SUPREME COURT
THIRD DIVISION

ATLAS LITHOGRAPHIC SERVICES, INC.,
***Petitioner*,**

-versus-

G.R. No. 96566
January 6, 1992

UNDERSECRETARY BIENVENIDO E. LAGUESMA (Department of Labor and Employment) and ATLAS LITHOGRAPHIC SERVICES, INC. SUPERVISORY, ADMINISTRATIVE, PERSONNEL, PRODUCTION, ACCOUNTING AND CONFIDENTIAL EMPLOYEES-ASSOCIATION-KAISAHAN NG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN),
***Respondents*.**
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D E C I S I O N

GUTIERREZ, JR., *J.*:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court seeking the modification of the Order dated 14 December 1990 and the Resolution dated 21 November 1990 issued by the public respondents.

The antecedent facts of the case as gathered from the records are as follows:

On July 16, 1990, the supervisory, administrative personnel, production, accounting and confidential employees of the petitioner Atlas Lithographic Services, Inc. (ALSI) affiliated with private respondent Kaisahan ng Manggagawang Pilipino, a national labor organization. The local union adopted the name Atlas Lithographic Services, Inc. Supervisory, Administrative, Personnel Production, Accounting and Confidential Employees Association or ALSI-SAPPACEA-KAMPIL in short and which we shall hereafter refer to as the 'supervisors' union.

Shortly thereafter, private respondent Kampil-Katipunan filed on behalf of the 'supervisors' union a petition for certification election so that it could be the sole and exclusive bargaining agent of the supervisory employees.

The petitioners opposed the private respondent's petition claiming that under Article 245 of the Labor Code the private respondent cannot represent the supervisory employees for collective bargaining purposes because the private respondent also represents the rank-and-file employees' union.

On September 18, 1990, the Med-Arbiter issued an order in favor of the private respondent, the dispositive portion of which provides:

> "WHEREFORE, premises considered, a certification election among the supervisory employees belonging to the Administrative, Personnel, Production, Accounting Departments as well as confidential employees performing supervisory functions of Atlas Lithographic Services, Incorporated is hereby ordered conducted within 20 days from receipt hereof, subject to usual pre-election conference, with the following choices:
>
> "1. KAMPIL (KATIPUNAN);
>
> "2. No union.

"SO ORDERED." (Rollo, pp. 39-40).

The petitioners, as expected, appealed for the reversal of the above order. The public respondent, however, issued a resolution affirming the Med-Arbiter's order.

The petitioners, in turn, filed a motion for reconsideration but the same was denied. Hence, this petition for *certiorari*.

The sole issue to be resolved in this case is whether or not, under Article 245 of the Labor Code, a local union of supervisory employees may be allowed to affiliate with a national federation of labor organizations of rank-and-file employees and which national federation actively represents its affiliates in collective bargaining negotiations with the same employer of the supervisors and in the implementation of resulting collective bargaining agreements.

The petitioner argues that KAMPIL-KATIPUNAN already represents its rank-and-file employees and, therefore, to allow the supervisors of those employees to affiliate with the private respondent is tantamount to allowing the circumvention of the principle of the separation of unions under Article 245 of the Labor Code.

It further argues that the intent of the law is to prevent a single labor organization from representing different classes of employees with conflicting interests.

The public respondent, on the other hand, contends that despite affiliation with a national federation, the local union does not lose its personality which is separate, and distinct from the national federation. It cites as its legal basis the case of Adamson & Adamson, Inc. vs. CIR, (127 SCRA 268 [1984]).

It maintains that Rep. Act No. 6715 contemplates the principle laid down by this Court in the Adamson case interpreting Section 3 of Rep. Act No. 875 (the Industrial Peace Act) on the right of a supervisor's union to affiliate. The private respondent asserts that the legislature must have noted the Adamson ruling then prevailing when

it conceived the reinstatement in the present Labor Code of a similar provision on the right of supervisors to organize.

Under the Industrial Peace Act of 1953, employees were classified into three groups, namely: (1) managerial employees; (2) supervisors; and (3) rank-and-file employees. Supervisors, who were considered employees in relation to their employer could join a union but not a union of rank-and-file employees.

With the enactment in 1974 of the Labor Code (Pres. Decree No. 442), employees were classified into managerial and rank-and-file employees. Neither the category of supervisory nor their right to organize under the old statute were recognized. So that, in Bulletin Publishing Corporation vs. Sanchez (144 SCRA 628 [1986]), the Court interpreted the superseding labor law to have removed from supervisors the right to unionize among themselves. The Court ruled:

> "In the light of the factual background of this case, We are constrained to hold that the supervisory employees of petitioner firm may not, under the law, form a supervisors union, separate and distinct from the existing bargaining unit (BEU), composed of the rank-and-file employees of the Bulletin Publishing Corporation. It is evident that most of the private respondents are considered managerial employees. Also, it is distinctly stated in Section 11, Rule 11, of the Omnibus Rules Implementing the Labor Code, that supervisory unions are presently no longer recognized nor allowed to exist and operate as such." (pp. 633, 634).

In Section 11, Rule II, Book V of the Omnibus Rules implementing Pres. Decree No. 442, the supervisory unions existing since the effectivity of the New Code in January 1, 1975 ceased to operate as such and the members who did not qualify as managerial employees under this definition in Article 212 (k) therein became eligible to form, to join or assist a rank-and-file union.

A revision of the Labor Code undertaken by the bicameral Congress brought about the enactment of Rep. Act No. 6715 in March 1989 in which employees were reclassified into three groups, namely- (1) the managerial employees; (2) supervisors; and (3) the rank-and-file

employees. Under the present law, the category of supervisory employees is once again recognized. Hence, Art. 212(m) states:

> "(m) Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment."

The rationale of the amendment is the government's recognition of the right of supervisors to organize with the qualification that they shall not join or assist in the organization of rank-and-file employees. The reason behind the Industrial Peace Act provision on the same subject matter has been adopted in the present statute. The interests of supervisors on the one hand, and the rank-and-file employees on the other, are separate and distinct. The functions of supervisors, being recommendatory in nature, are more identified with the interests of the employer. The performance of those functions may, thus, run counter to the interests of the rank-and-file.

This intent of the law is made clear in the deliberations of the legislators on then Senate Bill 530 now enacted as Rep. Act No. 6715.

The definition of managerial employees was limited to those having authority to hire and fire while those who only recommend effectively the hiring or firing or transfers of personnel would be considered as closer to rank-and-file employees. The exclusion, therefore, of middle level executives from the category of managers brought about a third classification, the supervisory employees. These supervisory employees are allowed to form their own union but they are not allowed to join the rank-and-file union because of conflict of interest (Journal of the Senate, First Regular Session, 1987-1988, Volume 3, p. 2245)

In terms of classification, however, while they are more closely Identified with the rank-and-file they are still not allowed to join the union of rank-and-file employees. To quote the Senate Journal:

> "In reply to Sen. Guingona's query whether 'supervisors' are included in the term 'employee,' Sen. Herrera stated that while

> they are considered as rank-and-file employees, they cannot join the union and they would have to form their own supervisors' union pursuant to Rep. Act 875." (supra, p. 2288)

The peculiar role of supervisors is such that while they are not managers, when they recommend action implementing management policy or ask for the discipline or dismissal of subordinates, they identify with the interests of the employer and may act contrary to the interests of the rank-and-file.

We agree with the petitioners' contention that a conflict of interest nay arise in the areas of discipline, collective bargaining and strikes.

Members of the supervisory union might refuse to carry out disciplinary measure against their co-member rank-and-file employees.

In the area of bargaining, their interests cannot be considered identical. The needs of one are different from those of the other. Moreover, in the event of a strikes the national federation might influence the supervisors' union to conduct a sympathy strike on the sole basis of affiliation.

More important, the factual issue in the Adamson case are different from the present case. First, the rank-and-file employees in the Adamson case are not directly under the supervisors who comprise the supervisors' union. In the case at bar, the rank-and- file employees are directly under the supervisors organized by one and the same federation.

The contemplation of the law in Sec. 3 of the Industrial Peace Act is to prohibit supervisors from joining a labor organization of employees under their supervision. Sec. 3 of the Industrial Peace Act provides:

> "SECTION 3. Employees' Right to Self-Organization. — Employees shall have the right to Self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or

> protection. Individuals employed as supervisors shall not be eligible for membership in a labor organization of employees under their supervision but may form separate organizations of their own. (Emphasis supplied)

This was not the consideration in the Adamson case because as mentioned earlier, the rank-and-file employees in the Adamson case were not under the supervision of the supervisors involved.

Meanwhile, Article 245 of the Labor Code as amended by Rep. Act No. 6715 provides:

> "ARTICLE 245. Ineligibility of managerial employees to join any labor organization: right of supervisory employees. — Managerial employees are not eligible to join, assist or form any labor organization supervisory employees shall not be eligible for membership in a labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own."

The Court construes Article 245 to mean that, as in Section 3 of the Industrial Peace Act, supervisors shall not be given an occasion to bargain together with the rank-and-file against the interests of the employer regarding terms and conditions of work.

Second, the national union in the Adamson case did not actively represent its local chapters. In the present case, the local union is actively represented by the national federation. In fact, it was the national federation, the KAMPIL-KATIPUNAN, which initially filed a petition for certification in behalf of the respondent union.

Thus, if the intent of the law is to avoid a situation where Supervisors would merge with the rank-and-file or where the supervisors' labor organization would represent conflicting interests, then a local supervisors' union should not be allowed to affiliate with the national federation of union of rank-and-file employees where that federation actively participates in union activity in the company.

The petitioner further contends that the term labor organization includes a federation considering that Art. 212 (g) mentions 'any union or association of employees.'

The respondent, however, argues that the phrase refers to a local union only in which case, the prohibition in Art. 245 is inapplicable to the case at bar.

The prohibition against a supervisors' union joining a local union of rank-and-file is replete with jurisprudence. The Court emphasizes that the limitation is not confined to a case of supervisors wanting to join a rank-and-file local union. The prohibition extends to a supervisors' local union applying for membership in a national federation the members of which include local unions of rank-and-file employees. The intent of the law is clear especially where, as in the case at bar, the supervisors will be co-mingling with those employees whom they directly supervise in their own bargaining unit.

Technicalities should not be allowed to stand in the way of the parties. (Rapid Manpower Consultants, Inc. vs. NLRC, 190 SCRA 747 1990]) What should be paramount is the intent behind the law, not its literal construction. Where one interpretation would result in mischievous consequences while another would bring about equity, justice, and the promotion of labor peace, there can be no doubt as to what interpretation shall prevail.

Finally, the respondent contends that the law prohibits the employer from interfering with the employees' right to self-organization.

There is no question about this intendment of the law. There is, however, in the present case, no violation of such a guarantee to the employee. Supervisors are not prohibited from forming their own union. What the law prohibits is their membership in a labor organization of rank-and-file employees (Art. 245, Labor Code) or their joining a national federation of rank-and-file employees that includes the very local union which they are not allowed to directly join.

In a motion dated November 15, 1991 it appears that the petitioner has knuckled under to the respondents' pressures and agreed to let

the national federation KAMPIL-KATIPUNAN represent its supervisors in negotiating a collective bargaining agreement. Against the advise of its own counsel and on the basis of alleged "industrial peace," the petitioner expressed a loss of interest in pursuing this action. The petitioner is, of course, free to grant whatever concessions it wishes to give to its employees unilaterally or through negotiations but we cannot allow the resulting validation of an erroneous ruling and policy of the Department of Labor and Employment (DOLE) to remain on the basis of the petitioner's loss of interest. The December 14, 1990 order and the November 21, 1990 resolution of DOLE are contrary to law and must be declared as such.

WHEREFORE, the petition is hereby **GRANTED**. The private respondent is disqualified from affiliating with a national federation of labor organizations which includes the petitioner's rank-and-file employees.

SO ORDERED.

Feliciano, Bidin, Davide, Jr. and Romero, *JJ.*, concur.