RESOLVED ON THE BASIS OF TECHNICALITY ESPECIALLY SO WHEN SUBSTANTIAL RIGHTS OF EMPLOYEES ARE AFFECTED.[18] (emphasis and underscoring supplied)

The petition fails.

Section 7 of Rule 43 of the Rules of Court provides that

[t]he failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof. (underscoring and emphasis supplied)

Petitioners claim that they had completed the payment of the appellate docket fee and other legal fees when they filed their motion for reconsideration before the Court of Appeals.[19] While the Court has, in the interest of justice, given due course to appeals despite the belated payment of those fees,[20] petitioners have not proffered

any reason to call for a relaxation of the above-quoted rule. On this score alone, the dismissal by the appellate court of petitioners' petition is in order.

But even if the above-quoted rule were relaxed, the appellate court's dismissal would just the same be sustained. Under Section 9 (3) of the Judiciary Reorganization Act of 1980,[21] the Court of Appeals exercises exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commissions.

Rule 43 of the Rules of Court under which petitioners filed their petition before the Court of Appeals[22] applies to awards, judgments, final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions.[23]

A[n agency] is said to be exercising judicial function where [it] has the power to determine what the law is and what the legal rights of the parties are, and then undertakes to determine these questions and adjudicate upon the rights of the parties. Quasi-judicial function is a term which applies to the action, discretion, etc. of public administrative officers or bodies, who are required to investigate facts or ascertain the existence of facts, hold hearings, and draw conclusions from them as a basis for their official action and to exercise discretion of a judicial nature.[24] (underscoring supplied)

Given NCMB's following functions, as enumerated in Section 22 of Executive Order No. 126 (the Reorganization Act of the Ministry of Labor and Employment), viz:

(a)

Formulate policies, programs, standards, procedures, manuals of operation and guidelines pertaining to effective mediation and conciliation of labor disputes;

(b)

Perform preventive mediation and conciliation functions;

(c)

Coordinate and maintain linkages with other sectors or institutions, and other government authorities concerned with matters relative to the prevention and settlement of labor disputes;

(d)

Formulate policies, plans, programs, standards, procedures, manuals of operation and guidelines pertaining to the promotion of cooperative and non-adversarial schemes, grievance handling, voluntary arbitration and other voluntary modes of dispute settlement;

(e)

Administer the voluntary arbitration program; maintain/update a list of voluntary arbitrations; compile arbitration awards and decisions;

(f)

Provide counseling and preventive mediation assistance particularly in the administration of collective agreements;

(g)

Monitor and exercise technical supervision over the Board programs being implemented in the regional offices; and

(h)

Perform such other functions as may be provided by law or assigned by the Minister,

it can not be considered a quasi-judicial agency.

Respecting petitioners' thesis that unsettled grievances should be referred to voluntary arbitration as called for in the CBA, the same does not lie. The pertinent portion of the CBA reads:

In case of any dispute arising from the interpretation or implementation of this Agreement or any matter affecting the relations of Labor and Management, the UNION and the COMPANY agree to exhaust all possibilities of conciliation through the grievance machinery. The committee shall resolve all problems submitted to it within fifteen (15) days after the problems ha[ve] been discussed by the members. If the dispute or grievance cannot be settled by the Committee, or if the committee failed to act on the matter within the period of fifteen (15) days herein stipulated, the UNION and the COMPANY agree to submit the issue to Voluntary Arbitration. Selection of the arbitrator shall be made within seven (7) days from the date of notification by the aggrieved party. The Arbitrator shall be selected by lottery from four (4) qualified individuals nominated by in equal numbers by both parties taken from the list of Arbitrators prepared by the National Conciliation and Mediation Board (NCMB). If the Company and the Union representatives within ten (10) days fail to agree on the Arbitrator, the NCMB shall name the Arbitrator. The decision of the Arbitrator shall be final and binding upon the parties. However, the Arbitrator shall not have the authority to change any provisions of the Agreement. The cost of arbitration shall be borne equally by the parties.[25] (capitalization in the original, underscoring supplied)

Petitioners have not, however, been duly authorized to represent the union. Apropos is this Court's pronouncement in *Atlas Farms, Inc. v. National Labor Relations Commission*,[26] viz:

x x x Pursuant to Article 260 of the Labor Code, the parties to a CBA shall name or designate their respective representatives to the grievance machinery and if the grievance is unsettled in that level, it shall automatically be referred to the voluntary arbitrators designated in advance by parties to a CBA. Consequently only disputes involving the union and the company shall be referred to the grievance machinery or voluntary arbitrators.[27] (emphasis and underscoring supplied)

Clutching at straws, petitioners invoke the first paragraph of Article 255 of the Labor Code which states:

Art. 255. The labor organization designated or selected by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of the employees in such unit for the purpose of collective bargaining. However, an individual employee or group of employees shall have the right at any time to present grievances to their employer.

x x x x (emphasis and underscoring supplied)

To petitioners, the immediately quoted provision "is meant to be an exception to the exclusiveness of the representative role of the labor organization/union." [28]

This Court is not persuaded. The right of any employee or group of employees to, at any time, present grievances to the employer does not imply the right to submit the same to voluntary arbitration.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 51-52.

[2] Id. at 60.

[3] Id. at 62-71.

[4] Id. at 96-97.

[5] NCMB records. (Note: the NCMB records are not paginated)

[6] Id. Vide rollo, p. 99.

[7] Id. at 100.

[8] Id. at 101-107.

[9] CA rollo, pp. 2-24.

[10] Penned by Court of Appeals Associate Justice Rodrigo F. Lim, Jr. with the concurrence of Associate Justices Teresita Dy-Liaco Flores and Michael Elbinias; id. at 85-86.

[11] Id., unnumbered page between pp. 85 and 86.

[12] Id. at 94-103.

[13] Id. at 151-152.

[14] Rollo, pp. 14-33.

[15] Id. at 24.

[16] Id. at 26.

[17] Id. at 28.

[18] Id. at 29.

[19] Id. at 29, 48.

[20] Vide *C.W. Tan Mfg. v. National Labor Relations Commission*, G.R. No. 79596, February 10, 1989, 170 SCRA 240, 244.

[21] *Batas Pambansa Blg. 129*.

[22] Vide CA rollo, p. 2.

[23] Rules of Court, Rule 43, Section 1 (*italics supplied*).

[24] *Metropolitan Bank and Trust Company, Inc. v. National Wages and Productivity Commission*, G.R. No. 144322, February 6, 2007, 514 SCRA 346.

[25] Rollo, pp. 96-97.

[26] 440 Phil. 620 (2002).

[27] Id. at 633-634.

[28] Rollo, p. 200.

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