

SAN MIGUEL CORPORATION EMPLOYEES UNION – PTGWO, RICARDO ANGELES, ROBERTO AZANES, ROLANDO BINCE, DANILO CRUZ, REYNALDO DECENA, RODOLFO DESTURA, IRENEO GALLABO, TOMAS GALVEZ, RAYM...

G.R. No. 80141. July 05, 1989

Ponente: PARAS, J.

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PARAS, J.:

The instant petition seeks to set aside the decision/orders of public respondent calling for an election of the officers of petitioner San Miguel Corporation Employees Union on October 5, 1987; to nullify the election if held and restrain the enforcement of its results; and to hold public respondents in contempt of this Court.

The controversy originated with a petition filed on December 2, 1984 by San Miguel Corporation Employees Union with the Department of Labor and Employment for the election of its officers. The last election conducted in the union was in December 1981 when Raymundo Hipolito, Jr. was elected president of the union for a term of three (3) years.

After the required pre-election conferences, the election was scheduled on December 11, 1984. However, a restraining order dated December 10, 1984, issued by the National Capital Region, Metro Manila, (NCR for brevity) suspended the election. Nevertheless the group of Ricardo Bandal, one of the contending parties proceeded with the election and won. This was questioned by Raymundo Hipolito as the election was conducted in violation of the restraining order. The NCR sustained Hipolito and the Bandal group appealed to the Bureau of Labor Relations (BLR for brevity). On July 22, 1985, the BLR dismissed the appeal and ordered the holding of another election. This order became final and so the parties were again summoned for pre-election conferences. Subsequently, another date for the election was set, this time on November 25, 1985. Thereafter, however, protracted legal debates delayed the implementation of the BLR order for the holding of election. Hipolito raised the issue that the unit should be described as "SMCEU - PTGWO" instead of SMCEU only. After his belated motion for the reconsideration of the July 22, 1985 order of the BLR which was denied, he came to this Court by way of a petition for certiorari with prayer for the issuance of a restraining order to enjoin the holding of the election which was re-scheduled anew to December 10, 1985. In the petition he also prayed that the acronym PTGWO be added to SMCEU.

This court restrained the holding of the scheduled election and allowed the inclusion of PTGWO as suffix to SMCEU.

From this Court, the case was remanded to the NCR on July 7, 1985. There being no further legal impediment to the holding of the elections, the NCR again called the parties for the continuance of the pre-election conference.

Apparently, having a change of mind due perhaps to considerations of union politics, Hipolito submitted to the Med--Arbiter two (2) motions dated July 25, 1986 and August 19, 1986, praying for the dismissal of the petition

which the petitioners filed with the Department of Labor and Employment on December 2, 1984. He insisted that in view of the on-going collective bargaining negotiations between the union and San Miguel Corporation, it would be in the interest of everybody that said negotiations be concluded first before holding the election.

The NCR accommodated Hipolito repeatedly. But after the signing of the Collective Bargaining Agreement, another pre-election conference was called on July 2, 1987. Finally, on August 11, 1987, the Med-Arbiter issued an Order the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, the election of officers of the San Miguel Corporation Employees Union-PTGWO is hereby set on 15 September 1987 under the supervision of National Capital Region (NCR). Let a copy of this Order given the widest dissemination to the members of the union and all union members interested to run for office are given until August 31, 1987 to submit their respective certificates of candidacy.

"SO ORDERED." (P. 127, Rollo)

Petitioners filed a motion for the reconsideration of the aforesaid Order on August 27, 1987. Subsequently, however, they filed their Manifestation requesting that they would participate in the election provided that the date of said election which is on September 15, 1987 be moved to another date to be fixed by the parties, or failing which, by the assigned Representation Officer. In the same manifestation, they signified that if their request is granted, their motion for reconsideration can be considered moot and academic.

On September 4, 1987, the Med-Arbiter issued his now assailed Order reading as follows:

"Acting on the Manifestation with Motion to re-schedule election of officers of SMCEU-PTGWO filed by SMCEU-PTGWO officers led by Raymundo Hipolito, Jr. on September 4, 1987 to be well taken and is in consonance with the attainment of Industrial peace in the company, the Order of this Office dated August 11, 1987 in so far as fixing of the date of the election of union officers on September 15, 1987 is hereby ordered set aside. The new date of the election may be agreed upon by the parties during the pre-election conference but, should the parties fail to agree on the date of the election, the Representation Officer is hereby directed to fix the date of the said election.

"Further, pursuant to the above-mentioned Manifestation, filed on September 4, 1987, the petitioners' Motion for Reconsideration dated August 26, 1987 is hereby ordered denied for being moot and academic.

"SO ORDERED." (p. 24, Rollo)

So pre-election conferences were again held. On September 22, 1987, the Representation Officer pursuant to the aforesaid Order of September 4, 1987 fixed the date of the election for October 5, 1987.

In a last effort to again delay the election, petitioners filed a motion for reconsideration. The same was denied.

Hence, this petition for certiorari filed with this Court on October 17, 1987. Sometime in November 1987, petitioners filed a Supplemental Petition alleging that the election had been held under the supervision of the Department of Labor (after almost three (3) years from the filing of the petition for the conduct of the election and after almost six (6) years from the last election of officers of petitioner union.)

All the individual petitioners herein filed their certificates of candidacy and actually participated in the election of October 5, 1987. Petitioner Raymundo Hipolito, Jr. lost the presidency to intervenor Daniel Borbon II.

Before filing the instant petition for certiorari, petitioners had filed likewise an election protest in the original case which was dismissed for lack of merit on November 6, 1987. This order was appealed (petition for certiorari) by petitioners to this Court under G.R. No. 82183.

On May 4, 1988 this Court (First Division) denied the said petition for lack of merit. The said Resolution reads:

“After deliberating on the petition and its annexes we find that the respondent Director of the Bureau of Labor Relations did not commit a grave abuse of discretion nor any reversible error in affirming the order of the Med-Arbitrator dismissing petitioner's protest against the election of respondent Daniel Borbon as president of the San Miguel Corporation Employees Union-PTGWO, in the local election on October 5, 1987, as it appears that the petitioner himself, as the president of the SMCEU-PTGWO, filed the petition for election of union officers on December 2, 1984 because the last union election was held in December 1981 and the 3-year term of office of the incumbent union officers as provided in Article 242(c) of the Labor Code, was about to expire; that petitioner was estopped from withdrawing his said petition because the order directing the conduct of the election had already been implemented and petitioner himself participated as a candidate for president in the election; that 261 union members led by Borbon filed a petition to hold the election and demand an accounting of union funds; that petitioner's petition to disqualify Daniel Borbon from running for office in the union had already been resolved in BLR Case No. 10-354-87 (NCR OD-M-5-421-87) where Borbon was declared a rank and file employee, hence, qualified to join, form or assist in the formation of a labor organization; and, finally, petitioner who lost in the election, failed to present evidence of fraud in the conduct of the election. Respondent Calleja's resolution dated February 18, 1988 (Annex A) dismissing petitioner's appeal from the Med-Arbitrator's order of November 6, 1987 (Annex B) is correct.” (pp. 75-76, Rollo of G.R. No. 82183)

The petitioners the said petition (who are the same petitioners in this case) moved to reconsider the dismissal. The same was denied in the Resolution of the First Division dated June 15, 1988 which reads:

“The motion for reconsideration mentions for the first time the pendency before the Second Division of this Court of G.R. No. 80141 which, in the petitioner's own words, involves ‘the same subject matter, issues and parties.’ In both cases, the petitioner prays this Court ‘to cancel and nullify the local election held on October 5, 1987’ and to set aside the proclamation of Daniel Borbon as the duly elected president of the SMCEU-PTGWO. Petitioner now asks that Our resolution of May 4, 1988 dismissing this case be set aside and/or its implementation be deferred until G.R. No. 80141 shall have been resolved by the Second Division.

“Since the petitioners in G.R. No. 80141, (are the same petitioners here) We have here a clear case of trifling with proceedings in this Court. Petitioner had probably hoped to obtain from the First Division of the Court the reliefs which up to this time they have failed to obtain from the Second Division where their earlier petition (G.R. No. 80141) has been pending. Only when We adversely disposed of their second petition did they reveal the pendency of the first. Since they themselves set in motion the processes of this Court by filing this case, they are estopped to ask for the suspension of these proceedings on account of the pendency of their earlier petition.” (pp. 96-97, Rollo of G.R. No. 82183)

On June 27, 1988, intervenors filed a motion to dismiss the instant petition in view of the dismissal of G.R. No. 82183.

Indeed, this case is a clear instance of trifling with judicial and quasi-judicial proceedings. Petitioners filed a petition for election alleging that there was basis for calling such election. Then, they turned around and claimed their petition was not proper; that the election that was held, in which they lost, be nullified.

Petitioners had filed an election protest with the Med-Arbitrator. Without waiting for its resolution, petitioners filed the instant petition for certiorari (G.R. No. 80141) and in their petition they did not mention the pendency of the election protest.

After the said election protest was dismissed for lack of merit, the petitioners elevated the same to this Court by way of another petition for certiorari (G.R. No. 82183). Although both petitions seek the nullification of the election held on October 5, 1987, petitioners did not pray for their consolidation. This mockery of judicial

proceedings should not be countenanced.

In its resolution dated November 6, 1987, public respondent already declared and certified the candidates in said election garnering the highest number of votes as the duly elected officers, committee members and board of directors of SMCEU-PTGWO. This is the very act of public respondent that petitioners seek to be restrained. Since the act has already been consummated, injunction or restraining order does not lie. Moreover, it does not appear that petitioners are entitled to the main relief sought, so there is no legal justification for a restraining order or preliminary injunction.

Petitioners contend that public respondents acted with grave abuse of discretion amounting to lack of jurisdiction when they set the local election on October 5, 1987. In support of their allegation, they state that there was no petition for the holding of election of union officers meeting the requirements of Book V, Rule VIII, Sections 1, 2 and 3 of the Implementing Rules and Regulations of the Labor Code and that they were deprived of due process of law.

The above contentions are without merit. Assuming that the requirements as delineated in said Sections 1, 2 and 3 of the Implementing Rules and Regulations of the Labor Code apply to election of union officers, petitioners are in estoppel to invoke the same. They filed the petition praying for the conduct of an election to select the union officers. By filing the petition, they necessarily affirmed that the petition was sufficient in form and substance. They therefore cannot now claim that the petition did not meet legal requirements.

Anent their claim that they were denied due process, records show that they were given their day in court. Their motion for Reconsideration/Appeal dated September 28, 1978 was duly considered by public respondent. The mere fact that their motion was denied does not mean that they were denied due process of law.

In their Supplemental Petition, petitioners pray that respondent Pura Ferrer-Calleja and Med-Arbiter Fernando be held in contempt of court for proceeding to take action on the petition for election.

The records show that on December 9, 1987, this Court issued a temporary restraining order enjoining "respondents from proclaiming the alleged winners in the union local election held last October 5, 1987 particularly that of Daniel Borbon as new president of the union." (Resolution dated December 9, 1987, p. 203, Rollo) But the winners in said election were already proclaimed and sworn into office on November 11, 1987 by virtue of the order dated November 6, 1987 of the Med Arbiter in the election protest filed by petitioners. Thus, the act intended to be restrained was already "fait accompli." Accordingly, said public respondents have not violated any order of this Court which would make them guilty of contempt.

WHEREFORE, for lack of merit, the instant petition is DISMISSED.

SO ORDERED.

Melencio-Herrera, (Chairman), and Regalado, JJ., concur.

Padilla, and Sarmiento, JJ., no part.

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