

FEDERATION OF DEMOCRATIC TRADE UNIONS (FDTU) AND RIK RAK INTERNATIONAL, INC., (RRI), PETITIONERS, VS. PAMBANSANG KILUSAN NG PAGGAWA AND DIRECTOR, BUREAU OF LABOR RELATIONS (BLR)...

G.R. No. 74228. December 14, 1987

Ponente: PADILLA, J.

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PADILLA, J.:

Petition for certiorari with preliminary injunction and/or restraining order to annul and set aside the decision and order, dated 11 March 1986 and 10 April 1986, respectively, of public respondent Director, Bureau of Labor Relations, ordering the holding of a certification election among the rank-and-file employees of the petitioner Rik Rak International, Inc. and denying the motion for reconsideration thereof.

The facts of the case are not disputed.

On 1 April 1985, a collective bargaining agreement[1] good and effective for three (3) years was entered into and executed by Rik Rak International (RRI, for short) and the Federation of Democratic Trade Unions (FDTU, for short), both petitioners herein. The collective bargaining agreement was duly filed with the Ministry of Labor and Employment as required by law.

On 6 June 1985, or just about two (2) months after the conclusion of the collective bargaining agreement, private respondent Pambansang Kilusan ng Paggawa (KILUSAN, for short) filed a petition for certification election with the Med-Arbitrer. RRI opposed the petition, invoking the contract-bar rule and prayed that the petition for certification election be dismissed. KILUSAN filed a reply to RRI's opposition, alleging that the collective bargaining agreement was null and void as it was entered into only for the purpose of defeating the rights of the workers to self-organization and collective bargaining. FDTU, for its part, filed a motion to intervene and alleged therein that KILUSAN's act, in filing the petition, constitutes union raiding, which is violative of existing government policy.

On 22 August 1985, the Med-Arbitrer[2] issued an order dismissing the petition based on the contract-bar rule. On the same date, KILUSAN and its members declared a strike. On the following day, RRI filed a notice of lockout. The labor dispute was thereafter referred to the Minister of Labor and Employment who, on 30 August 1985, issued an order, the dispositive part of which reads:

"WHEREFORE, the Minister of Labor and Employment, pursuant to Article 264 (g) of the Labor Code of the Philippines, as amended, hereby assumes jurisdiction over the unresolved issues and pending cases before the NCR-Arbitration branch of the NLRC, between the Samahang Manggagawa sa Rik-Rak and Rik-Rak International including the pending representation issue docketed as Case No. NCR-LRD-M-6-234-85.

All striking workers/employees are directed to immediately left (sic) the picket and to return to work within forty-eight (48) hours from receipt of this Order and the management to accept them back under the same

terms and conditions prevailing prior to the work stoppage.

The Bureau is directed to hear the dispute and submit its recommendation within twenty (20) days from submission of the position papers of the parties"[3].

On 12 September 1985, KILUSAN appealed the decision of the Med-Arbiter (dismissing the petition for certification election) to the Director, Bureau of Labor Relations. The decision was reversed and a certification election was ordered among the rank-and-file employees of RRI, within twenty (20) days from receipt of said decision dated 11 March 1986[4]. Petitioners filed a motion for reconsideration. This was denied in an order dated 10 April 1986[5]: hence, the present recourse.

As prayed for by petitioners, a temporary restraining order was issued by this Court on 30 April 1986.

In its comment on the petition, the Office of the Solicitor General, representing public respondent, recommends that the petition be given due course, that the questioned orders be declared null and void; and, that public respondent be directed to comply with the order of the Minister of Labor dated 30 August 1985[6].

The Court finds the recommendations of the Solicitor General proper and in order.

The issue for resolution in this petition is whether or not public respondent Director, Bureau of Labor Relations, had jurisdiction to resolve the labor dispute between petitioners and KILUSAN.

To recapitulate, the Minister of Labor, in his order dated 30 August 1985, directed public respondent Director, Bureau of Labor Relations "to hear the dispute and submit its (his) recommendation within twenty (20) days from submission of the position papers of the parties". Public respondent, instead of complying with the order of the Minister of Labor, took cognizance of the case and resolved the issues presented by the parties. His acts, according to the Solicitor General, with whom We agree, constitute grave abuse of discretion. The Solicitor General states:

"Respondent official failed to adhere faithfully to the two fold directive of the Minister of Labor to hear the dispute on the representation case (No. NCR-LRD-M-6-234-85) and to submit his recommendation thereon. Thus, instead of conducting a hearing, he took cognizance of the motion for reconsideration of the med-arbiter's decision filed by respondent Kilusan and proceeded to treat it as an appeal. Also, instead of submitting a recommendation to the Minister of Labor and letting him finally decide the case, respondent official preempted the role and, on his own, decided the case. Undoubtedly, respondent official completely ignored the Labor Minister's mandate. In so doing, he acted without jurisdiction and his assailed orders are therefore null and void. Notably, respondent union made no attempt in its comment to refute the arguments relating to respondent official's lack of jurisdiction, much less, to state the legal basis for the latter's acts"[7].

Although the issue of certification election may not be strictly proper for resolution in the instant petition, we deem it necessary to resolve the same to avoid further delay in the disposition of the case.

According to KILUSAN, the contract-bar rule cannot be made to apply in the case at bar, because of the patent invalidity of the collective bargaining agreement. KILUSAN contends that of the signatories to said collective bargaining agreement, numbering eighty (80), only fifty (50) thereof are qualified while the remaining thirty (30) do not even belong to the rank-and-file but to the managerial level.

The above contentions are mere allegations. No substantial proof was presented by KILUSAN to establish its claim. As correctly found by the Med-Arbiter:

" x x x. We cannot subscribe to the petitioner's (KILUSAN's) contention for the simple reason that petitioner union has not presented proof to disqualify the other thirty employees who approved and ratified the CBA except

the "Pahayag ng Matinding Pagtutol sa CBA ng Rik-Rak International-FDTU" executed by fifty nine (59) employees. In fact, eight of the signatories to the petition signed the CBA ratification. As established herein, the number of employees who ratified the CBA is greater than those who opposed it. In other words, majority of the employees in the bargaining unit ratified the CBA which is an indispensable requirement for the submission of the CBA. Besides, the CBA ratification was corroborated by the sworn statement of the President and Secretary of the intervenor union to the effect that the CBA was ratified by the general membership and the CBA was posted in the premises of the company as certified to by the company's Personnel Manager. All this proved the fact that the CBA has been duly submitted with all the requirements provided by law"[8].

In *Trade Unions of the Philippines and Allied Services vs. Inciong*, the Court said:

"We find no merit in the petition. As observed by the Solicitor General, while the petition of TUPAS for a certification election may have the written support of 30% of all the workers of the bargaining unit, it is also an undisputed fact that UMI has a clear majority of the said workers, as shown by the fact that 499 workers out of the total working force of 641 have not only ratified the collective bargaining agreement concluded between UMI and LUSTEVECO, but also affirmed their membership in UMI so that there is no more need for holding a certification election. He said:

"True, TUPAS' petition for certification election has the written support of 30% of all the employees in the bargaining unit. But it is equally undisputable that herein respondent union possesses a clear majority of said employees. And this is unequivocally shown in the document marked as Annex 'A' of herein respondent union's appeal to the Bureau of Labor Relations wherein 499 employees out of a total working force of 641 signified not only their ratification of the collective bargaining agreement concluded between respondent union and the company but, more importantly, their affirmation of membership in Union de Marinos de Iloilo. x x x

"Considering, therefore, that the overwhelming majority of the employees in the bargaining unit have recognized the Union de Marinos de Iloilo (respondent union) as their sole collective bargaining agent, the issue of majority choice no longer exists, thereby, clearing away the need for a certification election which entails tremendous expenses and causes disruption of the company's business, not to mention the fact that such an election generally brings about disharmony among employees. Indeed, such a situation is not salutary to the purposes of the Labor Code"[9].

Indeed, a valid and subsisting collective bargaining agreement between RRI and FDTU exists and is a bar to the filing of a petition for certification election. The law on the matter is Article 257 of the Labor Code, as amended, which provides:

"No certification election issue shall be entertained if a collective bargaining agreement which has been submitted in accordance with Article 231 of the Code exists between the employer and a legitimate labor organization except within sixty (60) days prior to the expiration of the life of such collective agreement".

The cited provision of law is clear. Except within the sixty (60) day freedom period, no certification election petition may be entertained during the lifetime of a collective bargaining agreement. There is no doubt that KILUSAN's petition for certification election was filed on 6 June 1985 or during the lifetime of the collective bargaining agreement, in fact, barely (2) months after its inception. The contract-bar rule therefore applies.

WHEREFORE, the petition is hereby GRANTED. The decision and order of public respondent Director, Bureau of Labor Relations dated 11 March 1986 and 10 April 1986, are hereby ANNULLED and SET ASIDE and the decision of the Med-Arbiter, dated 23 August 1985, is hereby reinstated. The temporary restraining order issued by the Court on 30 April 1986 is hereby made permanent. With costs against private respondent.

SO ORDERED.

Yap (Chairman), Melencio-Herrera, Paras, and Sarmiento, JJ., concur.

[1] Annex C, Rollo p. 14

[2] Med-Arbiter Rasidali C. Abdullah

[3] Rollo, pp. 40-41

[4] Rollo, pp. 11-12

[5] Rollo, p. 13-a

[6] Rollo, p. 90

[7] Rollo, pp. 89-90

[8] Decision of the Med-Arbiter, p. 4

[9] 115 SCRA 847, 851-852

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