SUPREME COURT
SECOND DIVISION

EASTLAND MANUFACTURING, CO. INC.,
***Petitioner*,**

-versus-

G.R. No. L-45528
February 10, 1982

HON. CARMELO C. NORIEL, and PHILIPPINE SOCIAL SECURITY LABOR UNIONS-PSSLU Fed.-(TUCP) (PSSLU Eastland LOCAL),
***Respondents*.**
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D E C I S I O N

FERNANDO, *J.*:

This Petition for *Certiorari* raised novel issues at the time of its filing resulting in granting the plea for restraining order.[1] Petitioner-employer was able then to allege with a certain degree of plausibility contentions which could cast doubt on the validity of the resolution of respondent Carmelo C. Noriel, Director of the Bureau of Labor Relations, ordering a certification election. In the light of the applicable decisions rendered thereafter, the dismissal of the petition is indicated. The challenged order, the Court cannot set aside.

It is not disputed that petitioner had 275 people in its labor force of whom 175 were members of respondent labor union. They signed a petition for the holding of a certification election. That fact in itself would more than justify the granting of such a plea, the 30% mandatory requirement being met. It was alleged, however, that there were 43 employees with less than six months service and 6 who had left their employment. Even then there would still be more than 30% of the employees whose votes certainly should be counted. Petitioner-employer was adamant. It invoked a provision in the Labor Code.[2] That is the basic issue raised in this petition. The other is whether a certification election could be conducted without the restructuring of labor organizations as likewise provided in the Labor Code. This issue need not be given any further thought as until now such restructuring has not taken place.

As noted at the outset, this petition calls for dismissal.

1. At the time of the issuance of the restraining order, it had been previously held that even if there were less than 30% of the employees asking for a certification election, that of itself would not be a bar to respondent Director ordering such an election provided, of course, there is no abuse of discretion. So it was explicitly declared in Philippine Association of Free Labor Unions vs. Bureau of Labor Relations:[3] "Petitioner's contention to the effect that the 30% requirement should be satisfied suffers from an even graver flaw. It fails to distinguish between the right of a labor organization to be able to persuade 30% of the labor force to petition for a certification election, in which case respondent Bureau is left with no choice but to order it, and the power of such governmental agency precisely entrusted with the implementation of the collective bargaining process to determine, considering the likelihood that there may be several unions within a bargaining unit to order such an election precisely for the purpose of ascertaining, which of them shall be the exclusive collective bargaining representative. The decision of respondent Bureau of April 14, 1975 was intended for that purpose. That was why not only petitioner but also the Philippine Federation of Labor, the National Labor Union, the National Federation of Labor

Unions and the Samahan ng mga Manggagawa at Kawani sa AG&P were included in the list of labor unions that could be voted on. To reiterate a thought already expressed, what could be more appropriate than such a procedure if the goal desired is to enable labor to determine which of the competing organizations should represent it for the purpose of a collective bargaining contract?"[4] Such a doctrine is now firmly entrenched in the law.[5]

2. There was, however, the remaining question of whether or not the reliance of respondent Noriel under Article 257 on the requirement of the law of 30% of all the employees suffices. As noted earlier, for purposes of membership in any labor union, the one year period is required. That is one thing. Who can vote in a certification election is another. The plain language of the law certainly is controlling. All employees can participate. The later article is, therefore, lacking in any relevance. It is not a limitation to the right of all those in a collective bargaining unit to cast their vote. A recent decision, Confederation of Citizens Labor Unions vs. Noriel[6] speaks to that effect. Thus: "From United Employees Union of Gelmart Industries vs. Noriel, a 1975 decision, it has been the consistent ruling of this Court that for the integrity of the collective bargaining process to be maintained and thus manifest steadfast adherence to the concept of industrial democracy, all the workers of a collective bargaining unit should be given the opportunity to participate in a certification election. The latest decision in point, promulgated barely a year ago, is United Lumber and General Workers vs. Noriel. This Court has resolutely set its face against any attempt that may frustrate the above statutory policy. The success of this petition would, therefore, be an unwarranted departure from a principle that has been firmly embedded in our jurisprudence. We are not inclined to take that step."[7] It is only worth recalling that even under the Industrial Peace Act[8] that was the ruling consistently followed. This Court in Federation of the United Workers Organization vs. Court of Industrial Relations[9] categorically stated: "The slightest doubt cannot therefore be entertained that what possesses significance in a petition for

certification is that through such a device the employees are given the opportunity to make known who shall have the right to represent them. What is equally important is that not only some but all of them should have the right to do so."[10]

3. It is equally well settled by this time that the petition was filed by a party, the employer, whose interest in certification election hardly rises above the minimal, the only possible exception thus far recognized being the contract-bar rule. The decision in Consolidated Farms, Inc. vs. Noriel[11] explains why: "The record of this proceeding leaves no doubt that all the while the party that offered the most obdurate resistance to the holding of a certification election is management, petitioner Consolidated Farms, Inc., II. That circumstance of itself militated against the success of this petition. On a matter that should be the exclusive concern of labor, the choice of a collective bargaining representative, the employer is definitely an intruder. His participation, to say the least, deserves no encouragement. This Court should be the last agency to lend support to such an attempt at interference with a purely internal affair of labor. So it was made clear in a recent decision, Monark International, Inc. vs. Noriel, in these words: 'There is another infirmity from which the petition suffers. It was filed by the employer, the adversary in the collective bargaining process. Precisely, the institution of collective bargaining is designed to assure that the other party, labor, is free to choose its representative. To resolve any doubt on the matter, a certification election, to repeat, is the most appropriate means of ascertaining its will. It is true that there may be circumstances where the interest of the employer calls for its being heard on the matter. An obvious instance is where it invokes the obstacle interposed by the contract-bar rule. This case certainly does not fall within the exception. Sound policy dictates that as much as possible, management is to maintain a strictly hands-off policy. For if it does not, it may lend itself to the legitimate suspension that it is partial to one of the contending unions. That is repugnant to the concept of collective bargaining. That is against the letter and spirit of welfare legislation intended to protect labor and to promote social justice. The

judiciary then should be the last to look with tolerance at such efforts of an employer to take part in the process leading to the free and untrammeled choice of the exclusive bargaining representative of the workers.'"[12] Hopefully, with a reiteration of this ruling, counsel for management will be well-advised to accord the utmost scrutiny to any claim that there would be a violation of the rights of his client if a certification election were conducted. What calls for priority is this constitutional mandate: "The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work."[13]

WHEREFORE, the Petition is dismissed for lack of merit. The restraining order is hereby lifted. This decision is immediately executory, and the certification election can take place forthwith.

Barredo, Aquino, Abad Santos, De Castro, Ericta and Escolin, *JJ.*, concur.
Concepcion, Jr., *J.*, took no part.

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[1] The Comment of Solicitor General Estelito P. Mendoza assisted by Assistant Solicitor General Reynato S. Puno did admit that the issues raised were then unresolved.
[2] Presidential Decree 452, Article 267(c) reads as follows: "Any employee, whether employed for a definite period or not, with at least one year of service, whether or not such service is continuous or broken, shall be considered a regular employee for purposes of membership in any labor union."
[3] L-42115, January 27, 1976, 69 SCRA 132.
[4] Ibid, 141. Cf. Federacion Obrera vs. Noriel, L-41937, July 6, 1976, 72 SCRA 24; Today's Knitting Free Workers vs. Noriel, L-45057, February 28, 1977, 75 SCRA 450.
[5] Cf. Kapisanan ng mga Manggagawa sa La Suerte vs. Noriel, L-45475, June 20, 1977, 77 SCRA 414; Monark International, Inc. vs. Noriel, L- 4750-71, June 20, 83 SCRA 114; National Mines and Allied Workers Union vs. Luna, L-46722, June 15, 1978, 83 SCRA 607; Scout Ramon Albano Memorial College vs. Noriel, L-48347, October 3, 1978, 85 SCRA 494.
[6] L-46933, June 30, 1980, 98 SCRA 474.
[7] Ibid 475-476.
[8] Republic Act No. 875 (1953).

[9] L-37392, December 19, 1973, 54 SCRA 305.
[10] Ibid, 310.
[11] L-47752, July 31, 1978, 84 SCRA 469.
[12] Ibid, 473-474.
[13] Article II, Sec. 9 of the Constitution.