

KAPISANAN NG MGA MANGGAGAWA SA MANILA RAILROAD COMPANY, PETITIONER, VS. YARD CREW UNION, STATION EMPLOYEES UNION, RAILROAD ENGINEERING DEPARTMENT UNION, MANILA RAILROAD COMPANY,...

G.R. Nos. 16292-94, 16309 and 16317-18. October 31, 1960

Ponente: PAREDES, J.

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PAREDES, J.:

In the Court of Industrial Relations, three separate petitions were registered: Case No. 491-MC, by Yard Crew Union, Case No. 494-MC, by Station Employees' Union; and Case No. 507-MC, by Railroad Engineering Department Union. The Kapisanan Ng Mga Manggagawa Sa Manila Railroad Company, intervened. They were treated jointly by the respondent Court because they involved identical questions. On appeal, three separate petitions for certiorari were presented by the Kapisanan Ng Mga Manggagawa Sa Manila Railroad Company (G.R. Nos. L-16292-94) and three separate petitions for certiorari by the Manila Railroad Company (G.R. Nos. L-16309, L-16317 and L-16318.)

We glean from the record the following facts:

On March 7, 1955, the Kapisanan Ng Mga Manggagawa Sa Manila Railroad Company, hereinafter called Kapisanan, filed a petition (Case No. 237-MC), praying that it be certified as the exclusive bargaining agent in the Manila Railroad Company, hereinafter called Company. A decision was promulgated on September 29, 1956, affirmed by the Court en banc on January 16, 1957, in which the respondent Court found three unions appropriate for purposes of collective bargaining, to wit: (1) The unit of locomotive drivers, firemen, assistant firemen and motormen—otherwise known as the engine crew unit; (2) the unit of conductors, assistant conductors, unit agents, assistant route agents and train posters, otherwise known as the train crew unit, and (3) the unit of all the rest of the company personnel, except the supervisors, temporary employees, the members of the Auditing Department, the members of the security guard and professional and technical employees, referred to by the respondent court as the unit of the rest of the employees. To these 3 units, the following unions were respectively certified as the exclusive bargaining agents: (1) The Union de Maquinistas, Fogoneros, Ayudantes y Motormen; (2) Union de Empleados de Trenes (conductors); and (3) the Kapisanan Ng Mga Manggagawa Sa Manila Railroad Company.

After the decision had become final, Case No. 491-MC was filed on September 20, 1957, amended on August 13, 1958, by the Manila Railroad Yard Crew Union, praying that it be defined as a separate unit; Case No. 494-MC, on September 25, 1957, amended on August 13, 1958, by the Station Employees' Union, praying that it be constituted as a separate bargaining unit, and Case No. 507-MC, on November 30, 1957, by the Railroad Engineering Department Union, praying that it be defined as a separate bargaining unit. All asked that they be certified in the units sought to be separated. The respondent unions are legitimate labor organizations with certificates of registration in the Department of Labor.

The Kapisanan and the Company opposed the separation of the said three units on the following grounds:

(1) That the Kapisanan had been duly certified as the collective bargaining agent in the unit of all of the rest of the employees and it had entered into a collective bargaining agreement on November 4, 1957, and this agreement bars certification of a unit at least during the first 12 months after the finality of Case No. 237-MC (contract bar rule).

(2) That the Court had denied similar petitions for separation of unit as was ordered in Case No. 488-MC, wherein the petition for the separation of Mechanical Department Labor Union was dismissed by the respondent Court on April 25, 1958 and in the case of the Benguet Auto Lines Union, Case No. 4-MC-PANG) dismissed on July 18, 1958.

(3) That the three unions in question are barred from petitioning for separate units because they are bound by the decision in Case No. 237-MC, for having been represented therein by the Kapisanan.

After due hearing, the respondent Court, through the Hon. Arsenio Martinez, Associate Judge, handed down an order, dated June 8, 1959, the dispositive portion of which recites as follows:

"Wherefore, all the foregoing considered, and without passing upon the basic questions raised herein and as part of its fact finding investigations, the Court orders a plebiscite to be conducted among the employees in the three proposed groups, namely; the Engineering Department, the Station Employees and the Yard Crew Personnel. The employee in the proposed groups minus the supervisors, temporary employees, members of the Auditing Department, members of the security group, professionals and technical employees, shall vote, in a secret ballot to be conducted by this Court, on the question of whether or not they desire to be separated from the unit of the rest of the employees being represented by the Kapisanan. In this connection, the Court requests the cooperation of the Manila Railroad Company to extend its facilities for the holding of this plebiscite, particularly the payrolls for the month to be agreed upon by the parties. * * *."

The respondent Court also declared that the collective bargaining agreement could not be a bar to another certification election because one of its signatories, the Kapisanan President, Vicente K. Olazo, was a supervisor:

"In considering however such existing contract between the Kapisanan and the Company, the Court cannot close its eyes and fail to observe that among the signatories thereto, on the part of the Kapisanan, is the President of the Union, Vicente K. Olazo.

"In Case No. 237-MC, one of the important and fundamental questions raised was whether or not Vicente K. Olazo is a supervisor within the meaning of Section 2(k) of Republic Act 875. The Trial Court, as well as the majority of the Court en banc, reached the conclusion in same Case No. 237-MC that he is a supervisor.

* * *. For this reason, the Court believes that his existing contract, though embodying terms and conditions of employment and with a reasonable period to run, would not be a bar to a certification proceeding."

A motion for reconsideration of the order of June 8, 1959, was presented by the Kapisanan, and same was denied on August 20, 1959, in an order, concurred in by three Judges of the Court, with two Judges dissenting, against which the Kapisanan on November 28, 1959, filed its notice of appeal. Appeals by certiorari were filed by the Kapisanan and the Company. In this Court, respondents presented motion to dismiss the petitions, on the ground that the order of the respondent court on June 8, 1959 and the resolution of the respondent court en banc dated August 20, 1959, to hold a plebiscite, were interlocutory, not subject to appeal. They also allege the same in their answers, as one of the defenses. The case, therefore, poses three questions, to wit:

1. Are the appealed orders interlocutory in nature?
2. Is the order of the respondent court, granting groups of employees to choose whether or not they desire to be separated from the certified unit to which they belong, during the existence of a valid bargaining contract entered

into by a union close to the heels of its certification, contrary to law?

3. Is it legal error for the respondent court to hold that the bargaining agreement in question does not bar certification proceedings, only because one of the signatories for the union was adjudged by the majority of such court to be a supervisor, in a previous case?

The pertinent portion of the order of the respondent Court, dated June 8, 1959, reads:

"Wherefore, all the foregoing considered, and without passing upon the basic question raised herein and as part of its fact finding investigation, the Court orders a plebiscite to be conducted among the employees in the three proposed groups, namely: the Engineering Department; the Station Employees, and the Yard Crew Personnel."

The resolution en banc, dated August 20, 1959, partially states:

"It will be further noted that it is just a part of the investigatory power of the Court to determine by secret ballot the desire of the employees concerned. What has been ordered is merely a plebiscite and not the certification election itself. * * *. Proceedings may still continue and an order whether denying the petition or not would necessarily ensue. In a word, something else has to be done within the premises and the order does not deny or grant the petition in the above entitled case."

In the case of Democratic Labor Association vs. Cebu Stevedoring Co., G. R. No. L-10321, February 28, 1958, we stated that because of the modern complexity of the relation between both employer and union structure, it becomes difficult to determine from the evidence alone which of the several claimant groups forms a proper bargaining unit; that it becomes necessary to give consideration to the express will or desire of the employees-a practice designated as the "Globe doctrine," which sanctions the holding of a series of elections, not for the purpose of allowing the group receiving an over all majority of votes to represent all employees, but for the specific purpose of permitting the employees in each of the several categories to select the group which each chooses as a bargaining unit; that the factors which may be considered and weighed in fixing appropriate units are: the history, extent and type of organization of employees; the history of their collective bargaining; the history, extent and type of organization of employees in other plants of the same employer, or other employers in the same industry; the skill, wages, work and working conditions of the employees; the desires of the employees; the eligibility of the employees for membership in the union or unions involved; and the relationship between the unit or units proposed and the employer's organization, management and operation, and the test in determining the appropriate bargaining unit is that a unit must effect a grouping of employees who have substantial, mutual interests in wages, hours, working conditions and other subjects of collective bargaining.

It is manifest, therefore, that "the desires of the employees" is one of the factors in determining the appropriate bargaining unit. The respondent Court was simply interested "in the verification of the evidence already placed on record and submitted wherein the workers have signed manifestations and resolutions of their desire to be separated from the Kapisanan." Certainly, no one would deny the respondent court's right of full investigation in arriving at a correct and conclusive finding of fact in order to deny or grant the petitions for certification election. On the contrary, all should declare it a paramount duty of the said respondent court, or any court for that matter, to investigate before acting, to do justice to the parties concerned. And one way of determining the will or desire of the employees is what the respondent court had suggested: a plebiscite-carried by secret ballot. A plebiscite and not the certification election itself. A plebiscite not to be conducted by the Department of Labor, as contemplated in a certification election under Sec. 12 of the Magna Charter of Labor, R. A. No. 875, but by the respondent court itself. As well observed by the respondent court, "the votes of the workers one way or the other, in these cases will not by any chance choose the agent or unit which will represent them anew, for precisely that is a matter that is within the issues raised in these petitions for certification".

The test in determining whether an order or judgment is interlocutory or final is "Does it leave something to be done in the trial court with respect to the merits of the case? If it does, it is interlocutory; if it does not, it is final" (Moran's Comments on the Rules of Court, 1952 Ed., Vol. I, p. 41). Having in view the avowed purpose of the orders in question, as heretofore exposed, one should not stretch his imagination far to see that they are clearly interlocutory, as they leave something more to be done in the trial court and do not decide one way or the other the petitions of the respondent unions. We are, therefore, constrained to hold, as we do hereby hold, that the present appeals or petitions for review by certiorari, are not authorized by law and should be dismissed (Section 2, Rule 44, Rules of Court). There is, moreover, nothing, under the facts obtaining in these cases and the law on the subject, which would warrant this Court to declare the orders under consideration, illegal.

The herein petitioners contend that the collective bargaining agreement, executed on November 4, 1957 (Case No. 237-MC), is a bar to the certification proceedings under consideration. The respondents counter that it is not so, because one of the signatories in the said agreement for the Kapisanan, Vicente K. Olazo, was found to be a supervisor under section 2(k) R. A. 875, in Kapisanan, etc, vs. CIR, etc., 106 Phil., 607; 57 Off. Gaz. (2) 254. Having, however, reached the conclusion that the orders in question are not appealable and that the respondent court has not as yet decided on whether the said collective bargaining agreement is a bar or not to the petitions for separate units and for certification election, which could properly be determined after the result of the plebiscite shall have been known by the respondent court, the consideration of this issue is premature.

In view hereof, the petitions or appeals for review by certiorari are dismissed, without costs.

Paras, C.J., Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, and Gutierrez David, JJ., concur.

Petitions dismissed.

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