

**GEORGE ARGUELLES (HDA. EMMA ARGUELLES), PETITIONER, VS.
ROMEO A. YOUNG, OFFICER-IN--CHARGE, BUREAU OF LABOR
RELATIONS, MINISTRY OF LABOR AND EMPLOYMENT, AND
FEDERATION OF UNIONS...**

G.R. No. 59880. September 11, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a special civil action for certiorari to review the Resolution of January 28, 1987, of the Bureau of Labor Relations (BLR) in BLR Case #A-0154-81*, denying petitioner's motion for reconsideration of the Resolution of December 15, 1981, affirming with modification** the Order of the Regional Office of the then Ministry of Labor, Bacolod City, granting Federation of Union of Rizal's (FUR) petition for certification election.

The issue in the petition is whether or not the Bureau of Labor Relations acquired jurisdiction to order the holding of certification election among all the rank and file workers of petitioner's sugar cane plantation consisting of four (4) different haciendas on the basis of the petition supported by 30% signatures of the employees in one hacienda alone.

The antecedent facts of the case are as follows:

On April 7, 1980, private respondent Federation of Unions of Rizal, herein referred to as FUR, a legitimate labor organization, filed with the Regional Office of the Ministry of Labor and Employment (MOLE) a petition for certification[1] supported by the signatures of 32 workers of Hacienda Emma, alleging among others that it commands membership of 32 of the 35 workers of Hda. Emma; that there is no other union in the said sugar cane plantation; and that no election has been held therein for the past 12 months.

After the election conference has been scheduled, George Arguelles, petitioner herein, filed on May 1, 1980, a motion to dismiss the petition for certification election on the ground that the 30% requirement under the Labor Code has not been complied with inasmuch as Hda. Emma is not the sole bargaining unit of the respondent's workers. Petitioner alleged that since the management consists of four (4) haciendas with a total of 131 workers who are all governed by the same working conditions and sharing the same community of interest, 39 workers must support the petition in order to comply with the 30% requirement.

In the meantime, on May 11, 1981, Workers Amalgamated Union of the Philippines (WAUP) a legitimate labor organization, filed a motion to intervene, alleging among others that it has the majority support of the rank and file workers of the said management and that there has been no certification election held during the last 12 months, nor has there been a recognized agent in the management.*

On June 2, 1980, respondent filed its opposition to the motion to dismiss alleging that Hda. Emma being separate and distinct from other haciendas, then there is no community interest to speak of and that the one employer unit principle should admit some exceptions when it would be impossible to group certain segments into a single unit.

On June 2, 1981, MOLE's regional office, Bacolod City,[2] issued an order directing the holding of certification elections within the premises of Hda. Emma, allowing thereby the participation of FUR and WAUP and directing the construction of polling booths.[3] On June 9, 1981, petitioner filed a motion for reconsideration on the ground that the Order does not resolve its motion to dismiss and that the med-arbiter has no authority to order the holding of certification election. On June 17, 1981, med-arbiter Correa issued an Order for the elevation of the entire records of the case to the BLR.

On December 15, 1981, the Bureau of Labor Relations with public respondent Romeo A. Young as Arbiter, issued a resolution, the pertinent portion of which reads:

"x x x only 36 workers are needed to support the petition in order to comply with the legal requirement. There is therefore a difference of 4 supporting signatures but we feel that the presence of an intervenor in this case creates a genuine representation issue which can be best settled in a certification election where the workers can freely make their choice as to who will be their sole and exclusive bargaining agent.

WHEREFORE, premises considered, the instant appeal is hereby dismissed and the appealed Order is hereby affirmed with the modification that the ordered certification election can be conducted among the rank and file workers of the herein named respondent comprising of Hacienda Emma, Hacienda Linao, Hacienda Gloria and Hacienda Iliman."[4]

On January 11, 1982, petitioner filed a motion for reconsideration on the grounds that 1) the Resolution is contrary to law; and that 2) the Resolution was issue without or in excess of jurisdiction. In its Resolution of January 28, 1982, public respondent denied the motion for reconsideration.

Hence the present petition.

In the Resolution of March 22, 1982, this Court without necessarily giving due course to the petition issued a temporary restraining order and required respondents to file their Comment to the petition,[5] which the respondents complied with in due time.[6]

Later, both the public respondent[7] and private respondent[8] filed a manifestation to consider their Comments as their Memorandum which this Court granted in the Resolution of March 7, 1983.

After petitioner submitted his Memorandum, the case was deemed submitted for decision.

After a careful examination of the record of the case, We find the instant Petition devoid of merit.

For a writ of certiorari to issue the respondent must have acted without or in excess of jurisdiction[9] as the writ is intended to keep a tribunal board or officer within the limits of its jurisdiction,[10] to prevent acts in excess of authority or jurisdiction as well as to correct manifest abuses of discretion committed by an inferior tribunal, when an appeal does not prove to be more speedy and adequate remedy.[11]

Petitioner's cause of action is based upon the premise that public respondent gravely abused its discretion amounting to lack of jurisdiction in issuing the challenged Resolutions on the ground that there being four haciendas owned in common by the petitioner wherein a community of interest is enjoyed by all workers, then a certification election should be held in all said haciendas on the basis of the support or petition of at least 30% rank and file in each hacienda or by a total of 39 workers and that where the petition is supported by 30% signatures of only one hacienda, no certification election could be held since to allow one would violate the one-unit employer concept.

We do not agree.

By "grave abuse of discretion" is meant such capricious and whimsical exercise of judgment as is equivalent to

lack of jurisdiction.[12] It should not however, be overlooked that abuse of discretion alone is not sufficient. To warrant the issuance of the writ on that ground, the abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[13]

The act complained of does not come within the purview of grave abuse of discretion. On the contrary, it was one done in the exercise of sound discretion attested by justice and fair play in furtherance of the interests of all party litigants herein. There is no question that there is a total of 131 workers in all the haciendas of the petitioner and that a supporting signature of at least 39 workers therein is needed. However, under the circumstances of this case, strict application of the rule is not warranted. Petitioner argued that said workers enjoy a community of interest and that the proper bargaining unit consist of four (4) haciendas, thus considering that the petition is with the support of 32 workers only, it lacks 7 out of the total number required. The respondent Bureau of Labor Relations considered the difference immaterial in view of the presence of intervenor WAUP, which as correctly pointed out by respondent creates a genuine representation issue which can be best settled in a certification election where the workers can freely make their choice as to who will be their sole and exclusive bargaining representation.[14]

The liberal approach applied by respondent is in consonance with the objectives of the Industrial Peace Act. It is Our holding in the case of *B.F. Goodrich Philippines, Inc. vs. B.F. Goodrich Confidential and Salaried Employees Union-NATU*[15] that the objectives of the Industrial Peace Act would be sooner attained if at the earliest opportunity the employees, all of them, in an appropriate bargaining unit be polled to determine which labor organization should be its exclusive representative. This Court has made it clear that We should give discretion to the Court of Industrial Relations, or in this case, the Bureau of Labor Relations in deciding whether or not to grant a petition for certification election considering the facts and circumstances of which it has intimate knowledge.[16] Moreover, a perusal of Art. 258[17] of the Labor Code as amended by Presidential Decree No. 442 reveals that compliance with 30% requirement makes it mandatory upon the Bureau of Labor Relations to order the holding of certification election in order to determine the exclusive bargaining agent of the employees.[18] Stated otherwise, it means that with such, the Bureau is left without any discretion but to order the holding of certification election. Parenthetically, where the petition is supported by less than 30%, the Bureau of Labor Relations has discretion whether or not to order the holding of certification election depending on the circumstances of the case. Thus, it is Our holding in *LVN Pictures vs. Musicians Guild, et al.*[19] that in connection with certification election, the Court of Industrial Relations enjoys a wide discretion in determining the procedure necessary to insure a fair and free choice of bargaining representatives by employees, having exercised its sound discretion, this Court cannot interfere.

Petitioner contends, however, that a certification election cannot be held unless the petition be supported by at least 30% of the rank and file in 'each of the three other haciendas' and that the workers in said haciendas must be a member of the labor organization who filed the petition.

The contention is unmeritorious. Certification proceedings is not a litigation in the sense in which this term is ordinarily understood, but an investigation of non-adversary, fact finding character, the object of which is the ascertainment of the will and choice of the employees with respect to the selection of their bargaining representative. Thus, the determination of the proceedings does not entail the entry of remedial orders or redress but culminate solely in an official designation of bargaining units and an affirmation of the employees' expressed choice of bargaining agent.[20] It is not bound by the technical rules in evidence. Justification of allowance of certification election despite shortage of the 30% requirement has been lengthily discussed above. Finally, there is

no provision in the Code which requires that the petition must be signed by the members of the petitioning union. All that is required is for the petition to be supported by the signature or written consent of the employees' of the proper bargaining unit.[21]

WHEREFORE, in view of the foregoing, the instant Petition for Certiorari is hereby DISMISSED for lack of merit. The temporary restraining order issued on March 22, 1982 is dissolved. No pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

* Penned by Hon. Romeo A. Young, OIC, Bureau of Labor Ministry of Labor and Employment (now the Department of Labor).

** Ordering at the same time for the holding of certification election in three haciendas of the Arguelles.

[1] In Re: Petition for Certification Election Among the Rank and File of Hda. Emma, Owned and Operated by Mr. George Arguelles, Federation of Unions of Rizal (FUR), Petitioner, docketed as MA-0313-80.

* The motion to intervene remained & unopposed and was granted by the Regional Office.

[2] Med-Arbiter Demetrio Correa.

[3] Page 12, Rollo, Annex B, Petition.

[4] Page 16, Rollo.

[5] Pages 24-25, Rollo.

[6] Pages 40-47, Rollo, Comment, Private Respondent WAUP; Pages 58-69, Rollo, Comment, Public Respondent.

[7] Manifestation and Motion dated Feb. 22, 1983.

[8] March 3, 1983.

[9] Commission of Customs vs. Cloribel, 77 SCRA 459.

[10] Artech vs. Judge of the Court of First Instance, G.R. No. 45946, June 14, 1938.

[11] Claudio, et al. vs. Zandueta, 64 Phil. 812, 817; Sabado vs. Cristina Gonzales, Inc., 53 Phil. 770.

[12] Abad Santos vs. Province of Tarlac, 67 Phil. 480; Hamoy vs. Sec. of Agriculture, L-13456, January 30, 1960.

[13] Tavera-Luna, Inc. vs. Nable, 67 Phil. 340; Alafritz vs. Nable, 72 Phil. 278.

[14] Free Employees and Workers Association (FEWA) vs. CIR, 14 SCRA 781.

[15] 49 SCRA 532.

[16] Manila Paper Mills Employees Association vs. CIR, G.R. No. L-11963, June 20, 1958.

[17] Art. 258. Requisites for certification election. Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least thirty percent (30%) of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct

a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit. (Underscoring Ours)

[18] *Federacion Obrero de la Industria Tabaquera y Otros Trabajadores de Filipinas vs. Noriel*, 72 SCRA 24.

[19] 1 SCRA 132.

[20] *Benguet Consolidated, Inc. vs. Babok Lumber Jack Association, et al.*, G.R. No. L-11029 & 11065, May 23, 1958.

[21] See Art. 258, *Supra*.

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