SUPREME COURT
FIRST DIVISION

FILOIL REFINERY CORPORATION,
***Petitioner*,**

-versus-

G.R. No. L-26736
August 18, 1972

FILOIL SUPERVISORY & CONFIDENTIAL EMPLOYEES ASSOCIATION AND COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
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D E C I S I O N

TEEHANKEE, *J.*:

The present appeal questions the right of supervisors and confidential employees to organized the respondent labor association and to bargain collectively with their employer, petitioner corporation herein, as upheld by respondent court of industrial relations in its appealed order and resolution.

Respondent association is a labor organization duly registered with the Department of Labor. It is composed exclusively of the supervisory and confidential employees of petitioner corporation. There exists another entirely distinct labor association composed of

the corporation's rank-and-file employees, the Filoil Employees & Workers Association (FEWA) with which petitioner executed a collective bargaining agreement. This collective bargaining agreement expressly excluded from its coverage petitioner's supervisory and confidential employees, who in turn organized their own labor association, respondent herein.

Respondent association filed on February 18, 1965 with the industrial court its petition for certification as the sole and exclusive collective bargaining agent of all of petitioner's supervisory and confidential employees working at its refinery in Rosario, Cavite.

Petitioner corporation filed a motion to dismiss the petition on the grounds of lack of cause of action and of respondent court's lack of jurisdiction over the subject-matter, under its claim that supervisors are not employees within the meaning of Republic Act 875, the Industrial Peace Act, and that since they are part of management, they do not have the right to bargain collectively although they may organize an organization of their own.

Respondent court in its order of May 26, 1965 denied the dismissal motion. It ruled that under the express provisions of Section 3 of the Industrial Peace Act, "(I)ndividuals employed as supervisors shall not be eligible for membership in a labor organization of employees under their supervision but may form separate organizations of their own."[1]

It rejected petitioners claim against respondent association's right to bargain collectively, holding that such right was expressly granted under section 24 of the Industrial Peace Act, and asserting that "if Congress deemed it wise for supervisors not to have the right to strike, then it should have been so expressly stated as in the case of government employees. Section 11 of the Industrial Peace Act gives to government employees the right to belong to any labor organization provided no obligation to strike or join a strike is imposed by such labor organization. The denial to government employees of the right to strike is significant in the controversy before this Court because it manifests to all that Congress in enacting Republic Act No. 875 was aware of the implications that when supervisors were given the right to organize themselves into a labor organization, they have correlative

right to declare a strike. In the case of supervisors, they were enfranchised by Congress to organize themselves into a labor organization and were not denied the right to strike. This means that the right to strike was not denied them since no special reason obtains among the supervisors as it does obtain among government employees."[2]

The industrial court likewise dismissed petitioner's objection against the composition of respondent association in that it included as members technical men and confidential employees in this wise: "(A)t this point, it may be stressed that supervisors as a general rule should form an association of their own and should exclude all other types of personnel unless a special consideration exists, like for example, that they are so few in number and that there are other technical men or confidential men equally few in number. In the latter case, the supervisors, technical men and confidential employees may be constituted into one unit."[3]

Petitioner's motion for reconsideration of said order of May 26, 1965 was denied by respondent court en banc per its resolution dated September 7, 1965 which affirmed the said order. No appeal having been taken from the resolution, the petition was accordingly set for hearing and the parties submitted their stipulation of facts, stipulating inter alia that respondent association "has forty-seven (47) members among the supervisory, technical men and confidential employees of the company" and that "all the forty seven (47) members of the (respondent association) are being checked-off by the company for union dues pursuant to the individual check-off authorization submitted to the company."

The parties could not agree, however, on the composition of the appropriate bargaining unit with petitioner corporation proposing that the 47 members of respondent association should be broken up into five (5) separate collective bargaining units, viz, the supervisors should form a distinct unit separate from the rest of the personnel who in turn would be divided into separate and independent units or confidential employees, professional personnel, "fringe" employees consisting of five firemen, and twelve (12) office and clerical employees.

Evidence was received by respondent court and it was satisfied that executive personnel handling personnel matters for the employer were duly excluded from respondent association. Thus, per respondent court's order of July 23, 1966, it is noted that "not one of the employees listed under Groups I and II including '(their supervisor) Leonardo R. Santos under Group III, is a member of (respondent association)," since "(I)t appears that the personnel listed under Groups I and Group II are in the category of executives who have supervision over the supervisors who are members of (respondent association) and that Marcelo Bernardo handles personnel matters of the employer. All of them should, therefore, be excluded from the appropriate bargaining unit."[4]

Respondent court in its said order of July 23, 1966 consequently cast aside petitioner's sedulous objections against the inclusion of the confidential employees in the supervisors' respondent association, thus: "(F)rom the memorandum and manifestation of the company, a persistent assault against the inclusion of the confidential employees with supervisors under one bargaining unit would seem to be evident. Although this inclusion has already been raised in the motion to dismiss filed by the company and which has already been resolved by the Court en banc, with no appeal to the Supreme Court having been taken by the company, we shall try once more to show why such inclusion. It is admitted by the company that confidential employees are outside the coverage of the existing collective bargaining agreement between the respondent company and the rank and file union (FEWA) by specific agreement. Since the confidential employees are very few and are, by practice and tradition, identified with management, the NLRB, because of such 'identity of interest' (Wilson & Co., 68 NLRB 84), has allowed their inclusion in the bargaining unit of supervisors who are likewise identified with management. This Court, a counterpart of the NLRB, for the same reason, should also allow the inclusion of the confidential employees in the bargaining unit of supervisors, except of course Marcelo Bernardo who, pursuant to the Order of May 26, 1965, as affirmed by the Court en banc, should be excluded because he handles personnel matters for the employer."[5]

Respondent court pointed out that "in fact, out of the forty-three (43), excluding the twelve (12) executive personnel under Groups I and II,

the company proposes five (5) bargaining units or eight 1(8) employees per unit. This Court will be creating, fragmentary units which would not serve the interest of industrial peace, much less in an industry indispensable to the national interest like the one at bar, as is now obtaining in the Philippine National Railways also an industry indispensable to the national interest (Union de Maquinistas, Fogoneros y Motormen vs. Philippine National Railways, Case No. 67-IPA), with thirteen (13) unions, if it breaks up the petitioner union into five (5) bargaining units. The Court is likewise aware of the ineffectiveness of a small union with a scanty members as bargaining unit. The breaking up of bargaining agents into tiny units will greatly impair their organizational value. It has always been the policy of the United States National Labor Relations Board that, in deciding upon whether to include or exclude a group of employees from a bargaining unit, the Board has always allowed itself to be guided by the determination as to whether its action 'will insure to the employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act' (20 NLRB 705). We see no reason why this Tribunal whose basic functions are the same as that of the NLRB, should do less or otherwise depart from this sound policy."[6]

Since respondent association "clearly represents the majority of the employees in the appropriate bargaining unit," respondent court therefore certified it as the sole and exclusive bargaining agent for all the employees in the unit.

Respondent court per its resolution en banc dated September 15, 1966 dismissed petitioner's motion for reconsideration, holding that "as to the question of the right of supervisors and confidential employees to compel their employer to bargain collectively, this has already been passed upon by the Trial Court in its Order dated May 26, 1965 which Order was affirmed by the Court en banc in a resolution dated September 7, 1965. The Company did not appeal this resolution to the Supreme Court. Hence, this matter, as far as we are concerned, has already been resolved. We find it, therefore, unnecessary to pass upon the same again," and that it found no sufficient justification to alter or modify the trial court's order upholding the appropriateness of the bargaining unit. On this latter point, Judge Salvador, while concurring with the supervisors' right of

self-organization and collective bargaining, cast a dissenting vote on the ground that the Industrial Peace Act did not contemplate nor provide for supervisors and confidential employees to be under one bargaining unit and as to "executive personnel" who have supervision over the supervisors being excluded from any representation, urged that "another supervisors' unit must be created for these executive personnel." The second point is not in contention at bar since the "executive personnel" concerned have not appealed their exclusion.

In this appeal, petitioner pursues anew its contention that supervisors form part of management and are not considered as employees entitled to bargain collectively, arguing that "as supervisors form part and parcel of management, it is absurd for management to bargain collectively with itself." Petitioner further argues that under the American concept, supervisors are not considered employees and that since our Congress copied verbatim the Taft-Hartley Acts definition of supervisor,[7] its act of "incorporating the definition in the Taft-Hartley Act" must be deemed an expression of its intention "to follow the intendment of said Act."

Petitioner's contentions are untenable, prescinding from the fact of its failure to appeal in due course respondent court's en banc resolution of September 7, 1965 upholding the right of the supervisors and confidential employees to organize respondent association and to compel petitioner to negotiate and bargain collectively with it. Petitioner's argument that since supervisors form part of management, to allow them to bargain collectively would be tantamount to management bargaining with itself may be a well-turned phrase but ignores the dual status of a supervisor as a representative of management and as an employee.

If indeed the supervisor is absolutely undistinguishable from management, then he would be beyond removal or dismissal, for as respondent association counters, "how car management remove or dismiss itself?"

As stated for the Court by the now Chief Justice in AG & P Co. of Manila, Inc. vs. C.I.R.,[8] section 3 of the Industrial Peace Act "explicitly provides that 'employees' — and this term includes supervisors — '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 representations of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection' and that 'individuals employed as supervisors may form separate organizations of their own.' Indeed, it is well settled that 'in relation to his employer,' a foreman or supervisor 'is an employee within the meaning of the Act.' For this reason, supervisors are entitled to engage in union activities and any discrimination against them by reason thereof constitutes an unfair labor practice."

Petitioner's arguments go in reality to the wisdom and policy of the Industrial Peace Act which expressly grants supervisors the right to organize and bargain collectively, which are beyond the Court's power of review. Thus, the argument that "it is axiomatic in the law of self-interest that an employer must give a 'better deal' to those who act in his interest and in whom he has trust and confidence. These are the supervisors and confidential employees"[9] and that "In the United States there was a move to have a part of the supervisory group to be aligned with labor But the enactment of the Taft-Hartley Act put an end to this move."[10]

So with petitioner's thesis that "(T)o then give supervisors the right to compel employers to bargain would in effect align labor and management together against stockholders and bondholders (capital) and inexorably tilt the balance of power in favor of these hitherto conflicting forces. This is contrary to the nature and philosophy of free enterprise."[11] This further serves to point up the validity and rationale of the Industrial Peace Act's provision, since the supervisors and confidential employees, even though they may exercise the prerogatives of management as regards the rank and file employees are indeed employees in relation to their employer, the company which is owned by the "stockholders and bondholders (capital)" in petitioner's own words, and should therefore be entitled under the law to bargain collectively with the top management with respect to their terms and conditions of employment.

Petitioner's argument that the express provisions of section 3 of our Industrial Peace Act must give way to the intendment of the Taft-Hartley Act which exempts employers from the legal obligation to

recognize and negotiate with supervisors is tenuous and groundless. The language of our own statute is plain and unambiguous and admits of no other interpretation.

The other principal ground of petitioner's appeal questioning the confidential employees' inclusion in the supervisors' bargaining unit is equally untenable. Respondent court correctly held that since the confidential employees are very few in number and are by practice and tradition identified with the supervisors in their role as representatives of management *vis-a-vis* the rank and file employees, such identity of interest has allowed their inclusion in the bargaining unit of supervisors-managers for purposes of collective bargaining in turn as employees in relation to the company as their employer.

No arbitrariness or grave abuse of discretion can be attributed against respondent court's allowing the inclusion of the confidential employees in the supervisors' association for as admitted by petitioner itself, supra, the supervisors and confidential employees enjoy its trust and confidence This identity of interest logically calls for their inclusion in the same bargaining unit and at the same time fulfills the law's objective of insuring to them the full benefit of their right to self-organization and to collective bargaining, which could hardly be accomplished if the respondent association's membership were to be broken up into five separate ineffective tiny units, as urged by petitioner.

Respondent court's action not being vulnerable to challenge as being arbitrary or capricious is therefore sustained, in line with the Court's consistent rulings that the industrial court "enjoys a wide discretion in determining the procedure necessary to insure the fair and free choice of bargaining representations by employees," and that its action "in deciding upon an appropriate unit for collective bargaining purposes is discretionary and (that) its judgment in this respect is entitled to almost complete finality, unless its action is arbitrary or capricious"[12] and that absent any grave abuse of discretion as to justify the Court's intervention, "this Court has repeatedly upheld the exercise of the Court of Industrial Relations in matters concerning the representation of employee groups."[13]

ACCORDINGLY, the orders and resolution appealed from are hereby affirmed and the petition at bar is dismissed. No pronouncement as to costs.

Concepcion, *C.J.*, Reyes, Makalintal, Zaldivar, Fernando, Barredo, Makasiar, Antonio and Esguerra, *JJ.*, concur.
Castro, *J.*, concurs in the result.

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[1] Italics in text of Act supplied.
[2] Italics supplied.
[3] Idem.
[4] Rollo, p. 103, notes in parentheses supplied.
[5] Italics supplied.
[6] Idem.
[7] Section 2 (k), Rep. Act 875.
[8] 3 SCRA 672 (1961); vide Lopez vs. Chronicle Publication Employees' Ass'n., 12 SCRA 694 (1964).
[9] Petitioner's reply brief, p. 15; italics supplied.
[10] Idem, pp. 20-21.
[11] Idem, p. 21.
[12] LVN Pictures, Inc. vs. Phil. Musicians Guild, 1 SCRA 132, 135-136 (1961), per Concepcion, J.
[13] Mech. Dept. Labor Union sa PNR vs. CIR, 24 SCRA 925, 930 (1968) and cases cited, per Reyes, J.
