COCA-COLA BOTTLERS PHILIPPINES, INC., PETITIONER, VS. ILOCOS PROFESSIONAL AND TECHNICAL EMPLOYEES UNION (IPTEU), RESPONDENT.

G.R. No. 193798. September 09, 2015

Ponente: PERALTA, J.

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PERALTA, J.:

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure (Rules) seeks to reverse and set aside the March 17, 2010 Decision[1] and September 16, 2010 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 104043, which affirmed the May 6, 2008 Resolution[3] of the Secretary of Labor and Employment (SOLE) dismissing petitioner's appeal that assailed the Decision (On the Challenged Voters)[4] and Proclamation of the Winner,[5] both dated October 22, 2007, of the Mediator-Arbiter.

Petitioner Coca-Cola Bottlers Philippines, Inc. (CCBPI) is a domestic corporation duly organized and operating under the Philippine laws. It is primarily engaged in the beverage business, which includes the manufacture of carbonated soft drinks. On the other hand, respondent Ilocos Professional and Technical Employees Union (IPTEU) is a registered independent labor organization with address at CCBPI Ilocos Plant in Barangay Catuguing, San Nicolas, Ilocos Norte.

On July 9, 2007, IPTEU filed a verified Petition[6] for certification election seeking to represent a bargaining unit consisting of approximately twenty-two (22) rank-and-file professional and technical employees of CCBPI Ilocos Norte Plant. CCBPI prayed for the denial and dismissal of the petition, arguing that the Sales Logistics Coordinator and Maintenance Foreman are supervisory employees, while the eight (8) Financial Analysts, five (5) Quality Assurance Specialists, Maintenance Manager Secretary, Trade Promotions and Merchandising Assistant (TPMA), Trade Asset Controller and Maintenance Coordinator (TACMC), Sales Information Analyst (SIA), Sales Logistics Assistant, Product Supply Coordinator, Buyer, Inventory Planner, and Inventory Analyst are confidential employees;[7] hence, ineligible for inclusion as members of IPTEU. It also sought to cancel and revoke the registration of IPTEU for failure to comply with the twenty percent (20%) membership requirement based on all the supposed employees in the bargaining unit it seeks to operate.

A preliminary hearing of the petition was scheduled and held on July 19, 2007. The possibility of voluntary recognition or consent election was not acceded to by CCBPI.

Convinced that the union members are rank-and-file employees and not occupying positions that are supervisory or confidential in nature, Mediator-Arbiter Florence Marie A. Gacad-Ulep granted IPTEU'S petition. The dispositive portion of the August 23, 2007 Decision[8] ordered:

> WHEREFORE, premises considered, the Petition is GRANTED. The bargaining unit shall be all the rank-and-file Exempt (Professional and Technical) Workers of CCBPI who are now excluded from the existing bargaining units of the Coca-Cola Bottlers Philippines, Inc. - Ilocos Plant. The choices in the election shall be: ILOCOS PROFESSIONAL AND TECHNICAL [EMPLOYEES] UNION (IPTEU)

No Union

The Labor Relations Division of this office is hereby directed to conduct the Pre-election Conference(s) within the periods set by law. The CCBPI is hereby ordered to submit, not later than the date of the first pre-election conference, its Certified List of Exempt (Professional and Technical) rank-and-file workers, or in its absence, the employee payrolls from May to June 2007. In case Management fails or refuses to submit the same, the Union's list shall be allowed, as provided for under the Rules.

SO ORDERED[9]

On September 3, 2007, CCBPI filed an appeal before the SOLE.[10] The Mediator-Arbiter acknowledged having received the Memorandum of Appeal but informed that, pursuant to the Implementing Rules and Regulations of the Labor Code, as amended, "[the] order granting the conduct of a certification election in an unorganized establishment shall not be subject to appeal. Any issue arising therefrom may be raised by means of protest on the conduct and results of the certification election."[11] On September 5, 2007, CCBPI then filed an Urgent Motion to Suspend Proceedings,[12] alleging that the notice issued by the Assistant Regional Director for the conduct of pre-election conference is premature since the decision of the Mediator-Arbiter is not yet final and executory and that the Mediator-Arbiter already lost jurisdiction over the case with the filing of an appeal. Two days after, CCBPI filed a Manifestation,[13] stating that its participation in the pre-election conference, certification election, and other proceedings is not a waiver, withdrawal or abandonment of the pending appeal and motion to suspend proceedings.

In the Pre-election Conference held on September 10, 2007, CCBPI and IPTEU mutually agreed to conduct the certification election on September 21, 2007. On election day, only sixteen (16) of the twenty-two (22) employees in the IPTEU list voted. However, no votes were canvassed. CCBPI filed and registered a Protest[14] questioning the conduct and mechanics of the election and a Challenge to Votes[15] on the ground that the voters are supervisory and confidential employees.

By agreement, the parties met on September 26, 2007 for the opening and counting of the challenged votes. On said date, CCBPI filed a motion for inhibition, which the Mediator-Arbiter verbally denied on the grounds that it was not verified and would cause undue delay on the proceedings as there are no other Mediators-Arbiters in the Region. The parties were informed that their agreement to have the ballots opened could not bind the Mediator-Arbiter. Instead, they were directed to submit additional evidence that would aid in the resolution of the challenged votes.

On October 22, 2007, the Mediator-Arbiter denied CCBPI's challenge to the 16 votes. She found that the voters are rank-and-file employees holding positions that are not confidential in nature, and who are not, or used to be, members of Ilocos Monthlies Union (IMU) due to the reclassification of their positions by CCBPI and have been excluded from the CBA entered into by IMU and CCBPI from 1997 to 2005. Consequently, the challenged votes were opened and canvassed. After garnering 14 out of the 16 votes cast, IPTEU was proclaimed as the sole and exclusive bargaining agent of the rank-and-file exempt workers in CCBPI Ilocos Norte Plant.

CCBPI elevated the case to the SOLE, raising the following grounds:

- The Honorable public [appellee] erred in disregarding the fact that there is already an existing bargaining representative of the rank-and-file professional and technical employees at the Ilocos Plant of appellant, namely, the Ilocos Monthlies Union (IMU) [to] which the sixteen (16) challenged voters should be members as long as they are not disqualified by law [for] being confidential employees.

- The Honorable public appellee erred in denying the challenge to the sixteen (16) actual voters, and

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subsequently declaring that private aippellee is the sole and exclusive [bargaining] agent of the rank-and-file exempt employees.

- The Honorable public appellee erred in disregarding the fact that there is a pending earlier appeal filed by appellant with the Honorable Secretary of Labor, and so the Regional Office No. 1 of the Department of Labor and Employment lost jurisdiction over the case including the certification election conducted by the Election Officer.

- The Honorable public appellee erred in disregarding the fact that there is a pending Motion to Suspend Proceedings filed by appellant with the Department of Labor and Employment, Regional Office No. 1, San Fernando City, La Union[,] due to the pendency of its appeal with the Honorable Secretary of Labor, and the same is not yet resolved.

- The Honorable public appellee erred in disregarding the fact that there is a need to suspend the conduct of election and other proceedings to await for the final result of the earlier appeal made by herein appellant.

- The Honorable public appellee erred in not declaring the certification election on September 21, 2007 null and void.[16]

On May 6, 2008, the appeal of CCBP1 was denied. The SOLE held that, as shown by the certification of the IMU President and the CBAs forged between CCBPI and IMU from 1997 to 2007, the 22 employees sought to be represented by IPTEU are not part of IMU and are excluded from its CBA coverage; that even if the 16 challenged voters may have access to information which are confidential from the business standpoint, the exercise of their right to self-organization could not be defeated because their common functions do not show that there exist a confidential relationship within the realm of labor relations; and that the order granting the certification election and sustaining its validity despite the pendency of appeal and motion to suspend is proper in view of Section 17, Rule VIII of Department Order No. 40, Series of 2003, which states that the order granting the conduct of a certification election in an unorganized establishment is not subject to appeal and that any issue arising therefrom may be raised by means of protest on the conduct and results of the certification election.

Confronted with an adverse ruling, CCBPI filed before the CA a petition for certiorari with prayer for temporary restraining order and writ of preliminary injunction.[17] It reiterated that:

- There is already an existing and incumbent sole and exclusive bargaining agent in the bargaining unit which respondent IPTEU seeks to represent, namely, the Ilocos Monthlies Union (IMU). The bargaining unit which IPTEU seeks to represent is rank-and-file professional and technical employees which the incumbent union, the IMU, presently represents.

- Respondent IPTEU never sought to represent the alleged rank-and-file Exempt employees because it is clearly indicated in its petition for certification election that it seeks to represent rank-and-file professional and technical employees only. Its Constitution and by- laws includes solely and only professional and technical employees of CCBPI-ILOCOS PLANT to its membership, and nothing more.

- The sixteen (16) voters are not eligible for Union membership because they are confidential employees occupying confidential positions.

- The bargaining unit is organized due to the presence of the IMU, the sole and exclusive bargaining unit of the rank-and-file professional and technical employees at the Ilocos Plant of petitioner, and so the appeal of the earlier decision of the respondent Med-Arbiter dated August 23, 2007 is in order, proper, valid and should have been given due course in accordance with Sec. 17, Rule [VIII] of the Rules Implementing Book V of the Labor Code.

- The earlier appeal x x x together with the motion for suspension of the proceedings x x x filed by petitioner

> on September 5, 2007 remain unresolved to date, and there is a need to await for their final resolution before any further action including the certification election could validly proceed.[18]

On March 17, 2010, the Court of Appeals denied the petition. CCBPI filed a motion for reconsideration,[19] which was also denied in the September 16, 2010 Resolution; hence, this petition.

CCBPI contends that the CA Decision and Resolution are based on misapprehension of facts relative to the proceedings before the Mediator-Arbiter and that its pronouncement consists of inferences which are manifestly mistaken and without factual/legal basis. It is argued that a petition for certiorari was filed before the CA because the orders of the SOLE and Mediator-Arbiter were issued in patent disregard of established facts and existing jurisprudence, thus, tainted with grave abuse of discretion -

> 1) In considering respondent IPTEU as the sole and exclusive bargaining agent of the purported rank-and-file exempt employees in the Ilocos Plant; 2) In not declaring the certification election held on September 21, 2007 improper and void; 3) In disregarding the fact that the Ilocos Monthlies Union (IMU) is the existing sole bargaining agent of the rank-and-[file] professional and technical employees at the Ilocos Plant, to which the sixteen (16) challenged voters should be members, if allowed by law[;] and 4) [In] ruling that the concerned employees should not be prohibited by joining any union.[20]

The petition is unmeritorious.

As proven by the certification of the IMU President as well as the CBAs executed between IMU and CCBPI, the 22 employees sought to be represented by IPTEU are not IMU members and are not included in the CBAs due to reclassification of their positions. If these documents were false, the IMU should have manifested its vigorous opposition. In fact, the Mediator-Arbiter noted:

> The most tenacious resistance to the granting of the Petition as well as the holding of the CE has been Management. On the other hand, the existing unions at CCBPI, especially the IMU of which most of the IPTEU members were once part (until they were considered outside the ambit of its existing bargaining unit) never once opposed the Petition and the Certification election, whether verbally or in written Opposition.
>
> Between Management and IMU, it is the latter which has more to lose, as the creation of a separate bargaining unit would reduce the scope of IMU's bargaining unit. Yet through all these proceedings, we take note of the substantial moral support that has been extended to the Petitioner by the other Unions of CCBPI, so much so that, until objected to by Management, they were even willing to be present during the Certification Election of 21 September 2007.[21]

As to whether the 16 voters sought to be excluded from the appropriate bargaining unit are confidential employees,[22] such query is a question of fact, which is not a proper issue in a petition for review under Rule 45 of the Rules.[23] This holds more true in the present case in view of the consistent findings of the Mediator-Arbiter, the SOLE, and the CA.

We reiterate that:

> [T]he office of a petition for review on certiorari under Rule 45 of the Rules of Court requires that it shall raise only questions of law. The factual findings by quasi-judicial agencies, such as the Department of Labor and Employment, when supported by substantial evidence, are entitled to great respect in view of their expertise in their respective fields. Judicial review of labor cases does not go so far as to evaluate the sufficiency of evidence on which the labor official's findings rest. It is not our function to assess and evaluate all over again the evidence, testimonial and documentary, adduced by the parties to an appeal, particularly where the findings of both the trial court (here, the DOLE Secretary) and the appellate court on the matter coincide, as in this case at bar. The Rule limits that function of the Court to the review or revision of errors of law and not to a second analysis of the evidence, x x x Thus, absent any showing of whimsical or capricious exercise of judgment, and

> unless lack of any basis for the conclusions made by the appellate court be amply demonstrated, we may not disturb such factual findings.[24]

The determination of factual issues is vested in the Mediator-Arbiter and the Department of Labor and Employment. Pursuant to the doctrine of primary jurisdiction, the Court should refrain from resolving such controversies unless the case falls under recognized and well-established exceptions. The doctrine of primary jurisdiction does not warrant a court to arrogate unto itself the authority to resolve a controversy the jurisdiction over which is initially lodged with an administrative body of special competence.[25]

In this case, organizational charts, detailed job descriptions, and training programs were presented by CCBPI before the Mediator-Arbiter, the SOLE, and the CA. Despite these, the Mediator-Arbiter ruled that employees who encounter or handle trade secrets and financial information are not automatically classified as confidential employees. It was admitted that the subject employees encounter and handle financial as well as physical production data and other information which are considered vital and important from the business operations' standpoint. Nevertheless, it was opined that such information is not the kind of information that is relevant to collective bargaining negotiations and settlement of grievances as would classify them as confidential employees. The SOLE, which the CA affirmed, likewise held that the questioned voters do not have access to confidential labor relations information.

We defer to the findings of fact of the Mediator-Arbiter, the SOLE, and the CA. Certainly, access to vital labor information is the imperative consideration. An employee must assist or act in a confidential capacity and obtain confidential information relating to labor relations policies. Exposure to internal business operations of the company is not per se a ground for the exclusion in the bargaining unit.[26] The Court sees no need to belabor the effects of the unresolved notice of appeal and motion to suspend proceedings filed by CCBPI in September 2007. Suffice it to say that the substantial merits of the issues raised in said pleadings are the same as what were already brought to and passed upon by the Mediator-Arbiter, the SOLE, and the CA.

WHEREFORE, premises considered, the petition is DENIED. The March 17, 2010 Decision and September 16, 2010 Resolution of the Court of Appeals in CA-G.R. SP No. 104043, which affirmed the May 6, 2008 Resolution of the Secretary of Labor and Employment, dismissing petitioner's appeal that assailed the Decision (On the Challenged Voters) and Proclamation of the Winner, both dated October 22, 2007, of the Mediator-Arbiter, are hereby AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Villarama, Jr., Perez,[*] and Mendoza,[**] JJ., concur.

October 2, 2015

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on September 9, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 2, 2015 at 2:10 p.m.

Very truly yours,
(SGD) WILFREDO V. LAPITAN
Division Clerk of Court

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[*] Designated Acting member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

[**] Designated Acting Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated May 25, 2015.

[1] Penned by Associate Justice Franchito N. Diamante, with Associate Justices Amelita G. Tolentino and Priscilla J. Baltazar-Padilla concurring; rollo, pp. 48-65; 471-488.

[2] Rollo, pp. 66-67.

[3] Id. at 117-122; 490-495.

[4] Id. at 123-134; 497-510.

[5] Id. at 135; 496.

[6] Id. at 141.

[7] The positions of Inventory Planner and Inventory Analyst were still vacant at the time of the filing of the petition for certification election (Rollo, p. 172).

[8] Rollo, pp. 173-177.

[9] Id. at 177. (Emphasis in the original)

[10] Id. at 178-218.

[11] Id. at 219.

[12] Id. at 220.

[13] Id. at 221-222.

[14] Id. at 223-226.

[15] Id. at 227-229.

[16] Id. at 399-400.

[17] Id. at 68-116.

[18] Id. at 109-110.

[19] Id. at 428-453.

[20] Id. at 38.

[21] Id. at 128-129; 504-505.

[22] x x x Confidential employees are defined as those who (1) assist or act in a confidential capacity, in regard (2) to persons who formulate, determine, and effectuate management policies in the field of labor relations. The two criteria are cumulative, and both must be met if an employee is to be considered a confidential employee - that is, the confidential relationship must exist between the employee and his supervisor, and the supervisor must handle the prescribed responsibilities relating to labor relations. The exclusion from bargaining units of employees who, in the normal course of their duties, become aware of management policies relating to labor relations is a principal objective sought to be accomplished by the "confidential employee rule."

x x x x

Corollarily, although Article 245 of the Labor Code limits the ineligibility to join, form and assist any labor organization to managerial employees, jurisprudence has extended this prohibition to confidential employees or those who by reason of their positions or nature of work are required to assist or act in a fiduciary manner to managerial employees and, hence, are likewise privy to sensitive and highly confidential records. Confidential employees are thus excluded from the rank-and-file bargaining unit. The rationale for their separate category and disqualification to join any labor organization is similar to the inhibition for managerial employees, because if allowed to be affiliated with a union, the latter might not be assured of their loyalty in view of evident conflict of interests and the union can also become company-denominated with the presence of managerial employees in the union membership. Having access to confidential information, confidential employees may also become the source of undue advantage. Said employees may act as a spy or spies of either party to a collective bargaining agreement. (San Miguel Foods, Inc. v. San Miguel Corp. Supervisors and Exempt Union, 670 Phil. 421, 432-434 [2011]. Citations omitted)

[23] Standard Chartered Bank Employees Union (SCBEU-NUBE) v. Standard Chartered Bank, et al., 575 Phil. 306, 312 (2008).

[24] Id. at 315.

[25] Negros Oriental Electric Cooperative 1 v. The Sec. of DOLE, 409 Phil. 767, 777 (2001).

[26] Tunay na Pagkakaisa ng Manggagawa sa Asia Brewery v. Asia Brewery, Inc., 640 Phil 419, 432 (2010).

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