SUPREME COURT
FIRST DIVISION

ASSOCIATED LABOR UNIONS (ALU),
***Petitioner*,**

-versus-

G.R. No. 82260
July 19, 1989

HON. PURA FERRER-CALLEJA, DIRECTOR, BUREAU OF LABOR RELATIONS, DEPARTMENT OF LABOR AND EMPLOYMENT AND NATIONAL FEDERATION OF LABOR (NFL),
***Respondents*.**
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D E C I S I O N

GANCAYCO, *J.*:

This is a Petition for the Issuance of the Extraordinary Remedy of *Certiorari* for the reversal of the Decision[1] of the Director of Bureau of Labor Relations ordering the holding of a certification election among the workers of Soriano Fruits Corporation.

The antecedent facts of the case are as follows:

Petitioner Associated Labor Unions, ALU for brevity, had a collective bargaining agreement with the employer Soriano Fruits Corporation

which expired on September 30, 1987. Prior to the said date, or on June 22, 1987, petitioner and the employer signed a collective bargaining agreement which was to take effect on September 1, 1987 and was to remain so until August 31, 1990. The said collective bargaining agreement was unanimously approved and ratified by the members of the bargaining unit.

However, on August 10, 1987, private respondent National Federation of Labor (NFL), filed a petition for certification election questioning the majority status of the incumbent union, pursuant to Executive Order 111 and its Implementing Rules, there being more than majority of its members who have expressed doubts on the sincerity of the incumbent union.[2] Acting on the said petition the Med-Arbiter scheduled a hearing on August 21, 1987 to determine the majority status of herein petitioner but the NFL representative failed to appear despite due notice. Consequently, the hearing was reset to September 8, 1987 to give NFL an opportunity to substantiate its claim but again, the NFL was not represented. Thereafter, the parties were asked to submit their position papers. To bolster its claim, ALU submitted several petitions signed by members of the bargaining unit to dismiss any petition filed by any union which seeks to question the majority status of the incumbent union. The signatories to the petition also reaffirmed its loyalty to ALU.

On October 2, 1987, the Med-Arbiter promulgated an Order[3] dismissing the petition for certification election on the ground of failure to prosecute. An appeal to the Bureau of Labor Relations however, proved fruitful. On December 22, 1987 the respondent Director of the Bureau of Labor Relations held that the Med-Arbiter erred in dismissing the petition for certification election. The dispositive portion of the decision reads thus:

> "WHEREFORE, in view of the foregoing, the appeal of petitioner, National Federation of Labor is hereby given due course and the Order of the Med-Arbiter is set aside. Let, therefore a certification election proceed at Soriano Fruits Corporation, after a pre-election conference to thresh out the list of eligible voters, with the following choices:
>
> 1. National Federation of Labor (NFL);

2. Associated Labor Unions (ALU).

SO ORDERED."[4]

ALU sought a reconsideration of the above-cited decision but to no avail. Hence, the instant petition for *certiorari*.

Petitioner alleges that in granting the petition for certification election, the respondent Director acted with grave abuse of discretion amounting to lack or in excess of jurisdiction in that:

"I. THE HONORABLE DIRECTOR MISSED THE LEGAL INTENT OF ARTICLE 257 AS AMENDED BY EXECUTIVE ORDER 111.

II. THE HONORABLE DIRECTOR ERRED IN CLAIMING THAT THE PETITION IS SUPPORTED BY MORE THAN TWENTY (20%) OF THE RANK AND FILE.

III. THE RATIFICATION OF THE CONCLUDED COLLECTIVE BARGAINING AGREEMENT RENDERS THE CERTIFICATION ELECTION MOOT AND ACADEMIC."

This Court finds the petition bereft of merit.

Petitioner hinges its claim on Art. 257 of the Labor Code which provides:

"Art. 257. Petitions in unorganized establishments.

In any establishment where there is no certified bargaining agent, the petition for certification election filed by a legitimate labor organization shall be supported by the written consent of at least twenty (20%) percent of all the employees in the bargaining unit. Upon receipt and verification of such petition, the Med-Arbiter shall automatically order the conduct of a certification election."

But this provision finds no application in the case at bar primarily because it applies to unorganized establishments. For the said provision to apply, the establishment concerned must have no certified bargaining agent. This is not the case in the present petition where there was a collective bargaining agreement entered into by the management of the Soriano Fruits Corporation and ALU, the petitioner, which was then the bargaining agent. This Court however, finds that it is Article 256 as amended by Executive Order 111 which must be considered in the resolution of the present petition. The said article states:

> "Article 256. Representation Issues in Organized Establishments. In organized establishments, when a petition questioning the majority status of the incumbent bargaining agent is filed before the Ministry within the sixty (60) day period before the expiration of the collective bargaining agreement, the Med-Arbiter shall automatically order an election by secret ballot to ascertain the will of the employees in the appropriate bargaining unit." (Emphasis supplied)

A review of the records of this case would confirm the fact that the petition for certification election filed by NFL on August 10, 1987 was well within the prescribed sixty (60) day freedom period.

Petitioner however maintains that the respondent Director misconstrued the legal intent behind the above-cited provision and that it should not have been given a literal interpretation. Petitioner insists further that the right of the members of the bargaining unit to choose which union should represent them is not an absolute one since a prior hearing must be had to ascertain the veracity of the allegations contained in the petition.

This argument is untenable.

The provision of Article 256 which provides that the Med-Arbiter shall automatically order an election is clear and leaves no room for further interpretation. The mere filing of a petition for certification election within the freedom period is sufficient basis for the respondent Director to order the holding of a certification election. The fact that NFL did not appear during the hearings set by the Med-

Arbiter is of no moment. As the Solicitor General correctly pointed out, there is no prohibition on the conduct of hearings by the Med-Arbiter on the competing stands of the unions. Neither does the law require the same to be held whereby the absence or presence therefrom of any union representative would affect the petition for certification election. In fact, it is the denial of the petition for certification election grounded solely on the absence of NFL in the scheduled hearings which is frowned upon by the law. This is consistent with the principle in labor legislation that "certification proceedings is not a litigation in the sense in which the term is ordinarily understood, but an investigation of non-adversary and fact finding character. As such, it is not bound by technical rules of evidence."[5]

Petitioner suggests that to grant the petition for certification election would "open the floodgates to unbridled and scrupulous (sic) petitions whose only objective is to prejudice the industrial peace and stability existing in the Company."[6] This Court believes however that the workers' choice regarding their representative who inevitably reflects and works for their common interest is of paramount importance. This policy was lengthily explained in the concurring opinion of then Chief Justice Fernando in the case of Confederation of Citizens Labor Unions (CCLU) vs. National Labor Relations Commission[7] where he categorically stated that "the slightest doubt therefore cannot be entertained that what possesses significance in a petition for certification is that through such a device the employees are given the opportunity to make known who shall have the right to represent them. What is equally important is that not only some but all of them should have the right to do so."[8]

Petitioner next contends that the respondent Director erred in relying upon the claim of the respondent Union that the petition for certification election is supported by more than twenty percent (20%) of the rank and file considering that the said petition merely contained the lone signature of the NFL representative.

This averment is likewise unmeritorious.

Petitioner bases its argument again on Article 257 which prescribes the twenty percent (20%) requirement. But it must be reiterated that

the said requirement applies only to unorganized establishments. It is Article 256 instead which must be applied. A perusal of the said Article would confirm the falsity of the claim of petitioner. Nowhere in the said provision does it require the written consent of twenty percent (20%) of the employees in the bargaining unit. Hence, the issue of whether or not the petition for certification election is supported by twenty percent (20%) of the bargaining unit concerned is immaterial to the case at bar. What is essential is that the petition was filed during the sixty-day freedom period.

The petition to dismiss the petition for certification election[9] filed by NFL and signed by some 224 employees signifying their satisfaction with the services of the incumbent union should not be given any weight at all. The possibility that the workers were merely coerced to sign the petition such that they did so for fear of reprisal from the members of ALU is not remote. However, this does not discount the possibility that the workers voluntarily signed the said petition. Whatever reason the workers may have had for signing the same may be ascertained once a certification election is held. It is in this democratic process that the workers are given the opportunity to freely choose, by secret ballot, who they want to represent them. In this manner, the workers are free of any undue pressure which either competing union may exert upon them.

Finally, the petitioner assails the decision of the respondent Director on the ground that "the ratification of the collective bargaining agreement renders the certification election moot and academic."[10]

This contention finds no basis in law.

The petitioner was obviously referring to the contract-bar rule where the law prohibits the holding of certification elections during the lifetime of the collective bargaining agreement. Said agreement was hastily and prematurely entered into apparently in an attempt to avoid the holding of a certification election. The records show that the old collective bargaining agreement of the petitioner with Soriano Fruits Corporation was to expire on August 31, 1987. However, three (3) months and eight (8) days before its expiry date, or on June 22, 1987, the petitioner renewed the same with the consent and collaboration of management. The renewed agreement was then

ratified by the members of the bargaining unit and was thereafter sent to the Bureau of Labor Relations for certification. In the meantime, on August 10, 1987 (21 days before the expiration of the old collective bargaining agreement on August 31, 1987) a petition for certification election was filed by respondent union, NFL. From the foregoing facts, it is quite obvious that the renewed agreement cannot constitute a bar to the instant petition for certification election for the very reason that the same was not yet in existence when the petition for certification election was filed on August 10, 1987 inasmuch as the same was to take effect only on September 1, 1987, after the old agreement expires on August 31, 1987.

In the case of Associated Trade Unions-ATU vs. Noriel,[11] this Court held that "it is indubitably clear from the facts heretofore unfolded that management and petitioner herein proceeded with such indecent haste in renewing their CBA way ahead of the sixty-day freedom period in their obvious desire to frustrate the will of the rank and file employees in selecting their bargaining representative. To countenance the actuation of the company and the petitioner herein would be violative of the employees constitutional right to self-organization.[12]

The Solicitor General, in his comment, brought the attention of this Court to the fact that petitioner had violated the provisions of Article 254[13] when it renewed the collective bargaining agreement before the commencement of the sixty-day freedom period. This Court does not subscribe to this view. What the aforecited rule prohibits is the modification and alteration of the present collective bargaining agreement during its lifetime. In the present case, the alterations and modifications were to take effect only on September 1, 1987, i.e., after the expiration of the old agreement. It must be noted that the new agreement did not suspend the old one. Neither did it terminate nor modify the same. Petitioner therefore did not commit any violation of Article 254 of the Labor Code, contrary to the allegations of the Solicitor General.

However, it is apparent that *certiorari* does not lie in the instant petition for this Court does not see any substantial reason to withhold the primordial right of workers to select their bargaining representative.

WHEREFORE, premises considered, the instant Petition is **DISMISSED** for lack of merit. The temporary restraining order issued by resolution of this Court of July 11, 1988 is hereby lifted and declared to be of no force and effect. The decision is immediately executory. No costs.

SO ORDERED.

Narvasa, Cruz, Griño-Aquino and Medialdea, *JJ.*, concur.

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[1] Penned by Hon. Pura Ferrer-Calleja.
[2] Page 4, Rollo.
[3] Penned by Hon. Conrado Macasa, Sr.
[4] Page 121, Rollo.
[5] LVN Pictures, Inc. vs. Philippine Musician's Guild, 110 Phil. 728 (1961).
[6] Page 6, Rollo.
[7] 60 SCRA 467 (1974) citing Federation of the United Workers Organization vs. CIR, 54 SCRA 305 (1973).
[8] Ibid.
[9] Annex C, Petition.
[10] Page 8, Rollo.
[11] 88 SCRA 96 (1979).
[12] Ibid, 101, citing Antipolo Highway Lines vs. Inciong, 64 SCRA 441 (1975).
[13] Article 254 provides that "when there is a collective bargaining agreement, the duty to bargain collectively shall also mean that neither party shall terminate or modify such agreement during its lifetime. However, either party can serve a written notice to terminate or modify the same at least sixty (60) days prior to its expiration date. It shall be the duty of both parties to respect the terms and conditions of the existing agreement during the sixty-day period and/or until a new agreement is reached by the parties."