

EMMANUEL TIMBUNGCO, PETITIONER, VS. HON. RICARDO C. CASTRO, IN HIS CAPACITY AS OFFICER-IN-CHARGE, BUREAU OF LABOR RELATIONS, MINISTRY OF LABOR AND EMPLOYMENT, AND DELICANO PAJAR...

G.R. No. 76111. March 14, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

The petitioner in the special civil action of certiorari at bar prays for nullification of the Resolutions of the Bureau of Labor Relations dated September 9, 1986[1] and September 30, 1986[2] -- sustaining that of Med-Arbiter Danilo Reynante dated July 3, 1986,[3] which granted the petition for election of officers of the labor organization known as Kapisanan ng Manggagawa sa Associated Anglo American Tobacco Corporation.

The petitioner, Emmanuel Timbungco, was the president of the above named union (hereafter, simply Kapisanan), composed of employees of Associated Anglo American Tobacco Corporation. The union had a three-year collective bargaining agreement with said Corporation (hereafter, simply AAATC). The stipulated expiration date was August 24, 1984.

On July 15, 1984 -- or within the so-called "freedom period" of sixty (60) days -- a general meeting of all the members of the Kapisanan was convoked by Timbungco. At that meeting the body unanimously approved, among others, the disaffiliation of the Kapisanan from the mother union, Federacion FOITAF, and the amendment of its constitution and by-laws. A new set of officers was also elected which included Timbungco, who was re-elected president without opposition. These events are set forth in the minutes drawn up by the Kapisanan's Secretary, which also recorded that the body had agreed to dispense with the formation of a COMELEC (committee on elections) and the preparation of a tally sheet showing the number of votes received by each candidate, the members simply having entered individual nominations to the different positions and listed their choices therefor.

On July 23, 1984 Timbungco submitted to the Bureau of Labor Relations the following documents:

- 1) a certified copy of the Kapisanan's amended constitution and by-laws;
- 2) an affidavit jointly executed by him and the union secretary declaring that the Kapisanan was the sole collective bargaining agent in AAATC;
- 3) a copy of the minutes of the meeting of July 15, 1984; and
- 4) a copy of the Kapasiyahan (Resolution) of the rank and file members to disaffiliate from the Federacion FOITAF.

A new registration certificate was thereafter issued in due course to the Kapisanan, indicating its independence of Federacion FOITAF.

Then in the first week of September, 1985, Timbungco, as re-elected President of Kapisanan, commenced negotiations for a new collective bargaining agreement with the representatives of AAATC. The negotiations lasted for about a year and ultimately resulted in the execution by Kapisanan and AAATC of another three-year collective bargaining agreement. A copy of the agreement was filed with the Bureau of Labor Relations as required by Policy Instruction No. 17.

About seven months later, on April 8, 1986 to be exact, Leodegario L. Zapanta, 1st National President of the Association of Democratic Labor Organizations (ADLO, for short), sent a letter to the Bureau of Labor Relations advising that Bureau that the majority of the members of the Kapisanan had affiliated with ADLO.[4] And on April 10, 1986, ADLO's Executive National Vice-President, Tayo, wrote AAATC to the same effect and requested -- in view of the consequent loss by the Kapisanan of its status as recognized representative of the bargaining unit -- that AAATC stop deduction of union dues and thenceforth ignore and otherwise refuse to deal with Timbungco and his group.[5] Another letter, also asking AAATC to stop deducting union dues, or hold such dues in trust pending resolution of the representation issue, was sent on April 12, 1986 by Delicano Pajares, a member of the Kapisanan.[6]

AAATC replied to Tayo's letter. It stated that it could not accede to the request to stop deduction of union dues since it had been dealing over many years with the Kapisanan as its workers' authorized bargaining representative.[7]

On April 23, 1986 Delicano Pajares filed with the Bureau of Labor Relations a petition for election of officers of the Kapisanan, which was docketed as Case No. NCR LRD-M-4-234-86. He alleged that he and his co-workers numbered 700, 62% of whom had signed the petition; that the election of officers held on July 15, 1984 was invalid, and they wished to exercise their right to vote for and elect their union officers. He also adverted to the existing collective bargaining agreement between Kapisanan and AAATC.

After appropriate proceedings, Med-Arbiter L. Reynante issued an Order dated July 3, 1986 declaring invalid the election of union officers which took place on July 15, 1984 and ordering another election of union officers to be conducted in the premises of AAATC under the supervision of the Bureau of Labor Relations.[8] This Order was, on appeal, affirmed in toto in a Resolution rendered by Bureau of Labor Relations Director Cresenciano Trajano under date of September 9, 1986.[9] Timbungco's motion for reconsideration was denied on September 9, 1986, by OIC Director of Labor Relations, Ricardo Castro.[10]

These are the orders which, in this special civil action of certiorari, Timbungco would have this Court invalidate.

The case turns upon the issue of the validity of the election of officers of July 15, 1984 it appearing that, as private respondents argue, there is no record of the number of members who attended the meeting, the number of those who actually voted, and the number of votes obtained by each candidate, and that a COMELEC (committee on elections) had not been formed to supervise the election. Private respondents also argue that the "contract bar rule" --- which proscribes any certification election during the life of a collective bargaining agreement or any other action which may disturb the administration of said agreement, except during the "freedom period" (i.e., the period of 60 days prior to the expiration of the agreement)[11] -- has no application to the election of officers sought in the petition in accordance with the union's constitution and by-laws.[12]

The petition has merit. The writ of certiorari prayed for will issue. In the first place, it does not at all appear that the dispensing by the membership of the Kapisanan with certain technical requirements or formalities in relation to the election of July 15, 1984 had resulted in the deprivation of any substantial right or prerogative of anyone, or caused the perpetration of a fraud or other serious anomaly, or more importantly, precluded the expression and ascertainment of the popular will in the choice of officers. In the second place, as the Office of the Solicitor

General points out, the private respondents' objections to the elections of July 15, 1984 have come too late, and they must be deemed in the premises to have forfeited their right to impugn the same. Under the Rules implementing the Labor Code, protests against elections should be formalized before the med-arbiter within five (5) days from the close of the election proceedings and must be decided by the latter within twenty (20) working days.[13] In this case, the protest against the election was presented to the med-arbiter only after the lapse of almost two (2) years after it was held. And in that interval, no informal protest, oral or written, was ever presented against the election. Indeed, there was tacit acceptance of the regularity of the elections and the results thereof, for during that period of almost two (2) years, certain significant events took place without demur or objection of any sort on the part of private respondents and the rest of the members of the Kapisanan: Timbungco officially made known to the Bureau of Labor Relations the Kapisanan's disaffiliation from the Federacion FOITAF and obtained a new certificate of registration for the union after complying with the requisites prescribed therefor; he and the other officers of the Kapisanan negotiated with the AAATC management and succeeded in bringing about the execution of a new collective bargaining agreement which was afterwards filed with the Bureau of Labor Relations in accordance with pertinent regulations; and Timbungco and the entire membership of the Kapisanan accepted benefits granted and assumed the obligations set out in said collective bargaining agreement.

WHEREFORE, the Resolutions of the Bureau of Labor Relations dated September 9, 1986 and September 30, 1986 -- sustaining that of Med-Arbiter Danilo Reynante dated July 3, 1986, are NULLIFIED AND SET ASIDE. The officers of the Kapisanan elected on July 15, 1986 shall continue to hold their respective positions in the union for the balance of the terms pertaining to them as of July 3, 1986, counted from the time of finality of this decision, and the collective bargaining agreement executed between the parties in 1986 shall also continue in force and effect for the balance of the three year period still remaining as of July 3, 1986, counted from the time of finality of this decision, unless sooner amended or revised by voluntary covenant of the parties or by other mode authorized by law. The temporary restraining order issued by this Court on November 17, 1986 is DISSOLVED.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 57: Annex L-1, petition

[2] Id., p. 64: Annex N-1, petition

[3] Id., p. 45: Annex J-1, petition

[4] Id., p. 29: Annex C, petition

[5] Id., p. 26: Annex A, petition

[6] Id., p. 30: Annex D, petition

[7] Id., p. 31: Annex E, petition

[8] SEE footnote 3 at page 1, *supra*

[9] SEE footnote 1 at page 1, *supra*

[10] SEE footnote 2 at page 1, *supra*

[11] SEE Art. 232, Labor Code

[12] Rollo, pp. 85-92

[13] Section 4, Rule VI, Book V.

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