

UNITED ALUMINUM FABRICATORS, PETITIONER, VS. HON. FRANKLIN M. DRILON, HON. RUBEN D. TORRES, AND KAISAHAN NG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN), RESPONDENTS.

G.R. No. 93016. July 03, 1992

Ponente: PARAS, J.

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PARAS, J.:

These two consolidated cases are petitions for certiorari with preliminary injunction and/or restraining order which seek to annul and set aside the: (a) decision of the then Sec. of Labor and Employment Franklin M. Drilon dated November 24, 1989 in OS-M-A-9-194-89 (NCR-OD-M-7-511-89) entitled "In re: petition for Direct Certification/Certification Election at United Aluminum Fabricators, Kaisahan ng Manggagawanag Pilipino (KAMPIL-KATIPUNAN) v. United Aluminum Fabricators and United Aluminum Fabricators Workers' Union" by setting aside the order of Med--Arbiter Anastacio L. Bactin dated August 15, 1989 and ordering the conduct of certification election notwithstanding the existence of a duly ratified and registered collective bargaining agreement between United Aluminum Fabricators and United Aluminum Fabricators Workers' Union; (b) order of Sec. of Labor and Employment Ruben Torres dated February 28, 1990 denying the motions for reconsideration; and (c) order of Sec. of Labor and Employment Ruben Torres dated April 25, 1990 denying the second motion for reconsideration.

The facts of the case are as follows:

United Aluminum Fabricators Workers' Union (UAFWU for short) is the exclusive bargaining representative of the rank-and-file employees of the United Aluminum Fabricators (United Aluminum for short). They entered into a collective bargaining agreement (CBA for short). The said CBA is for a period of three (3) years beginning April 1, 1986 to April 29, 1989. This agreement was registered with the Department of Labor and Employment (DOLE for short) (Rollo, G.R. No. 93079, p. 5).

Before the expiration of the said CBA on April 29, 1989, and considering that no petition for certification election had been filed nor a similar petition was likely to be filed within the remaining twenty six (26) days of the freedom period and no petition questioning the majority status of UAFWU was filed with the DOLE within the freedom period, United Aluminum and UAFWU renegotiated a new CBA (Rollo, G.R. No. 93016, p. 5; Annex D, pp. 45-55).

On April 3, 1989, United Aluminum and UAFWU executed a new CBA for five (5) years in accordance with R.A. 6715 to take effect upon the expiration of the old CBA or on April 29, 1989 (Ibid.).

The five (5) year CBA was filed, registered and recorded in the log book of the docket section of the National Capital Region office of the DOLE on the same date it was executed and clearly written in the entry is that the CBA consists of fourteen (14) pages with ratification, posting, minutes of the meeting etc. (Rollo, G.R. No. 93079, pp. 5-6; G.R. No. 93016, p. 57).

On July 7, 1989, sixty nine (69) days or more than two (2) months after the expiry date of the so-called freedom period and after the conclusion and registration of the CBA between United Aluminum and UAFWU, KAMPIL filed a petition for direct certification/certification election with the DOLE. It alleged that it is a legitimate labor organization duly registered with the DOLE under registration Certificate No. (Fed. 509) - 7793-IP and may be notified at Rooms 503-507 Insurance Bldg., Gen. Luna, Intramuros, Manila; that United Aluminum is a private entity engaged in the manufacture of wire, glass, jalousies and other related products and may be notified at Km. 19, No. 1128 Quirino Highway, Novaliches, Quezon City, Metro Manila. It was also alleged therein that there are more or less 170 regular rank-and-file employees in the company and that to its knowledge there is no existing union and more than twenty-five percent (25%) of the workers have joined or are directly affiliated with it (Rollo, G.R. No. 93079, pp. 9-10; Annex E, p. 52).

Accordingly, United Aluminum filed a motion to dismiss KAMPIL's petition for certification election on the grounds that it has an existing and duly registered CBA with UAFWU which is a bar to any petition for certification election and that said petition is not supported by the employees bargaining unit. In support of its motion to dismiss, United Aluminum submitted the following documentary evidence, viz:

“(i) A copy of the new CBA executed on April 3, 1989, between United Aluminum and UAFWU (Rollo, G.R. No. 93016, Annex D, pp. 43-55).

“(ii) A Certification dated November 28, 1989 issued by Atty. Ferdinand L. Magabilin, Chief, Industrial Relations Division (NCR-DOLE); attesting that:

‘x x x there is an existing CBA between United aluminum and UAFWU as of April 3, 1989 as filed with this office.

‘This Certification supersedes the one issued to Ms. Jenny Capa dated June 15, 1989 in view of the error in the indexing of records where apparently, the name of the corporation was inadvertently used.’ (Rollo, G.R. No. 93016, pp. 6-7; Annex F, p. 58)

“(iii) Proofs of ratification of the CBA by majority of the employees of United Aluminum.” (Rollo, Ibid., p. 7; Annexes G-J, pp. 59-62).

UAFWU having learned of the pendency of the above petition filed by KAMPIL, immediately filed a motion for leave to intervene dated July 31, 1989, alleging that it has an interest in the outcome of the case so that any order, ruling decision or resolution that may be issued or promulgated in the case will inevitably affect the movant union and its members who constitute the majority of the workers within the appropriate collective bargaining unity of the rank-and-file workers; and that any encroachment or pendency of case/s similar to the case will hamper, impair or affect the smooth implementation of the existing CBA (Rollo, G.R. No. 93079, p. 10; Annex F, p. 54).

On August 15, 1989, Med-Arbiter Anastacio L. Bactin, issued an order, the dispositive portion of which reads:

"WHEREFORE, premises considered, the petition for direct certification/certification election is hereby dismissed for lack of merit.

"SO ORDERED." (Rollo, G.R. No. 93016, Annex K, p. 69)

KAMPIL appealed from the aforesaid August 15, 1989 order of Med-Arbiter Anastacio L. Bactin.

On November 24, 1989, the then Sec. of Labor Franklin M. Drilon, rendered its decision, the dispositive part of which reads:

"WHEREFORE, premises considered, the Order of the Med-Arbiter dated 15 August 1989 is hereby set-aside. A certification election is hereby ordered conducted among the rank-and-file workers of the United Aluminum

Fabricators with the following choices:

‘1. KAISAHAN ANG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN)

‘2. UNITED ALUMINUM FABRICATORS WORKERS UNION; and

‘3. NO UNION.’

"The company's payroll three (3) months prior to the filing of the petition shall be the base of the list of eligible voters.

"SO ORDERED." (Rollo, G.R. No. 93079, Annex I, pp. 68-69).

UAFWU filed a motion for reconsideration of the aforesaid decision as well as a supplement to motion for reconsideration. United Aluminum also filed a motion for reconsideration and a supplement for reconsideration (Rollo, Ibid., p. 16).

On February 28, 1990, Sec. Ruben D. Torres, the new Sec. of Labor, issued an order denying the motions for reconsideration, the dispositive portion of which reads:

"WHEREFORE, premises considered, the motions are hereby denied for lack of merit and the Decision sought to be reconsidered sustained.

"Let therefore, the conduct of the certification election proceed immediately.

"No further motion of a similar nature shall hereinafter be entertained.

"SO ORDERED." (Rollo, Ibid., Annex J, p. 73).

Hence, United Aluminum's and UAFWU's second motions for reconsideration filed separately, were again denied by Sec. Torres in his order dated April 25, 1990 (Rollo, Memorandum for United Aluminum, p. 399; Annex C, pp. 41-42; G.R. No. 93016).

Hence, these petitions.

As prayed for in the petition, the Second Division of this Court in its resolution dated May 3, 1990 issued a temporary restraining order, restraining respondents from conducting the scheduled pre-election conference and the subsequent certification election under Case No. OS-MA-A-9194-89 (NCR-OD-M-7-511-89) (Rollo, G.R. No. 93016, Resolution, p. 96) and on July 4, 1990 resolved to consolidate G.R. Nos. 93016 & 93079 (Rollo, G.R. No. 93016, Resolution, p. 190).

On October 31, 1990, KAMPIL filed a manifestation stating that its individual members are no longer interested in the further prosecution of their case in view of their agreement entered into with United Aluminum (Rollo, Ibid., pp. 266-267).

In a resolution dated September 25, 1991, the Court gave due course to these petitions and required both parties to submit their respective memoranda (Rollo, Ibid., p. 259).

On October 23, 1991, the Solicitor General filed a manifestation stating that they be excused from filing the Memorandum (Rollo, Ibid., p. 260). Likewise, KAMPIL manifested that they be excluded from the filing of the memorandum (Rollo, Ibid., p. 263).

Both UAFWU and UFA filed their respective memoranda, the UAFWU, on December 2, 1991 (G.R. No. 93079, Rollo, pp. 123-126) and the UAF on December 6, 1991 (G.R. No. 93016, Rollo, pp. 391-417).

In a resolution dated February 24, 1992, the Court calendared the case for deliberation (Rollo, Ibid., p. 427).

The pivotal issue in these two consolidated cases is whether or not public respondent committed grave abuse of discretion in ordering the conduct of a certification election notwithstanding the existence of a valid CBA.

But because of KAMPIL's aforementioned manifestation which in effect is a withdrawal from the case, there appears to be no reason to pass upon the parties' varied contentions.

In addition law and jurisprudence fully support the merits of the petition Article 232 of the Labor Code, provides that:

"Art. 232. Prohibition on Certification Election - The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of duly registered existing collective bargaining agreements affecting the parties except under Article 353-A and 256 of this Code."

Corollary thereto Rule V. Sec. 3, Book V of the Implementing Rules and Regulations of the Labor Code provides in effect that if a collective bargaining agreement validly exists, a petition for certification election can only be entertained within sixty (60) days prior to the expiry date of said agreement (Pagkakaisa ng mga Manggagawa sa Triumph Int'l. - United Lumber and General Workers of the Philippines v. Ferrer-Calleja, 181 SCRA 119, 1990).

A petition for direct certification filed before or after the sixty-day freedom period shall be dismissed outright (Liberty Commercial Center, Inc., v. Ferrer-Calleja, 175 SCRA 483; 1989).

KAMPIL's petition for certification election was filed on July 7, 1989 or 69 days after the expiration of the Freedom Period.

The rule prohibits the filing of a petition for certification election during the existence of a CBA except within the freedom period of sixty (60) days (Associated Trade Union [ATU] v. Trajano, 162 SCRA 318, 1988). In the case at bar, while the sixty (60) day freedom period was in operation between February 28 to April 29, 1989 there was no other labor organization questioning nor challenging the majority status of herein UAFWU so much so that it had no impediment under the law to enter into a new CBA with the United Aluminum with a life span of five (5) years beginning from April 29, 1989 up to April 28, 1994, in accordance with law (R.A. 6715).

The CBA with all the requirements attached to it were submitted and registered on April 13, 1989 with the DOLE for record purposes. The submission and registration were attested to and certified to by the Chief of the Industrial Relations Division and the Record Officer III on November 28, 1989 and December 6, 1989, respectively. The required document was also written and reflected in the log book of the docket section for the April 3, 1989 period.

Undoubtedly, therefore, when KAMPIL filed a petition for certification election, there was a valid and existing CBA between UAFWU and United Aluminum effective until 1994, which constituted a bar to the holding of the certification election in question.

Furthermore, the records show that KAMPIL's petition was not supported by the written consent of at least 20% of the rank-and-file employees of the company, to make it mandatory for the Bureau to order a certification election (Airtime Specialists, Inc. v. Ferrer-Calleja, 180 SCRA 749; 1989). In fact failure to determine with legal certainty whether the union enjoyed majority representation may be ground to nullify the certification election (Associated Labor Union [ALU] v. Ferrer-Calleja, 173 SCRA 178; 1989).

Under the circumstances, it is evident that public respondent gravely abused his discretion in setting aside the Orders of Med-Arbitrator and ordering the conduct of certification election among the rank-and-file employees notwithstanding the existence of a duly ratified and collective bargaining agreement between the petitioners UAF

and UAFWU.

PREMISES CONSIDERED, (a) both petitions in G.R. Nos. 93016 and 93079 are GRANTED; (b) the assailed decision of the public respondents are ANNULLED and SET ASIDE; (c) the Order of Med-Arbiter Anastacio L. Bactin dated August 15, 1989 is REINSTATED; and (d) the temporary restraining order issued in G.R. No. 93016 is made permanent.

SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

Narvasa, C.J., (Chairman), J., no part.

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