

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

**THE STANDARD CIGARETTE
WORKERS' UNION (PLUM),
*Petitioners,***

-versus-

**G.R. No. L-9908
April 22, 1957**

**THE COURT OF INDUSTRIAL
RELATIONS, THE STANDARD
CIGARETTE FACTORY and "THE
STANDARD WORKERS'
ORGANIZATION",
*Respondents.***

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DECISION

REYES, J.:

This is a Petition for *Certiorari* to Annul the Order of the respondent Court of Industrial Relations suspending the hearing of the petition for a certification election filed by petitioner Standard Cigarette Workers' Union (PLUM) pending the resolution of the complaint for unfair labor practice filed by the same petitioner union against the Standard Cigarette Manufacturing Co., Inc.

In brief, the facts are as follows: On September 25, 1954, the petitioner union, whose members are employees and laborers of the Standard Cigarette Manufacturing Co., Inc., filed charges of unfair labor practice against said company.

Pending preliminary investigation of its unfair labor practice complaint, the complainant union filed on September 27, 1954 a petition for certification election for the determination of the sole and exclusive collective bargaining representative of the employees and laborers in the Standard Cigarette Manufacturing Co., Inc. The respondent company answered asking for the summary dismissal of the petition on the ground that its investigation showed that a majority of its employees had already designated a rival union, the Standard Worker's Organization, as the bargaining representative of all the employees in the company, and that it had already entered into a collective bargaining agreement with said rival union. The rival union, on its part, filed a motion to intervene in the proceedings and moved to quash the petition for the reason that the collective bargaining agreement it had entered into with the company was executed in behalf of all the employees and workers thereof. The court, however, refused to dismiss the petition for certification election and set the case for hearing on the merits.

Thereafter, the prosecutor of the court, after preliminary investigation of the petitioner union's complaint for unfair labor practice against the Standard Cigarette Manufacturing Co., Inc., filed on February 2, 1955 the corresponding complaint charging the company with inquiring into and interfering with the union affiliation of its employees, and, having failed to discourage them from continuing their membership in the complainant union, had discriminated against the union members and even dismissed some of them without just cause. On March 9, 1955, the respondent company moved to suspend the hearings on the petition for certification election pending final termination of the complaint for unfair labor practice. And the court, expressing the opinion that the charges in the unfair labor practice case went into the root of the freedom of workers to vote in a certification election, ordered the suspension of the proceedings for certification election pending resolution of the unfair labor practice case. The petitioner union moved to reconsider the aforesaid order, but reconsideration was

denied by the court en banc, with Judge Lanting dissenting. Wherefore, the petitioner union filed the present petition for certiorari with this Court.

There is merit in the petition.

As correctly pointed out by Judge Lanting in his dissenting opinion on the denial of petitioner's motion for reconsideration, a complaint for unfair labor practice may be considered a prejudicial question in a proceeding for certification election when it is charged therein that one or more labor unions participating in the election are being aided, or are controlled, by the company or employer. The reason is that the certification election may lead to the selection of an employer-dominated or company union as the employees' bargaining representative, and when the court finds that said union is employer-dominated in the unfair labor practice case, the union selected would be decertified and the whole election proceedings would be rendered useless and nugatory.

“In determining whether a named union has been selected by the employees as their representative, the labor relations board is entitled to make its decision in the light of all the facts. The board may determine in the proceedings whether a union is dominated by the employer, or it may refuse to rule on a request for certification until after a determination has been had as to whether the union is dominated by the employer. Likewise, the board may withhold its decision pending the outcome of unfair practice proceedings which might show that the selection by the employees may have been affected by unfair practice of the employer.” (56 CJS 177.)

There is, however, no charge in petitioner's complaint for unfair labor practice against the Standard Cigarette Manufacturing Co. that the intervenor union, the Standard Workers' Organization, is being assisted or is dominated by the company. Nor is it claimed that due to the company's unfair labor practices, its laborers and employees had been intimidated or coerced into not joining or discontinuing their membership in the petitioner union. The very complaint for unfair labor practice (Annex “F” of the Standard Workers' Organization's Answer to Petition for Certiorari) alleges that the company officers

“have failed in their attempts to discourage the unionists from continuing their membership with complainant union and/or completely destroy the same”; and the main purpose of the complaint seems to be only to deter repetition of such unfair labor practices by the company, and for the reinstatement of some of the petitioner union’s members who had been dismissed allegedly because of their union membership.

It is noteworthy, too, as observed by Judge Lanting, that it was not the petitioner union, but the company, the Standard Cigarette Manufacturing Co., Inc., which had asked for the suspension of the proceedings on the certification election pending final determination of the unfair labor practice complaint. In the usual course of things, the complainant union would have been the one interested in the deferment of the certification election, since the unfair practices of the employer could result in the substantial reduction of its membership and its failure to get elected as the employees’ bargaining representative. But the complainant union did not ask for the suspension; instead, it had strongly opposed the same in the court below and has even come to this Court on certiorari against such suspension. If the complainant union itself believes that it would not suffer prejudice in the election because of the employer’s alleged unfair labor practices, or is willing to take the risks in said election, then we see no further reason for the respondent court to suspend the holding of the election by the employees of their collective bargaining agent.

Upon the other hand, we can only agree with Judge Lanting that the move of the company to suspend the certification election proceedings, pending resolution of the unfair labor practice complaint against it, can be taken only as a maneuver to further delay such election and thereby favor the intervenor-union, with whom it had already concluded a collective bargaining agreement. As a matter of fact, the records show that it was the intervenor-union who had argued more strongly, first, against the petition for certification election, and then for its suspension. And when this petition for certiorari was filed before this Court, it was again the intervenor-union who answered and argued against the petition while the company (against whom the unfair labor practice case was filed and at whose instance the certification election proceedings were

suspended), did not even bother to answer in these proceedings, showing a lack of interest whether this petition is sustained by us or not.

The respondent court's order of March 11, 1955, is, therefore, set aside, and the court ordered to proceed with the hearing of its Case No. 198-MC for Certification Election. Costs against respondents Standard Cigarette Factory and Standard Workers' Organization. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and Felix, JJ., concur.