SUPREME COURT
SECOND DIVISION

FEDERACION OBRERA DE LA INDUSTRIA TABAQUERA Y OTROS TRABAJADORES DE FILIPINAS (FOITAF-ASSOCIATED ANGLO AMERICAN CHAPTER),
***Petitioner*,**

-versus-

G.R. No. L-41937
July 6, 1976

THE HONORABLE CARMELO NORIEL, IN HIS CAPACITY AS DIRECTOR OF THE BUREAU OF LABOR RELATIONS, ALL OFFICERS ACTING IN HIS BEHALF, AND FEDERATION OF FREE WORKERS (FFW-ANGLO AMERICAN EMPLOYEES CHAPTER),
***Respondents*.**
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D E C I S I O N

FERNANDO, *J.*:

An Order of respondent Carmelo Noriel, Director of the Bureau of Labor Relations,[1] for the holding of a certification election is assailed in this certiorari proceeding for its alleged failure to comply with the

thirty percent requirement of the new Labor Code.[2] It is admitted by petitioner labor union that there were enough signatures but it is contended that there was a change of mind on the part of a number of the employees involved resulting in the requirement of the law not being met. There is thus, so it is submitted, a grave abuse of discretion amounting to arbitrariness. Respondent public official as well as private respondent labor union were required to comment. In such pleading submitted by Solicitor General Estelito P. Mendoza[3] on behalf of the former, characterized by a meticulous and detailed reference to the background facts, there was an objective narration of what did transpire. It did reduce to the vanishing point whatever plausibility there was in the petition. What clearly emerged was that petitioner labor union is loathe to have its former members transfer their allegiance to private respondent union, a matter which could be even more obvious if the certification election were held. There is thus no justification for sustaining the stand taken by petitioner. To do so would be to disregard previous authoritative doctrines on the matter, involving the basic constitutional right of freedom of association,[4] made even more meaningful in labor matters by the statutory device of certification election. That we are not disposed to do. We dismiss the petition.

There was barely a mention of the relevant facts in the petition, the effort being concentrated in the attempt to make out a case of arbitrary and improvident exercise of authority on the part of respondent Director. It is quite gratifying, therefore, as was mentioned above, to have the comment of respondent Director setting forth with accuracy and particularly the events that led to the challenged order. That it is impressed with accuracy is not just an assumption. Petitioner was given a chance to refute the same after such comment, along with that of private respondent, was admitted as an answer. It failed to do so.

According to the comment of respondent official: “In order to afford this Honorable Court with a clear perspective of what actually transpired, summarized hereunder are the antecedent and salient facts of the case. 1. On March 20, 1975, the Federation of Free Workers (Associated Anglo-American Employees Chapter, hereinafter referred to as FFW), filed a verified petition for certification election among the employees and workers of the Anglo-

American Tobacco Corporation (company for brevity), alleging that more than 30% of its rank and file workers support the same. 2. On April 14, 1975, the company opposed the petition alleging that the petitioning union did not have the support of at least 30% of the more than 1,000 workers of the company. 3. At the hearing of the case on April 21, 1975, the company alleged that there are 941 rank and file workers under its employ. Since respondent FFW had then already submitted 283 signatures, the Med-Arbiter ruled that FFW had complied with the 30% written consent requirement. On the same date, Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas (FOITAF for short)-Associated Anglo-American Chapter, moved to intervene alleging legal interest in the case and the latter was granted time to substantiate its claim by way of employee's support. 4. Subsequently, at the hearing on April 24, 1975, the list of the rank and file employees of the company numbering 941, based on the payroll as of March 1975, was submitted and it was agreed at said hearing that after the petitioner therein (FFW) had submitted its position paper, and the Intervenor FOITAF its manifestation, the case will be considered submitted for resolution. On the same date, however, FOITAF filed a motion and manifestation calling attention to an alleged retraction or revocation of signatures to the petition coming from thirteen (13) employees attaching thereto Annexes A, B, C, D, and E, the letters of said retracting employees, all claiming that they were forced to sign. It is worthy of note that the letters of retraction by the thirteen (13) employees were not under oath and none of them was presented during the hearings to confirm their alleged retractions. 5. Thus, on April 30, 1975, the Med-Arbiter assigned to the case, finding that FFW had submitted 283 signatures of the company's labor force of 941, thereby complying with the 30% consent requirement, ordered the certification election with the following contending unions: 1. FFW (Associated Anglo-American Employees Chapter), 2. Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas (FOITAF), and, 3. No union desired. 6. On May 9, 1975, petitioner FOITAF filed a letter appeal from the aforesaid order of the Med-Arbiter on the sole ground that FFW failed to comply with the 30% requirement. This was opposed by FFW contending that the alleged retraction of the 13 employees can only be determined in a secret balloting in a certification election 7. Meanwhile on May 29, 1975, acting on a motion to stop the holding of a certification election filed

by FOITAF, the Bureau of Labor Relations in an order of even date suspended the holding of a certification election. 8. During the pendency of the appeal, the case was again set for further hearing on June 10, 1975, whereat four (4) additional signatures supporting the petition for certification election were presented by FFW and at the same time the latter was permitted to submit its opposition to the list of 941 employees submitted by the company. On the other hand, FOITAF was allowed to submit its reply to FFW's opposition after which the matter was considered submitted for resolution. 9. In an addendum, a manifestation to petitioner's (FFW's) opposition to appeal dated June 11, 1975, FFW prayed for the exclusion of 124 employees from the company's list of 941 employees on the grounds that some have either resigned, with double name entries, casual employees with less than six months of service and still others are confidential employees or are part of management. 10. FOITAF submitted its memorandum dated July 2, 1975, reiterating that the petition be dismissed for FFW's failure to meet the 30% requirement and alleging that an additional number of 32 workers have retracted their signatures to the petition for certification election. Still later, on July 9, 1975, FOITAF again filed a motion to dismiss, this time attaching merely an affidavit of its president, a certain Timbungco, to the effect that a total of 45 workers have retracted their signatures. It is worthy of note that the signatures of these alleged 45 retractors were not presented. 11. Meanwhile, in the subsequent hearings of the case, the company was requested to submit the job descriptions or other proofs relative to the duties of the 124 employees sought to be excluded by FFW from the company's list of 941 but despite repeated request therefor, the company submitted only the job descriptions of only 9 employees. Likewise, FOITAF did not present proof as to the alleged retraction of the 45 workers. 12. On the basis of the foregoing, therefore, the Bureau of Labor Relations, on August 29, 1975, issued a resolution sustaining the previous order of the Med-Arbiter for a certification election, the dispositive part of which reads: 'Premises considered, and in order not to delay any further the exercise of the employee's right to form a labor organization of their own choosing, the appealed order is affirmed. The Labor Organization Division, this Bureau, shall conduct the election and the necessary exclusion and inclusion proceedings relative thereto. Accordingly, the company is enjoined not to deal with any labor organization until after the election has been conducted and the results have been conclusively

determined.' 13. A motion for reconsideration of the aforesaid resolution, which was opposed by respondent FFW, was filed by the petitioner herein and on October 8, 1975, the Bureau of Labor Relations denied the same."[5]

The glaring weakness of the petition is thus fully exposed. As mentioned at the outset, it should be dismissed for lack of merit.

1. Clearly, what is at stake is the constitutional right to freedom of association on the part of employees. Petitioner labor union was in the past apparently able to enlist the allegiance of the working force in the Anglo-American Tobacco Corporation. Thereafter, a number of such individuals joined private respondent labor union. That is a matter clearly left to their sole uncontrolled judgment. There is this excerpt from Pan American World Airways, Inc. vs. Pan American Employees Association:[6] "There is both a constitutional and statutory recognition that laborers have the right to form unions to take care of their interests *vis-a-vis* their employees. Their freedom to form organizations would be rendered nugatory if they could not choose their own leaders to speak on their behalf and to bargain for them."[7] It cannot be otherwise, for the freedom to choose which labor organization to join is an aspect of the constitutional mandate of protection to labor.[8] Prior to the Industrial Peace Act,[9] there was a statute setting forth the guidelines for the registration of labor unions.[10] As implied in Manila Hotel Co. vs. Court of Industrial Relations,[11] it was enacted pursuant to what is ordained in the Constitution. Thus in Umali vs. Lovina,[12] it was held that mandamus lies to compel the registration of a labor organization. There is this apt summary of what is signified in Philippine Land-Air-Sea Labor Union vs. Court of Industrial Relations,[13] "to allow a labor union to organize itself and acquire a personality distinct and separate from its members and to serve as an instrumentality to conclude collective bargaining agreements."[14] It is no coincidence that in the first decision of this Court citing the Industrial Peace Act,[15] Pambujan United Mine Workers vs. Samar Mining Company,[16] the role of a labor union as the agency for the expression of the

collective will affecting its members both present and prospective, was stressed. That statute certainly was much more emphatic as to the vital aspect of such a right as expressly set forth in the policy of the law.[17] What is more, there is in such enactment this categorical provision on the right of employees to self-organization: "Employees shall have the right to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection."[18] The new Labor Code[19] is equally explicit on the matter. Thus: "The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work."[20]

2. It is thus of the very essence of the regime of industrial democracy sought to be attained through the collective bargaining process that there be no obstacle to the freedom identified with the exercise of the right to self-organization. Labor is to be represented by a union that can express its collective will. In the event, and this is usually the case, that there is more than one such group fighting for that privilege, a certification election must be conducted. That is the teaching of a recent decision, under the new Labor Code, United Employees Union of Gelmart Industries vs. Noriel.[21] There is this relevant excerpt: "The institution of collective bargaining is, to recall Cox, a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management, make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be represented by a labor organization of their choice. Thus may be discerned how crucial is a certification election. So our decisions from the earliest case of PLDT Employees Union vs. PLDT Co. Free Telephone Workers Union to the latest, Philippine Communications, Electronics & Electricity Workers' Federation (PCWF) vs. Court of Industrial Relations, have made clear."[22] An even later

pronouncement in Philippine Association of Free Labor Unions vs. Bureau of Labor Relations,[23] speaks similarly: "Petitioner thus appears to be woefully lacking in awareness of the significance of a certification election for the collective bargaining process. It is the fairest and most effective way of determining which labor organization can truly represent the working force. It is a fundamental postulate that the will of the majority, if given expression in an honest election with freedom on the part of the voters to make their choice, is controlling. No better device can assure the institution of industrial democracy with the two parties to a business enterprise, management and labor, establishing a regime of self-rule."[24]

3. There can then be no legitimate objection to the holding of a certification election not only in the light of the basic theory of labor statutes from Commonwealth Act 213 to the present Labor Code, but also in view of the factual finding that the verified petition by private respondent labor union had the support of more than thirty percent of the rank and file employees. Such being the case, it becomes, in the language of the new Labor Code, "mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."[25] It would run counter to the law then, with the duty thus imposed on respondent Director, to ignore the demand that it be held. It would follow, therefore, that no grave abuse of discretion, much less arbitrariness, could be imputed to the rejection of the plea of petitioner to set aside the challenged order, there is persuasiveness, likewise, to the submission of Solicitor General Mendoza in the comment filed, that the thirteen employees who allegedly retracted were not even present before the med-arbiter and that the alleged additional forty-five employees who supposedly likewise changed their minds, were also not called to testify to that effect, petitioner satisfying itself with their being named in an affidavit executed by its president. That would make, so it is plausibly contended, such alleged

retraction to be highly dubious in character. There is this reinforcement to the contention of respondent public official in this closing paragraph of such comment: "Besides, the best forum for determining whether there were indeed retractions from some of the laborers is in the certification election itself wherein the workers can freely express their choice in a secret ballot. If, therefore, petitioner herein is confident that it commands the majority of the workers in the collective bargaining unit, why then does it vigorously oppose a certification election."[26]

4. The lack of merit in the petition is equally obvious considering that what is asked of this Court is, in the final analysis, to set aside a factual finding arrived at by respondent Director after a careful consideration of all the relevant matters pertinent to the issue. Again, that is contrary to the constant holding of this Tribunal in a host of cases starting from National Labor Union vs. Dinglasan[27] to Adame vs. Court of Industrial Relations.[28]

WHEREFORE, the Petition is dismissed. This Decision is immediately executory so as to enable the holding forthwith of the certification election. The restraining order issued on November 26, 1975 is hereby lifted. No costs.

Barredo, Antonio, Aquino and Martin, *JJ.*, concur.
Concepcion, Jr., *J.*, is on leave.

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[1] The private respondent is the Federation of Free Workers (FFW-Anglo American Employees Chapter).

[2] According to Article 257 of the New Labor Code, Presidential Decree No. 442 (1974): "Requisites for certification election. — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least 30% of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."

[3] The comment submitted by Solicitor General Mendoza was likewise signed by Assistant Solicitor General Reynaldo S. Puno and Solicitor Ramon A. Barcelona.
[4] According to Article IV, Section 7 of the present Constitution: "The right to form associations or societies for purposes not contrary to law shall not be abridged."
[5] Comment of Respondent Public Official, 1-6.
[6] L-25094, April 29, 1969, 27 SCRA 1202.
[7] Ibid, 1209.
[8] According to Article II, Section 9 of the present Constitution: The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The state shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration." In the 1935 Constitution, Article XIV, Section 6, there is this provision: "The State shall afford protection to labor, especially to working women and minors, and shall regulate the relation between landowner and tenant, and between labor and capital in industry and agriculture."
[9] Republic Act No. 875 (1953).
[10] Commonwealth Act No. 213 (1936).
[11] 80 Phil. 145 (1948).
[12] 86 Phil. 313 (1950).
[13] 93 Phil. 747 (1953).
[14] Ibid, 750.
[15] Republic Act No. 875 (1953).
[16] 94 Phil. 932 (1954). Cf. Isaac Peral Bowling Alley vs. United Employees Welfare Association, 102 Phil. 219 (1957).
[17] Section 1(a) of the Industrial Peace Act reads as follows: "To eliminate the causes of industrial unrest by encouraging and protecting the exercise by employees of their right to self-organization for the purpose of collective bargaining and for the promotion of their moral, social and economic well-being."
[18] Section 3 of Republic Act No. 875 (1953).
[19] Presidential Decree No. 442 (1974).
[20] Article 3 of the New Labor Code.
[21] L-40810, October 3, 1975, 67 SCRA 267.
[22] Ibid, 273. PLDT Employees' Union case reported in 97 Phil. 424 (1955) and Philippine Communications decision, L-34531 in 56 SCRA 480 (1974). Reference was also made to Standard Cigarette Workers' Union in 101 Phil. 126 (1957); LVN Pictures in 110 Phil. 725 (1961); Federation of United Workers, L-37392 in 54 SCRA 305 (1973). Other cases mentioned in such opinion follow: Bacolod-Murcia Milling Co. vs. National Employees-Workers Security Union, 100 Phil. 516 (1956); Philex Miners Union vs. National Mines and Allied Workers Union, L-18019, Dec. 29, 1962, 6 SCRA 992; Acoje Workers' Union vs. National Mines and Allied Workers' Union,

L-18848, April 23, 1963, 7 SCRA 730; Allied Workers Association vs. Court of Industrial Relations, L-22580, June 6, 1967, 20 SCRA 364; Compania Maritima vs. Compania Maritima Labor Union, L-29504, Feb. 29, 1972, 43 SCRA 464; Philippine American Association of Free Labor Unions vs. Court of Industrial Relations, L-33781, Oct. 31, 1972, 47 SCRA 390; Lakas ng Manggagawang Pilipino vs. Benguet Consolidated Inc., L-35075, Nov. 24, 1972, 48 SCRA 169; B. F. Goodrich Philippines Inc. vs. B. F. Goodrich Confidential and Salaried Employees Union, L-34069, Feb. 28, 1973, 49 SCRA 532; Federation of Free Workers vs. Paredes, L-36466, Nov. 26, 1973, 54 SCRA 75.

[23] L-42115, January 27, 1976.

[24] Ibid.

[25] Article 257 of the New Labor Code.

[26] Comment of Respondent Public Official, 8.

[27] 98 Phil. 649 (1956).

[28] L-33221, April 28, 1975, 63 SCRA 469. In between, there are thirty-four other decisions.