

ROBERTO M. OCA, JR., ET AL., AND PHILIPPINE TRANSPORT AND GENERAL WORKERS ORGANIZATION (PTGWO-OCA GROUP), PETITIONERS, VS. CRESENCIANO B. TRAJANO, DIRECTOR OF THE BLR-MOLE, ANDR...

G.R. No. 76189. August 08, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

"United we stand, divided we fall," could very well have been the motto of the Philippine Transport and General Workers Organization (PTGWO). Founded in the 1950's by one of the Philippine labor movement's leading pillars, the late Roberto Oca, Sr., the labor organization encompasses a good number of affiliate unions and is one of the founding members of the Trade Union Congress of the Philippines. But just like good things and good times, good organizations also come to an end. This case chronicle's PTGWO's story.

During the 11th PTGWO national convention held on April 22, 1979, herein private respondent Andres L. Dinglasan, Jr. was elected National President while herein petitioner Roberto M. Oca, Jr. was elected National Executive Vice President. Their terms of office were both for three (3) years.

On February 26, 1982, Dinglasan convened an executive board meeting to thresh out the mechanics of the national convention of PTGWO for that year. Of the thirty three (33) voting members of the board, thirty one (31) were present. However, before the body could agree on the date of the convention, a number of participants questioned the qualifications of some members to sit on the board. To cut the heated argument then ensuing, the meeting was adjourned. Thereafter, Oca and some members of the board left the conference hall.

Nonetheless, the nineteen (19) members who remained asked Dinglasan to reconvene the meeting, which he did. This body passed, among others, a resolution to hold the national convention on April 18, 1982. On the other hand, Oca and his group, in a special board meeting on March 19, 1982, decided to hold their convention on April 4, 1982; thereby prompting Dinglasan and his group in their board meeting of April 1, 1982 to advance their convention date also to April 4, 1982.

Hence, on April 4, 1982, the groups of Dinglasan and Oca held their respective conventions at different venues and elected their own set of officers.

On April 15, 1982, PTGWO and Dinglasan filed a petition with the Bureau of Labor Relations to declare the convention and election of officers held by the Oca group as illegal, null and void.[1]

Pending resolution of the dispute, PTGWO-III, a group of fifteen (15) local unions headed by Carlos T. Rullamas and identified with the Dinglasan faction, moved to intervene for the reason that its members had allegedly already "seceded" from the camp of Dinglasan. Intervenor prayed that it be permitted to use the name PTGWO or, in the alternative, to allow the three fac-tions to operate independently of each other.

On May 15, 1986, herein respondent Director Cresenciano B. Trajano rendered a decision, declaring both conventions of doubtful validity. Finding that the rift between the two (2) factions had become unbridgeable so that a convention to unify them might not be a workable solution, respondent Director concluded that there was no other alternative but to recognize the "sad fact that the PTGWO, once a monolithic labor federation, has to be split into two: PTGWO-Oca and PTGWO-Dinglasan." [2] He went further to say that "with the division of PTGWO into Dinglasan and Oca wings on 4 April 1982, PTGWO ceased to exist as PTGWO." [3] On this basis, he disposed thus: [4]

"WHEREFORE, the petition and motion above-referred to should be, as they are hereby dismissed. The groups of Roberto M. Oca, Jr. and Andres L. Dinglasan, Jr. are hereby ordered to secure new registration certificates as Philippine Transport and General Workers Organization (PTGWO)-Oca and Philippine Transport and General Workers Organization (PTGWO)-Dinglasan, respectively, within thirty (30) days from receipt of this Decision. Intervenor PTGWO-III is allowed to register as a separate labor federation under a different name, but after compliance with the requirements of registration under the Labor Code.

"SO DECIDED."

Feeling aggrieved by the decision, all the parties filed their respective motions for reconsideration. On July 22, 1986, Director Trajano issued an Order denying the motion for reconsideration filed by Oca, Jr. [5] The record does not indicate whether the motions for reconsideration filed by Dinglasan, Jr. and the intervenor were resolved.

Alleging grave abuse of discretion amounting to lack of jurisdiction on the part of the BLR Director, Roberto Oca, Jr., et al. and PTGWO-Oca are now before Us by way of this petition for certiorari.

Petitioners and private respondents both assail the conclusion reached by respondent BLR Director that PTGWO has ceased to exist as PTGWO. Each side, however, insists on the validity of its convention, and consequently, its right to continue using the name PTGWO and to operate under PTGWO's Registration Permit No. 1194-MM-IP with all the privileges and benefits appurtenant thereto.

The crux of the petition hinges on the validity of either group's election of officers. On the other hand, the latter depends upon the validity of the respective Executive Board Meetings and National Conventions called.

Elementary is the rule that the Constitution and By-laws of an organization serve as a contract that binds its members. In this instance, the pertinent provisions of the Constitution and By-Laws are as follows: [6]

ARTICLE VII - NATIONAL CONVENTION

Section 24. DATE AND PLACE OF CONVENTION- The National Convention shall hold (sic) every three years at a time during the first half of April, the inclusive dates, time, place to be fixed by (sic) National Executive Board which shall be at least sixty (60) days before its holding.

Section 34. SPECIAL CONVENTIONS- On fifteen (15) days notice, special conventions may be called by the National Executive Board, or upon petition of affiliates whose combined membership represent majority of the entire membership of the organization as evidenced by the reports of the National Secretary to the last Convention.

ARTICLE VIII- THE NATIONAL EXECUTIVE BOARD

Section 38. INTERIM AUTHORITY- Between Conventions, supreme authority, subject to the general policies (sic) down by the Convention, shall be exercised by the National Executive Board.

Section 39. COMPOSITION- The National Executive Board shall be composed of the National President, 1st National Executive Vice President for General Workers, 2nd National Executive Vice President for Transport,

four (4) National Vice Presidents for General Workers, four (4) National Vice Presidents for Transport, a National Secretary, National Treasurer, ten (10) National Executive Board (sic) for General Workers, ten (10) National Executive Board (sic) for Transport, and all the appointive officers which shall, however, have no vote.

Section 40. MEETINGS AND QUORUM- The National Executive Board shall normally meet immediately after the close of the regular convention and at least once every quarter thereafter, or upon call of the National President, at his initiative or upon petition of at least one-fourth (1/4) of its members, for a special meeting. A majority of the members of the National Executive Board shall constitute a quorum to transact business.

Section 46. APPOINTIVE OFFICERS- The officers to be appointed by the National President subject to confirmation by the National Executive Board shall be:

a) Two National Assistant Secretaries, one each for Transport and General Workers;

The presence of a quorum during petitioner Oca's and respondent Dinglasan's respective Board meetings is questionable. As found by the public respondent Director[7]:

"x x x In both meetings the quorum requirement (majority of the members of the national executive board (Section 40, Article VIII, PTGWO Constitution) --33, elective and approximately 36, appointive (Section 39, Article VIII in relation to section 46, Article IX, PTGWO Constitution) has not been met."

Moreover, petitioner Oca's Board Meeting and subsequent Convention were tainted with invalidity. The call for "a special Board meeting to fix the special convention" made by the National Secretary, Johnny Oca, was anomalous since only the National President of the Union was empowered to call a special Board Meeting, "at his own initiative or upon petition of at least one fourth (1/4) of the Board members."

Petitioner argues that section 40 of the By-Laws provides alternately and successively for:

- a. The National Executive Board shall normally meet immediately after the close of the regular convention;
- b. At least once every quarter thereafter;
- c. Or upon call of the National President at his initiative;
- d. Or upon petition of at least 1/4 of its members for a special meeting.[8]

Petitioner has apparently misread section 40. An analysis of the cited section shows that what alternates are the instances when the Board shall meet, not the authority as to who can call for such meeting. It would seem that petitioner has confused this discretionary power properly lodged in the President with that of the Secretary's ministerial duty to "call" or inform the Board members of a forthcoming meeting. Considering the anomalous "call" for a special meeting made by the National Secretary, matters taken up during said special meeting, such as the calling of a national convention, are likewise tainted.

Still further, both Conventions were in violation of the sixty-day requirement imposed by section 24 of the By-Laws. Said section clearly provides that the National Convention's dates, time and place shall be fixed by the National Executive Board which shall be at least sixty (60) days before the holding.[9] As succinctly found by the public respondent Labor Director[10]:

"x x x On this score alone, the validity of the conventions called by petitioner and respondents on 4 April 1982 is subject to question. The group headed by petitioner (Dinglasan) fixed the final date of the convention barely three (3) days before the holding, while respondents (Oca) did so only sixteen (16) days prior to their convention."

The word used in the underscored phrase is "shall." According to Webster's Third International Dictionary of the English Language -- the word "shall" means "ought to, must, xxx obligation -- used to express a command or exhortation, used in laws, regulations or directives to express what is mandatory." [11] Thus, it was imperative for both petitioners and private respondents to strictly follow the command therein with respect to the period for calling a National Convention.

From the foregoing, it is apparent that respondent Labor Director's refusal to declare the validity of the election of officers of either parties is not tainted with abuse of discretion. However, that part of the decision which ordered the parties to "secure new registration certificates as Philippine Transport and General Workers Organization (PTGWO)-Oca and Philippine Transport and General Workers Organization (PTGWO)-Dinglasan, within thirty (30) days from receipt of this decision" is without basis. No provision in the Labor Code sanctions such an act. For the cancellation of a labor union's certificate of authority under Article 239 of the Labor Code, the causes provided therein must be substantially proved, with the requisite notices given and hearings held. In this case, such elementary elements of due process were not observed.

In lieu thereof, reliance should have been made on the Union Constitution and By-laws. Sections 38 and 47 [12] provide:

Section 38. INTERIM AUTHORITY - Between conventions, supreme authority, subject to the general policies down (sic) by the Convention, shall be exercised by the National Executive Board.

Section 47. TERMS OF OFFICE - The elective officers shall be installed at the Convention at which they were elected and shall serve until their successors shall have been elected and qualified and duly installed at the next National Convention. The tenure of office of appointive officers shall expire with each national convention and may be removed only under the provisions of Section 41, Article VIII of this Constitution.

Since we have ruled that the Conventions/Board Meetings of both petitioners and private respondents are tainted, then it necessarily follows that the incumbent officers constituting the National Executive Board are entitled to remain in office, until their successors have been elected, qualified and duly installed at a National Convention.

It appears from the manifestations filed by the parties that pending resolution of this case, the two (2) factions had been able to negotiate collective bargaining agreements with various companies. Considering that these CBA's were entered into in good faith, each faction acting in the honest belief that it is entitled to operate as the legitimate PTGWO and so as not to disturb the rights, benefits and privileges accorded by the CBA's to the parties therein, the CBA's entered into by PTGWO-Dinglasan and PTGWO-Oca are recognized as valid and binding until their respective expiry dates.

WHEREFORE, premises considered, the decision of public respondent is hereby MODIFIED. The Bureau of Labor Relations is directed to supervise the election of officers of the Philippine Transport and General Workers Organization within sixty (60) days from finality of this decision, without prejudice to the right of any group of workers or unions to secede and to form their own or to affiliate with another federation. The collective bargaining agreements entered into by PTGWO-Dinglasan and PTGWO-Oca are recognized as valid and binding until their respective expiry dates. This decision is immediately executory. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

* Referring to the other federation officers elected at the convention held at the Army and Navy Club in Manila.

** Referring to the other set of federation officers elected at the convention held at the Magsaysay Hall, SSS Building, Q. C.

[1] BLR Case No. 08-82.

[2] Annex "A-1", Petition, p. 16, Rollo.

[3] Annex "A-2", Petition, p. 17, Rollo.

[4] Ibid.

[5] Annex "B", Petition, p. 18, Rollo.

[6] pp. 290-293, Rollo.

[7] Annex "A-1", supra.

[8] pp. 274-275, Rollo.

[9] Underscoring ours.

[10] Annex "A-1", supra.

[11] As cited in *Baranda vs. Gustilo*, 165 SCRA 757.

[12] pp. 292-293, Rollo, Emphasis ours.

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