SUPREME COURT
SECOND DIVISION

PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU),
***Petitioner*,**

-versus-

G.R. No. L-42115
January 27, 1976

The BUREAU OF LABOR RELATIONS and The PHILIPPINE FEDERATION OF LABOR (PTUC),
***Respondents*.**
x----------x

D E C I S I O N

FERNANDO, *J.*:

The invocation by petitioner Philippine Association of Free Labor Unions of the protection afforded by due process is premised on the asserted arbitrariness shown by respondent Bureau of Labor Relations[1] ordering a certification election[2] notwithstanding the existence of a collective bargaining agreement which is to remain in force until December 31, 1977.[3] The point stressed is that while it was the very same respondent Bureau, through its Acting Director Carmelo C. Noriel, that attested to such a fact, in complete disregard of the contract bar rule and with "absolutely no proceedings had on the matter, unmindful of the rule of due process, and without any sort

of inquiry" as to the authenticity of the signatures in the petition filed by respondent Philippine Federation of Labor, the challenged order was issued.[4] On its face, the claim possesses plausibility. As a result, we issued a restraining order and set the case for hearing on January 2, 1976. On that occasion, not only did the petitioner and private respondent appear and argue, but the National Federation of Labor, through its counsel, Jose W. Diokno, sought permission to intervene and to be heard. It was allowed to do so. Accordingly, the various aspects of the controversy were fully threshed out. At the outset of such hearing, the glaring weakness of the petition was fully exposed. It was only then that this Court was duly informed of the truly pertinent facts appearing in the decision, which was not reconsidered, regrettably omitted in the petition. As the hearing progressed, it became even more evident that the imputation of arbitrariness was devoid of any basis. This was confirmed by the memoranda submitted by the parties. The claim that due process was denied lacks foundation. Clearly, there is no merit to the petition. It must be dismissed.

The order of Director Carmelo C. Noriel of respondent Bureau that has reference to the certification election included as annex[5] in the petition reads as follows: "For resolution is the motion for reconsideration filed by AG & P Free Workers and Employees Union — PAFLU dated December 9, 1975. Considering that this Office had already declared in its order of November 21, 1975 that no further motion shall be entertained, and that the motion raises no new issues, it is hereby denied. Accordingly, the election shall be conducted in accordance with the rules." It was issued on December 17, 1975. The petition did not include the decision reconsidered. At the start of the hearing then, counsel for petitioner, Attorney Benjamin C. Pineda, was asked what was sought to be reconsidered. It was then read by him. It turned out that it was Attorney Wilfredo Guevara, another counsel for petitioner, who prepared the petition. He was then queried as to why it was not included in his petition. He alleged that due to the pressure of time, the case being filed on December 18, 1975 and the order denying the motion for reconsideration having been received only the day before, he was not able to do so. That may not be the only reason. For the decision of the Director of respondent Bureau whose reconsideration was denied militates strongly against the claim of arbitrariness. It reads thus: "Before this Bureau is an

Appeal and/or Motion for reconsideration from the Order of a Med-Arbiter of March 7, 1975 directing the holding of a certification election to determine the exclusive bargaining representative of all rank and file employees of Atlantic Gulf & Pacific Company of Manila, Inc. Appellant/Movant or Intervenor Philippine Association of Free Labor Unions hereinafter simply referred to as PAFLU charges that the Med-Arbiter in promulgating the aforementioned Order acted in grave abuse of discretion and with gross incompetence. It appears from the records, the following factual background is pertinent and undisputed; On December 17, 1974, the National Labor Union (NLU) filed a petition for certification election to determine the exclusive bargaining agent of all the rank and file employees of Atlantic Gulf & Pacific Company of Manila, Inc. On January 30, 1975, Med-Arbiter Rosalind Chang dismissed the aforementioned petition for certification election on the ground that petitioner union failed to comply with the 30% jurisdictional requirement provided for by the Labor Code. From this Order petitioner NLU appealed. While the appealed case of NLU or BLR Case No. 0187 was pending on appeal, a collective bargaining agreement was concluded by PAFLU with the Company and certified by this Bureau on February 5, 1975. On February 7, 1975 two days after the certification of the CBA entered into by and between PAFLU and AG & P Company of Manila, Inc., Philippine Federation of Labor (PTUC), one of the intervenor unions in BLR Case No. 0187, filed a petition for certification election docketed as BLR Case No. 0411. Petitioner Philippine Federation of Labor (PTUC) in BLR Case No. 0411 or Intervenor in BLR Case No. 0187 prayed that a certification election be held to determine once and for all who should be the exclusive bargaining representative of all the employees. National Federation of Labor Unions (NAFLU) and Samahan ng mga Manggagawa at Kawani sa AG & P (SWK) intervened. On March 3, 1975, PAFLU moved to dismiss in intervention the instant petition for certification election (BLR Case No. 0411) alleging that the petition is barred by the doctrine of contract bar rule; and that it is exactly similar with BLR Case No. 0187 that was already dismissed but is pending on appeal. PAFLU maintains that this petition for certification election should be dismissed because at the time of its filing on February 7, 1975 there was already a CBA certified by the Bureau on February 5, 1975. As earlier mentioned, Med-Arbiter Susan Resurreccion on March 7, 1975 rendered an Order directing the holding of a certification election.

Hence, this instant appeal and/or motion for reconsideration. The appeal should be denied and the Order affirmed. It cannot be denied that the collective bargaining agreement concluded by PAFLU and AG & P which was certified on February 5, 1975 contains a proviso, which states: 'Provided that there is no pending petition for certification election with the Bureau of Labor Relations and there is no pending request for union recognition by any other union with the management upon the issuance of the Certificate.' It cannot be denied further that the petition for certification election filed by National Labor Union (NLU) at the time of the certification of the CBA on February 5, 1975 was still pending on appeal, which for all legal purposes 'a pending petition for certification election' within the meaning of the proviso contained therein. Furthermore, in a situation like this where the issue of legitimate representation is in dispute vied for not only by one legitimate labor organization but two or more, there is every equitable ground warranting the holding of a certification election. In this way, the issue as to who is really the true bargaining representative of all the employees may be firmly settled by the simple expedient of an election. Experience teaches us, one of the root causes of labor or industrial disputes is the problem arising from a questionable bargaining representative entering into CBA concerning terms and conditions of employment. In the light of all the foregoing, the appeal and/or motion for reconsideration is denied. However, to determine once and for all the true choice of membership as to who should be their bargaining representative, the following are the contending unions: 1. Philippine Association of Free Labor Unions (PAFLU); 2. Philippine Federation of Labor (PTUC); 3. National Labor Union (NLU); 4. National Federation of Labor Unions (NAFLU); 5. Samahan ng mga Manggagawa at Kawani sa AG & P (SWK); and 6. No Union Desired. For voting purposes, all qualified voters appearing in the payroll as of the month of January, 1975 are entitled to vote."[6]

Petitioner, to repeat, has failed to make out a case. It falls of its own weight, or more appropriately, of its own lack of weight. Consequently, as noted at the outset, the petition must be dismissed.

1. Due process, whether viewed from its procedural or substantive significance, frowns on arbitrariness or caprice. The test is one of fairness and of justice. That criterion has

been more than fully met by the aforesaid decision of respondent Bureau, the reconsideration of which was denied, thus resulting in the call for a certification election. It would take an extremely biased mind, one immune to the promptings of reason, to fail to discern conformity with such a standard. The problem that had to be faced was the ascertainment, considering the changed circumstances of which labor organization should represent the entire labor force of the Atlantic Gulf and Pacific Company. What better way is there than to hold a certification election? It suffices to recall what was said of the Industrial Peace Act[7] by Justice Felix in Isaac Peral Bowling Alley vs. United Employees Welfare Association[8] as to one of its "major aims [being] to make the process of collective bargaining one of the most effective means"[9] of insuring the success of its policy to render clear that to do so is to pay heed to what the law ordains. So it is under the present Labor Code.[10] To conjure a due process objection then is to indulge in a futile gesture. What was done by respondent Bureau suffers from no such infirmity.

2. A semblance of plausibility is sought to be imparted in the petition by the allegation of a contract bar rule. The certification issued on February 5, 1975 by Acting Director Carmelo C. Noriel of respondent Bureau is worded in its entirety thus: "[Pursuant] to Title VII, Article 277 of Presidential Decree No. 442 which came into effect on November 1, 1975, otherwise known as the Labor Code of the Philippines, the Collective Bargaining Agreement entered into by and between: Atlantic Gulf & Pacific Company of Manila, Inc., Employer, and Philippine Association of Free Labor Unions (PAFLU), Labor Union, on January 15, 1975, is hereby [certified] as duly filed in this Office, to serve as the basic covenant between the parties above-indicated, and shall have the force and effect of law between the parties during the period of its duration from 15 January 1975 to 31 December 1977, [provided] that there is no pending petition for Certification Election with the Bureau of Labor Relations and there is no pending request for union recognition for any other union with the management upon the issuance of this

Certificate."[11] What petitioner ignored is the proviso as to the pendency of a petition for certification election, which in itself would bar the operation of the contract bar rule. From his decision of April 14, 1975, the reconsideration of which was denied on December 17, 1975, it was made clear that while a previous petition for certification election did not prosper, it could not be considered terminated as there was an appeal still to be decided. The requirement of the proviso was, therefore, duly satisfied. Petitioner, moreover, apparently had lost sight of the principle that the contract bar rule is not to be applied with rigidity. The opinion of Justice Fernandez, both thorough and comprehensive, in the leading case of Confederation of Citizens Labor Unions vs. National Labor Relations Commission,[12] speaks to the contrary. The element of flexibility in its operation cannot, therefore, be ignored. All relevant factors are to be considered. What is essential is that the basic policy of the labor statute, whether under the Industrial Peace Act or the new Labor Code, be implemented and its beneficent purpose achieved.

3. 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. As was pointed out by Chief Justice Castro in Rivera vs. San Miguel Brewery Corporation, Inc.,[13] "a collective bargaining agreement is the law of the plant."[14] To the same effect is this explicit pronouncement in Mactan Workers Union vs. Aboitiz:[15] "The terms and conditions of a collective bargaining contract constitute the law between the parties."[16] What could be aptly stressed then, as was done in Compania Maritima vs. Compania Maritima Labor Union,[17] is "the primacy to which the decision reached by the

employees themselves is entitled."[18] Further, it was therein stated: "That is in the soundest tradition of industrial democracy. For collective bargaining implies that instead of a unilateral imposition by management, the terms and conditions of employment should be the subject of negotiation between it and labor. Thus the two parties indispensable to the economy are supposed to take care of their respective interests. Moreover, the very notion of industrial self-rule negates the assumption that what is good for either party should be left to the will of the other. On the contrary, there is an awareness that labor can be trusted to promote its welfare through the bargaining process. To it then must be left the choice of its agent for such purpose."[19] To paraphrase an observation of the recently-retired Chief Justice Makalintal in Seno vs. Mendoza,[20] it is essential that there be an agreement to govern the relations between labor and management, otherwise the situation could well be marked by confusion, with resulting breaches of the law by either party. There is, it would appear, a decidedly unsympathetic approach to the institution of collective bargaining at war with what has so often and so consistently decided by this Tribunal.[21]

4. Petitioner would minimize its failure to abide by what is settled law by invoking this provision in the New Labor Code: "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."[22] It cannot change the outcome. It does not suffice to impress the petition with merit. In the first place, it seems to be a mere afterthought. In the comment on the petition filed by counsel Jose W. Diokno on behalf of the intervenor National Federation of Labor, he pointed out that it was long after the determination to call a certification

election that it occurred to petitioner to put a stop to it. For it did take part in pre-election conferences conducted by the Bureau. There, too, it filed a manifestation concerning its position on the proper coverage of the election on July 10, 1975. Further, on September 16, 1975, it entered into a written agreement defining the proper bargaining unit. What is more, as late as December 15, 1975, petitioner took part in the inclusion/exclusion proceedings. True and correct copies of such manifestation, agreement and minutes were attached to the comment filed by the intervenor.[23] 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? How then can it be seriously asserted that the decision now appealed could be stigmatized as contrary to law? In Federation of Free Workers vs. Paredes,[24] this Court, through Justice Teehankee, made clear: "The most important criterion, as therein stressed, is that the bargaining agent be truly representative of the employees and their genuine choice, and hence all labor organizations which have shown a

substantial interest at stake in the elections and have timely applied to participate therein before the holding of the elections should be so allowed to intervene and be voted for therein. This is but to help subserve the declared policies of the Industrial Peace Act, to accomplish which the industrial court has been freed from the narrow constraints of the technical rules of procedure in order to grant relief according to the justice and equity and substantial merits of the case."[25] Such a thought found expression anew in B.F. Goodrich Philippines, Inc. vs. B. F. Goodrich (Marikina Factory) Confidential & Salaried Employees Union,[26] in these words: "The law clearly contemplates all the employees, not only some of them."[27] So the controlling decisions clearly indicate. Their import was not lost on respondent Bureau. Not as much can be said of petitioner.

5. This opinion could have been abbreviated. The weakness of the petition could not be gainsaid. The rule of law stressed with vigor and emphasis by petitioner, but, regrettably, with less than full comprehension of what it requires, ought to have persuaded it that its cause is doomed. To make obvious what ought to have been clear at the outset, it was deemed best to have an extended treatment of the matter at issue. Had there been a sounder grasp of the pronouncements coming from this Tribunal after 1960, the latest case cited in the memorandum of petitioner's counsel, Wilfredo Y. Guevara, being General Maritime Stevedores' Union vs. South Sea Shipping Line, a decision of that year,[28] there would be less of a jarring note in such an appeal to a basic postulate of the legal order, the rule of law. It remains to be added that its successful operation presupposes a Bar, the members of which are under obligation not only to keep abreast of the latest developments in all its branches but likewise called upon to manifest the utmost degree of fidelity to his duty as an officer of the court. To be specific, it would require that a petition filed with this Tribunal should contain all the previous actuations of either a lower court or an administrative agency necessary for the proper disposition of the case. It is not enough that there be a plausible explanation for such an omission. Attorney Wilfredo Y.

> Guevara is thus, to say the least, in need of a reminder. What this Court stated in Orbit Transportation Company vs. Workmen's Compensation Commission[29] through Justice Teehankee should not be lost on him. Thus: "While the Court is disposed under the circumstances to be lenient and to dispose of the grave transgressions of counsel with a reprimand and warning, the Court deems this a timely occasion to remind counsel in particular and practitioners in general that the time-pressure provides no justification for the suppression of material and vital facts which bear on the merit or lack of merit of a petition."[30] If this Court considers this admonition sufficient, it is because it took note of his youth and inexperience. Hopefully, time is on his side. Always, he must remember that *suggestio falso es suppresio veri*. That is not to serve the cause of the rule of law. His performance should match what be professes.

WHEREFORE, the Petition is dismissed for lack of merit and respondent Bureau can set a new date for the holding, of the certification election. Costs against petitioner Philippine Association of Free Labor Unions. Attorney Wilfredo Y. Guevara is admonished to be more careful in the preparation of pleadings submitted to this Court.

Barredo, Antonio, Aquino and Concepcion Jr., *JJ*., concur.

---

[1] The private respondent is the Philippine Federation of Labor.
[2] Complaint, Annex A.
[3] Ibid, Annex B. In the Urgent Motion for a Restraining Order, it was alleged that the election was to be conducted on December 23, 1975.
[4] Ibid, par. 3.
[5] Ibid, Annex A.
[6] Decision of Bureau of Labor Relations Director Carmelo C. Noriel, April 14, 1975.
[7] Republic Act No. 875 (1953).
[8] 102 Phil. 219 (1957).
[9] Ibid, 224. Cf. Martinez vs. Union de Maquinistas, L-19455, January 30, 1967, 19 SCRA 167.
[10] Presidential Decree No. 442 (1974).
[11] Petition, Annex B. Emphasis supplied.

[12] L-38955-56, October 31, 1974, 60 SCRA 450.
[13] L-26197, July 20, 1968, 24 SCRA 86.
[14] Ibid, 91, citing J. I. Case vs. NLRB, 321 US 332 (1944).
[15] L-30241, June 30, 1972, 45 SCRA 577.
[16] Ibid, 581.
[17] L-29504, February 29, 1972, 43 SCRA 464.
[18] Ibid, 469.
[19] Ibid.
[20] L-20565, November 29, 1967, 21 SCRA 1124.
[21] Cf. PLDT Employees Union vs. PLDT Co. Free Telephone Workers Union, 97 Phil. 424 (1955); Alhambra Cigar and Cigarette Manufacturing Co. vs. Alhambra Employees Association, 107 Phil. 23 (1960); Elizalde Rope Factory, Inc. vs. Court of Industrial Relations, L-16419, May 30, 1963, 8 SCRA 67; National Brewery and Allied Industries Labor Union of the Philippines vs. San Miguel Brewery, L-18170, Aug. 31, 1963, 8 SCRA 805; Citizens Labor Union-CCLU vs. Court of Industrial Relations, L-24320, Nov. 12, 1966, 18 SCRA 624; Allied Free Workers' Union vs. Compania Maritima, L-22951, Jan. 31, 1967, 19 SCRA 258; Allied Workers Association vs. Court of Industrial Relations, L-22580, June 6, 1967, 20 SCRA 364; Republic Savings Bank vs. Court of Industrial Relations, L-20303, Sept. 27, 1967, 21 SCRA 226; National Labor Union vs. Go Soc and Sons, L-21260, April 30, 1968, 23 SCRA 431; Mechanical Department Labor Union vs. Court of Industrial Relations, L-28223, Aug. 30, 1968, 24 SCRA 925; United Restauror's Employees and Labor Union vs. Torres, L-24993, Dec. 18, 1968, 26 SCRA 435; Shell Oil Workers' Union vs. Shell Company of the Philippines, L-28607, May 31, 1971, 39 SCRA 276; B. F. Goodrich Philippines, Inc. vs. B. F. Goodrich Confidential and Salaried Employees Union-NATU, L-34069, Feb. 28, 1973, 49 SCRA 532; Philippine Communications, Electronics & Electricity Workers' Federation vs. Court of Industrial Relations, L-34531, March 29, 1974, 56 SCRA 480.
[22] Art. 257 of Presidential Decree No. 442 (1974).
[23] Motion to Intervene and Comments on Petition of National Federation of Labor Unions, 8; Exhibits 6, 6-A and 7.
[24] L-36466, November 26, 1973, 54 SCRA 75.
[25] Ibid, 82.
[26] L-34069, February 28, 1973, 49 SCRA 532.
[27] Ibid, 541.
[28] 108 Phil. 1112.
[29] L-38768, July 23, 1974, 58 SCRA 78.
[30] Ibid, 81-82.