

**SAMAHANG MANGGAGAWA NG PACIFIC MILLS, INC., PETITIONER,
VS. HON. CARMELO C. NORIEL, AS OFFICER-IN-CHARGE, BUREAU OF
LABOR RELATIONS, RESPONDENT.**

G.R. No. 56588. January 17, 1985

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

This is about a certification election among the workers in Pacific Mills, Inc.

In a certification election held on September 27, 1977, among the workers in Pacific Mills, Inc., the Philippine Association of Free Labor Unions (PAFLU) won over the Confederation of Citizens Labor Unions (CCLU). Out of 451 votes which were cast PAFLU obtained 254.

CCLU contested the certification of PAFLU as the workers bargaining agent with Pacific Mills, Inc. The contest did not succeed at the administrative level nor before this Court. (Confederation of Citizens Labor Unions, et al. vs. Noriel, et al., L-46933, June 30, 1980, 98 SCRA 474.)

While the CCLU-PAFLU case was pending, 347 members in the same bargaining unit disaffiliated from PAFLU and organized the Samahang Manggagawa Ng Pacific Mills, Inc., the petitioner herein. The union was registered with the Ministry of Labor and Employment (MOLE) on February 26, 1980.

On August 6, 1980, the petitioner filed with MOLE a request that a certification election be held among the workers in Pacific Mills, Inc. It claimed that it commanded the Majority of the workers in the corporation; that there had been no certification election for more than 12 months and no existing collective bargaining agreement (CBA); and that more than 30% of the bargaining unit had given their consent thereto.

The company objected to the petitioner's request for a certification election. It alleged that there was a pending certification case between CCLU and PAFLU in the Supreme Court. In point of fact, the case had been dismissed on June 30, 1980, as above stated or more than a month before the request was filed. In fact also, CCLU had filed a motion to dismiss on March 7, 1980, alleging, inter alia, lack of interest.

CCLU and PAFLU were given an opportunity to be heard. PAFLU filed a motion to dismiss or deny the certification election. It pointed to this Court's decision in L-46933, supra. CCLU kept quiet.

On October 20, 1980, Med-Arbiter Willie E. Rodriguez, dismissed the petition for certification election. He cited the decision of this Court in favor of PAFLU.

The petitioner appealed to the public respondent herein who sustained the Mid-Arbiter's decision. In dismissing the appeal, the public respondent said, inter alia, that:

"While recognizing the existence of disaffiliation of former members of PAFLU, this fact should not be considered as the sole factor to induce this Office to disregard the historical propensity of selecting PAFLU as the current bargaining agent, and order outrightly another certification election to determine which union now

commands a majority following. To have a contrary view would be to threaten democratic industrial stability as it tends to open doors for unions composed of members splitting from the majority union, whenever personal whims and caprices arise under the cloak of being an exercise of their constitutional right to self organization." (Rollo, p. 34.)

The issue at hand is whether or not the public respondent committed a grave abuse of discretion in deciding against the petitioner. An affirmative answer is implicit insofar as the petitioner is concerned. The Solicitor General is in agreement with the petitioner. (Rollo, p. 65.) Pacific Mills, Inc. which was later impleaded is for "giving due course to the instant petition and ordering the public respondent to conduct a certification election among the regular rank-and-file within the bargaining unit of Pacific Mills, Inc." (Rollo, p. 143.) Only the public respondent, Director Carmelo C. Noriel, is for the dismissal of the petition. (Rollo, p. 124.)

With both the employer and the majority of the rank-and-file workers in agreement that a certification election should be held, so be it. In this connection it is worthwhile to note the following:

The last certification election was held on September 26, 1977. There is no existing CBA. The petition for a certification election has the written consent of more than 30% of the members of the bargaining unit. In the light of these facts, Art. 258 of the New Labor Code makes it mandatory for the Bureau of Labor Relations to conduct a certification election. See also *Federation of Free Workers vs. Noriel*, L-47182-83, Oct. 30, 1978, 86 SCRA 132.)

WHEREFORE, the petition is granted; the decision of the public respondent is hereby set aside and he is ordered to conduct a certification election among the rank-and-file workers of Pacific Mills, Inc. No costs.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

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