

BALMAR FARMS, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND ASSOCIATED LABOR UNIONS (ALU), RESPONDENT.

G.R. No. 73504. October 15, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari which seeks to reverse and set aside: (a) the resolution * * * dated July 31, 1985 by the respondent commission in NLRC Case No. 1114-LR-XI-83 entitled "Associated Labor Unions (ALU) v. Balmar Farms, Inc. (BALMAR)" which dismissed the petition for lack of merit and affirmed the decision of the Labor Arbiter dated March 13, 1984, and (b) the resolution dated October 4, 1985 denying the motion for reconsideration.

The following are the facts of the case:

Petitioner Balmar Farms, Inc. (BALMAR for short) is a corporation duly organized and existing under and by virtue of the laws of the Philippines, engaged in the planting of bananas with operation at Kapalong, Davao and address at 60 V. Mapa St., Davao City; while private respondent Associated Labor Union (ALU for short) is a labor organization duly registered with the Ministry of Labor and Employment (now Department of Labor and Employment) with Regional Office at 96-B corner Roxas-Artiaga Sts., Davao City (Rollo, pp. 5-6).

On October 27, 1982, Med-Arbiter Antonino G. Jolejole issued an order certifying the ALU as the sole and exclusive bargaining representative of the rank and file workers and employees of BALMAR, Kapalong, Davao del Norte, it appearing that in the certification election held at the premises of the employer Balmar on October 19, 1982, the ALU obtained the majority of the votes cast (Rollo, p. 26).

Sometime in November, 1982, BALMAR received a copy of the letter dated November 12, 1982 signed by Johnny Y. Luces in his capacity as President of the BALMAR Employees Association, addressed to the Regional Director, Hon. Eugenio Sagmit, Jr. The letter states that:

"x x x after discussing this matter among ourselves, it was agreed by more than a majority of all that we disregard ALU in representing us. We do not have any CBA at present. We are in better position to negotiate directly with management for our working conditions being aware of what are our basic needs.

"We are filing this with your Office so that you could help us in requesting BALMAR FARMS to negotiate directly with us and not thru ALU." (Rollo, p. 44).

That on February 8, 1983, ALU sent a letter to BALMAR, attaching therewith their proposals for collective bargaining agreement (Rollo, pp. 27-30).

On February 25, 1983, BALMAR made a reply to the effect that it can not favorably act on their request for the reason, among others, that it has been furnished a copy of the letter of Mr. Johnny Luces, president of the Balmar

Farms Employees Association, addressed to the Regional Director of the Ministry of Labor and Employment (MOLE), about their "disaffiliation from ALU" (Rollo, p. 31).

In another letter dated March 1, 1983, ALU answered BALMAR's letter of February 25, 1983 and requested that it be recognized as the bargaining representative it being certified by the MOLE as the sole and exclusive bargaining representative of BALMAR's rank and file workers (Rollo, p. 32).

On March 10, 1983, BALMAR replied to ALU's letter of March 1, 1983, stating that the management was requested by Balmar Farms Employees Association to negotiate with them directly and not with ALU because ALU has been dis-authorized as the agent of the BALMAR employees. BALMAR further contended that ALU has to disprove the dis-authorization for only then can BALMAR negotiate with ALU (Rollo, p. 33).

For alleged refusal to bargain, ALU filed a complaint for unfair labor practice and damages against BALMAR docketed as NLRC Case No. 1114-LR-XI-83 (Rollo, pp. 22-24).

The parties were required by the Labor Arbiter to submit their position papers. ALU filed its position paper dated May 18, 1983 (Rollo, pp. 34-38), while BALMAR filed its position paper dated May 20, 1983 (Rollo, pp. 40-42).

On the basis of the position papers submitted by the parties, Labor Arbiter Potenciano S. Canizares, Jr. rendered a decision dated March 13, 1984, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

1. Declaring the respondent Balmar Farms, Inc. guilty of the unfair labor practice acts complained of;
2. Ordering the respondent Balmar Farms, Inc. to cease and desist from further committing unfair labor practice acts; and
3. Ordering the respondent Balmar Farms, Inc. to bargain collectively in good faith with the complainant Associated Labor Union.

The claim for damages is hereby dismissed for lack of merit." (Rollo, p. 49).

From the foregoing decision, BALMAR appealed to the National Labor Relations Commission (NLRC) by filing a Memorandum on Appeal (Rollo, pp. 50-55).

On July 31, 1985, the NLRC rendered its questioned resolution, the dispositive part of which reads:

"WHEREFORE, premises considered, the appeal is as it is hereby DISMISSED for obvious lack of merit and the appealed Decision affirmed en toto.

SO ORDERED." (Rollo, pp. 19-20).

On September 4, 1985, BALMAR moved for the reconsideration of the resolution of the NLRC (Rollo, pp. 57-59). And on October 4, 1985, the NLRC issued a resolution denying the motion for reconsideration (Rollo, p. 21).

Hence, this petition.

The pivotal issue in this case is whether or not petitioner BALMAR is guilty of unfair labor practice for refusing to bargain collectively with ALU.

The petition is devoid of merit.

The record shows that on October 27, 1982, Med-Arbiter Antonino G. Jolejole issued an order certifying ALU as the sole and exclusive bargaining representative of the rank and file workers and employees of BALMAR, it

appearing that in the certification election held at the premises of the employer BALMAR on October 19, 1982, ALU obtained the majority of the votes cast.

The purpose of certification election is to give the employees true representation in their collective bargaining with an employer (*Confederation of Citizens Labor Union (CCLU) v. Noriel*, 116 SCRA 649 [1982]), because certification election is the most democratic and expeditious method by which the laborers can freely determine the union that shall act as their representative in their dealing with the establishment where they are working (*National Association of Free Trade Union v. Bureau of Labor Relations*, 161 SCRA 246 [1988]). It is the most effective way of determining which labor organization can truly represent the working force (*PLUM Federation of Industrial and Agrarian Workers v. Noriel*, 119 SCRA 299 [1982]).

Employees (like the employees in the case at bar) have a constitutional right to choose their own bargaining representative (*Phil. Airlines Employees' Association (PALEA) v. Ferrer-Calleja*, 162 SCRA 246 [1988]) and it is only through certification election that they can obtain this purpose.

In the bargaining process, the workers and employer shall be represented by their exclusive bargaining representatives. The labor organization designated or selected by the majority of employees in an appropriate collective bargaining unit, shall be the exclusive representative of the employees in such unit for the purpose of collective bargaining. In the case at bar, it is the ALU which is the exclusive bargaining representative of BALMAR employees and as such it has the right and duty to bargain collectively with BALMAR.

The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievance or questions arising under such agreement if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession (Art. 252, Labor Code, as amended).

Procedurally, ALU sent a letter to BALMAR, attaching therewith its proposals for collective bargaining agreement. In reply, BALMAR refused to negotiate with ALU allegedly because it received a copy of a letter purportedly written on November 12, 1982 by one Johnny Luces, who claimed to be the president of Balmar Farms Employees Association, informing the Labor Regional Director that more than a majority of them would like to negotiate directly with their employer BALMAR. There is no showing, however, that said letter was favorably acted upon, much less, is there an order superseding the Med-Arbiter's order of October 27, 1982 certifying ALU as the sole and exclusive bargaining representative of the rank and file workers of BALMAR.

BALMAR cannot also invoke good faith in refusing to negotiate with ALU, considering that the latter has been certified as the exclusive bargaining representative of BALMAR rank and file employees. As observed by the Solicitor General, BALMAR'S pretense that majority of its rank and file employees disaffiliated simply because of a letter it received to that effect, all the more sustains the finding of bad faith for it is not for the petitioner BALMAR to question which group is the collective bargaining representative of its rank and file employees.

Balmar's taking side with the rank and file employee who allegedly disaffiliated, renders its stand on the matter highly suspicious (Rollo, pp. 76-77).

It can, therefore, be inferred that BALMAR's refusal to bargain collectively with ALU is a clear act of unfair labor practice. Article 248 (Labor Code, as amended), enumerates unfair labor practices committed by employers such as for them:

"(g) To violate the duty to bargain collectively as prescribed by this Code;"

PREMISES CONSIDERED, the petition is DISMISSED for lack of merit and the assailed resolution is

AFFIRMED.

SO ORDERED.

Padilla and Regalado, JJ., concur.

Melencio-Herrera, J., on leave.

[**] Penned by Presiding Commissioner Diego Atienza and Commissioners Geronimo Q. Quadra and Cleto T. Villatuya.

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