SUPREME COURT
FIRST DIVISION

ASSOCIATED TRADE UNIONS (ATU),
***Petitioner*,**

-versus-

G.R. No. L-75321
June 20, 1988

HON. CRESENCIO B. TRAJANO, in his capacity as Director of the Bureau of Labor Relations, MOLE, BALIWAG TRANSIT, INC. and TRADE UNIONS OF THE PHILIPPINES AND ALLIED SERVICES (TUPAS) — WFTU,
***Respondents*.**
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D E C I S I O N

CRUZ, *J.*:

The Resolution of this case has been simplified because it has been, in Justice Vicente Abad Santos' felicitous phrase, "overtaken by events."

This case arose when on March 25, 1986, the private respondent union (TUPAS) filed with the Malolos labor office of the MOLE a petition for certification election at the Baliwag Transit, Inc. among its rank-and-file workers.[1] Despite opposition from the herein

petitioner, Associated Trade Unions (ATU), the petition was granted by the med-arbiter on May 14, 1986, and a certification election was ordered "to determine the exclusive bargaining agent (of the workers) for purposes of collective bargaining with respect to (their) terms and conditions of employment."[2] On appeal, this order was sustained by the respondent Director of Labor Relations in his order dated June 20, 1986, which he affirmed in his order of July 17, 1986, denying the motion for reconsideration.[3] ATU then came to this Court claiming that the said orders are tainted with grave abuse of discretion and so should be reversed. On August 20, 1986, we issued a temporary restraining order that has maintained the status quo among the parties.[4]

In support of its petition, ATU claims that the private respondent's petition for certification election is defective because (1) at the time it was filed, it did not contain the signatures of 30% of the workers, to signify their consent to the certification election; and (2) it was not allowed under the contract-bar rule because a new collective bargaining agreement had been entered into by ATU with the company on April 1, 1986.[5]

TUPAS for its part, supported by the Solicitor General, contends that the 30% consent requirement has been substantially complied with, the workers' signatures having been subsequently submitted and admitted. As for the contract-bar rule, its position is that the collective bargaining agreement, besides being vitiated by certain procedural defects, was concluded by ATU with the management only on April 1, 1986 after the filing of the petition for certification election on March 25, 1986.[6]

This initial sparring was followed by a spirited exchange of views among the parties which insofar as the first issue is concerned has become at best only academic now. The reason is that the 30% consent required under then Section 258 of the Labor Code is no longer in force owing to the amendment of this section by Executive Order No. 111, which became effective on March 4, 1987.

As revised by the said executive order, the pertinent articles of the Labor Code now read as follows:

> "Art. 256. Representation issue 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-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. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid votes cast, a run-off election shall be conducted between the choices receiving the two highest number of votes."
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> "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."

The applicable provision in the case at bar is Article 256 because Baliwag Transit, Inc. is an organized establishment. Under this provision, the petition for certification election need no longer carry the signatures of the 30% of the workers consenting to such petition as originally required under Article 258. The present rule provides that as long as the petition contains the matters[7] required in Section 2, Rule 5, Book V of the Implementing Rules and Regulations, as amended by Section 6, Implementing Rules of E.O No. 111, the med-arbiter "shall automatically order" an election by secret ballot "to ascertain the will of the employees in the appropriate bargaining unit." The consent requirement is now applied only to unorganized establishments under Article 257, and at that, significantly, has been reduced to only 20%.

The petition must also fail on the second issue which is based on the contract-bar rule under Section 3, Rule 5, Book V of the Implementing Rules and Regulations. This rule simply provides that a petition for certification election or a motion for intervention can only be entertained within sixty days prior to the expiry date of an existing collective bargaining agreement. Otherwise put, the rule prohibits the filing of a petition for certification election during the existence of a collective bargaining agreement except within the freedom period, as it is called, when the said agreement is about to expire. The purpose, obviously, is to ensure stability in the relationships of the workers and the management by preventing frequent modifications of any collective bargaining agreement earlier entered into by them in good faith and for the stipulated original period.

ATU insists that its collective bargaining agreement concluded by it with Baliwag Transit, Inc. on April 1, 1986, should bar the certification election sought by TUPAS as this would disturb the said new agreement. Moreover, the agreement had been ratified on April 3, 1986, by a majority of the workers and is plainly beneficial to them because of the many generous concessions made by the management.[8]

Besides pointing out that its petition for certification election was filed within the freedom period and five days before the new collective bargaining agreement was concluded by ATU with Baliwag Transit, Inc. TUPAS contends that the said agreement suffers from certain fatal procedural flaws. Specifically, the CBA was not posted for at least five days in two conspicuous places in the establishment before ratification, to enable the workers to clearly inform themselves of its provisions. Moreover, the CBA submitted to the MOLE did not carry the sworn statement of the union secretary, attested by the union president, that the CBA had been duly posted and ratified, as required by Section 1, Rule 9, Book V of the Implementing Rules and Regulations. These requirements being mandatory, non-compliance therewith rendered the said CBA ineffective.[9]

The Court will not rule on the merits and/or defects of the new CBA and shall only consider the fact that it was entered into at a time when the petition for certification election had already been filed by TUPAS

and was then pending resolution. The said CBA cannot be deemed permanent, precluding the commencement of negotiations by another union with the management. In the meantime however, so as not to deprive the workers of the benefits of the said agreement, it shall be recognized and given effect on a temporary basis, subject to the results of the certification election. The agreement may be continued in force if ATU is certified as the exclusive bargaining representative of the workers or may be rejected and replaced in the event that TUPAS emerges as the winner.

This ruling is consistent with our earlier decisions on interim arrangements of this kind where we declared:

> "We are not unmindful that the supplemental collective bargaining contract, entered into in the meanwhile between management and respondent Union contains provisions beneficial to labor. So as not to prejudice the workers involved, it must be made clear that until the conclusion of a new collective bargaining contract entered into by it and whatever labor organization may be chosen after the certification election, the existing labor contract as thus supplemented should be left undisturbed. Its terms call for strict compliance. This mode of assuring that the cause of labor suffers no injury from the struggle between contending labor organization follows the doctrine announced in the recent case of Vassar Industries Employees vs. Estrella (L-46562, March 31, 1978). To quote from the opinion. 'In the meanwhile, if as contended by private respondent labor union the interim collective bargaining agreement which it engineered and entered into on September 26, 1977 has much more favorable terms for the workers of private respondent Vassar Industries, then it should continue in full force and effect until the appropriate bargaining representative is chosen and negotiations for a new collective bargaining agreement thereafter concluded.'"[10]

It remains for the Court to reiterate that the certification election is the most democratic forum for the articulation by the workers of their choice of the union that shall act on their behalf in the negotiation of a collective bargaining agreement with their employer. Exercising their suffrage through the medium of the secret ballot, they can select

the exclusive bargaining representative that, emboldened by their confidence and strengthened by their support shall fight for their rights at the conference table. That is how union solidarity is achieved and union power is increased in the free society. Hence, rather than being inhibited and delayed, the certification election should be given every encouragement under the law, that the will of the workers may be discovered and, through their freely chosen representatives, pursued and realized.

WHEREFORE, the petition is **DENIED**. The temporary restraining order of August 20, 1986, is **LIFTED**. Cost against the petitioner.

SO ORDERED.

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

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[1] Rollo, pp. 34-35.
[2] Ibid., p. 114.
[3] Id., pp. 145-146, 162.
[4] Id., pp. 169-170.
[5] Id., pp. 24-29.
[6] Id., pp. 177-181, 207-213.
[7] To writ: (a) the name of petitioner and its address and affiliation, if any; (b) name, address and nature of the employer's business; (c) description of the bargaining unit which shall be the employer unit unless circumstances otherwise require, and provided, further: that the appropriate bargaining unit of the rank-and-file employees shall not include security guards; (d) approximate number of employees in the alleged bargaining unit; (e) names and addresses of other legitimate labor organizations in the bargaining unit: (f) in an unorganized establishment, the signatures of at least twenty percent (20%) of all employees in the bargaining unit; and (g) other relevant facts.
[8] Id., pp. 28-29.
[9] Id., pp. 177-179, 301-303.
[10] National Mines and Allied Workers' Union (NAMAWUMIF) vs. Estrella, et al., 87 SCRA 84, 92, citing Federation of Free Workers (Bisig ng Manggagawa sa UTEX) vs. Noriel, et al., 86 SCRA 132.