SUPREME COURT
EN BANC

PHILEX MINERS UNION,
***Petitioner*,**

-versus-

G.R. No. L-18019
December 29, 1962

NATIONAL MINES & ALLIED WORKERS UNION, ETC., ET AL.,
***Respondents*.**
x----------x

D E C I S I O N

PAREDES, *J.*:

A Petition for Certification Election was filed before the Court of Industrial Relations by the National Mines and Allied Workers Union (NAMAWUMIF), alleging that the employer is the Philex Mining Corporation, engaged in Mining in Padcal, Tuba, Benguet, Mt. Province. The Philex Miners Association and the Philippines Association of Free Labor Unions (PAFLU) intervened. After due hearing, the Industrial Court on December 22, 1960, issued the following Order, the dispositive portion of which recites —

> "WHEREFORE, pursuant to the provisions of Section 12 of Republic Act No. 875, and the rules of this Court on Certification Election the Department of Labor is hereby

requested to conduct a certification election among the non-supervisory employees of the Philex Mining Corporation in order to determine whether the employees and/or workers desire to be represented for collective bargaining purposes with employer either by the National Mines and Allied Workers' Union (NAMAWUMIF), Philex Miners' Union, the Philippine Association of Free Labor Unions (PAFLU) or neither... Upon conclusion of the election, the result thereof shall be submitted to this Court for further disposition."

The Philex Miners Union, under date of January 2, 1960, filed the following: —

"MOTION FOR RECONSIDERATION

COMES NOW the Philex Miners Union, by its undersigned counsel and to this Honorable Court respectfully pray for the reconsideration of the Order dated December 22, 1960, and promulgated on the 23rd of December 1960, copy of which was received on December 28, 1960, for the reason that it is contrary to law, jurisprudence, and not in accord with the evidence adduced during the hearing of the case. The right to file an argument in support of this motion for reconsideration within the reglementary period is hereby reserved.

Baguio City, January 2, 1960.

(Sgd.)
PABLO C. SANIDAD
Attorney for Philex Miners Union
Baguio City

COPY FURNISHED:

The Secretary of Labor, Manila
Attys. Enrile, Reyna, Montecillo & Belo
7th Floor, Soriano Bldg., Manila

Attys. Cid & Associates, 1233 Tecson-Tindalo
Sts., Tondo, Manila

Atty. Sesinando Villaluz
308 Palomo Bldg., Azcarraga, Manila

SUBSCRIBED AND SWORN TO before me this 3rd day of January, 1961.

(Sgd.)
JOSE E. CRISTOBAL
Clerk
Municipal Court"

The argument in support of the above motion was filed on January 5, 1961. The Department of Labor scheduled the certification election on January 20, 1961. On January 9, 1961, the Philex Miners Union filed an Urgent Motion to Suspend the Certification Election set for January 20, 1961, until after the motion for reconsideration shall have been resolved. On January 16, 1961, counsel for National Mines Union, presented a petition to dismiss the motion for reconsideration. Under date of January 14, 1960, the CIR en banc, in an unanimous resolution, dismissed the motion for reconsideration on the ground that same was not filed in accordance with sections 15, 16 and 17 of the CIR rules, as amended, and as a consequence "the urgent motion to suspend certification election filed by the same counsel should be, as it is hereby, denied."

On February 6, 1961, the present appeal on certiorari from the order of the CIR was filed by the herein petitioner, Philex Mines Union. The petition was given due course, and on February 20, 1961, upon the filing of a bond in the sum of P200.00 a preliminary injunction was issued by Us restraining the herein respondents from enforcing the order to conduct the certification election.

The certification election, was held on January 20, 1961, as scheduled, resulting in the defeat of the Philex Miners Union to the National Mines Union, by a wide margin of votes.

Petitioner claims that the lower court erred in holding that the motion for reconsideration heretofore quoted (Annex C) was not submitted in accordance with Secs. 15, 16 and 17, CIR Rules and in not suspending

the certification election. It is argued that inasmuch as the motion for reconsideration was signed by the counsel of the petitioner, and was subscribed and sworn to before the Clerk, Municipal Court on the 3rd day of January, 1961, there was a substantial conformity to the rule requiring "that the motion for reconsideration be duly verified under oath." Section 15 of the CIR Rules, promulgated pursuant to Sec. 1, of Commonwealth Act No. 559, provides —

> "The movant shall the motion, in six copies, within five (5) days from the date on which he receives notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of fact, and serving a copy thereof personally or by registered mail, on the adverse party. The latter may file an answer, in six (6) copies, duly verified under oath."

In view of the above provisions, the respondents now argue that the motion for reconsideration should be filed within 5 days from receipt of copy of the decision or order, and said motion should be verified under oath, with respect to the correctness of the allegations of fact; that the motion for reconsideration contained no such verification either by the union president or counsel; that it is merely an oath allegedly "subscribed and sworn to before" the municipal clerk, not below the signature of petitioner's counsel, Atty. Pablo C. Sanidad, but below the names of the attorneys to whom copies were to be furnished, showing that the supposed oath was placed in the motion merely as an after-thought; that the usual form of verification which should be familiar to legal practitioners, is that the affiant, after having been duly sworn on oath, deposes and says that he is the president of legal counsel or representative of the party filing the pleading; and that he thereby certifies that the facts and allegations contained in the motion, petition or pleading are true and correct, which will be followed by the oath signed before the administering officer, and that all these are wanting in the present case. Respondents further argue that when a pleading is required to be verified under oath, the requirement should be enforced, because verification is the exemption, not the rule (Hummel vs. Wells Petroleum Co., 3 Fed. Rules Service, p. 91, U.S. Circ. Ct. of App, 7th Circ. May 3, 1930, 111 F.[d] 883), and that Rule 15, of the Rules of Court, is merely suppletory to the rules of the CIR, which provide for

a particular procedure governing the matter and which should be strictly complied with.

While a ruling on the procedural issue may not altogether be necessary, in view of our conclusions with respect to the merits of the case, this Court holds, nevertheless, the dismissal of the motion for reconsideration to be erroneous. The respondent court dwelt on unwarranted technicalities. The motion for reconsideration was signed by the counsel for the movant. The signature of counsel amounted to a certification "that he has read the pleading; that to the best of his knowledge, information and belief, there is ground to support it; and that it is not interposed for delay (sec. 5, Rule 15, Rules of Court). The acknowledgment having been couched in the usual form "Subscribed and sworn to before me, etc.", the same is a substantial conformance to the rule that the motion for reconsideration be "duly verified under oath"', as provided for by the CIR rules (Arambulo vs. Perez, 78 Phil., 387; 44 Off. Gaz., 3284). Furthermore, the verification required in section 15 of CIR rules, is to vouchsafe for the "correctness of the allegations of fact, in the motion for reconsideration". A cursory reading of the said motion will show that it does not contain an allegation of fact which needs verification; it impugns merely conclusions of law. A verification under the circumstances obtaining would be both useless and superfluous. If the principle enunciated in the Arambulo vs. Perez holds true to a pleading like a complaint, it should likewise be true to motions for reconsideration.

The above error, notwithstanding, will not justify the granting of the present petition. For, it is to be noted that the Department of Labor should conduct the certification election thirty (30) days after receipt of the court's order (Sec. 12, R.A. No. 875); Rule I, CIR, Sept. 4, 1953; Sec. 2, Subsec. [c]). The Department of Labor scheduled the certification election for January 20, 1961. In the absence of any restraining order, issued by a competent court, the filing of the motion for reconsideration with the CIR en banc, did not have the effect of suspending ipso facto, the scheduled election. Petitioner knew that this is the rule, otherwise its counsel would not have presented an urgent motion to suspend the election. The motion for reconsideration was finally dismissed and the motion to suspend was denied, and the petitioner had not done anything on the matter,

except to appeal to this Court. Even this appeal, without more, did not suspend the effect of the certification election; otherwise a party could arrest, without the necessary adequate court action, the movement of the bargaining processes, by the interposition of frivolous and useless appeal. It was only on February 20, 1961 (one month after the certification election was held), that the preliminary injunction was issued by this Court. There was no more act to enjoin, there was no practical purpose of these proceedings, except perhaps to thwart the right of the chosen representatives of the respondent labor unions in that election, to enter into a collective bargaining contract, with the respondent corporation.

Petition for *Certiorari* is denied, and the Writ of Preliminary Injunction heretofore issued, is dissolved. Costs against herein petitioner.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, Barrera, Dizon, Regala and Makalintal, *JJ.*, concur.
Bengzon, *C.J.*, took no part.
