

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**JUAN S. BARRERA, (doing business  
under the firm and trade name,  
MACHINERY AND STEEL PRODUCTS  
ENGINEERING (MASPE),  
*Petitioner,***

***-versus-***

**G.R. No. L-32853  
September 25, 1981**

**THE HONORABLE COURT OF  
INDUSTRIAL RELATIONS, Philippine  
Associated Workers Union (PAWO),  
and MASPE WORKERS' UNION,  
*Respondents.***

X-----X

**DECISION**

**FERNANDO, C.J.:**

It was the absence of any definite ruling at the time this petition was filed on the question of whether or not a pending certification election

proceeding may be dismissed or held in abeyance, there being such a motion on the part of the employer Juan S. Barrera, doing business under the firm and trade name of Machinery and Steel Products Engineering (MASPE), alleging an unfair labor practice against one of the contending parties, private respondents MASPE Workers Union, the other being private respondent Philippine Associated Workers Union, that led this Court to give it due course. The unfair labor practice imputed to such labor union consisted of failure to bargain collectively, aggravated by an illegal strike. Respondent Court of Industrial Relations denied such a motion to dismiss, stating that the grounds therein alleged “appear not to be indubitable.” A motion for reconsideration having proved futile, this petition was filed. Subsequently, to be precise, in 1973, in the case of B.F. Goodrich Philippines, Inc. vs. Goodrich (Marikina Factory) Confidential and Salaried Employees Union-Natu,<sup>[1]</sup> such a question was given an answer by this Court, one adverse to the claim of petitioner. This petition, therefore, must be dismissed.

The case for petitioner was put most vigorously in the exhaustive and scholarly brief of its counsel, Manuel M. Crudo. To quote from its pertinent portion: “On September 22, 1970 the petitioner Barrera filed a motion to dismiss or hold case in abeyance, in CIR Case No. 2759-MC. In said motion, we called attention to the admission of Maspe Workers Union as intervenor in the case. We stated that the intervenor union, its officers and members had committed various acts of unfair labor practice and were on illegal strike punctuated by force, violence and intimidation. We called attention to our formal charge of unfair labor practice against the intervenor union. We called attention to the fact that in the charge of unfair labor practice among the reliefs prayed for were to declare respondents therein collectively and individually guilty of unfair labor practice; to declare the strike, and other concerted actions resorted to in pursuance of said unfair labor practice illegal; to declare the Maspe Workers Union as consequently having lost all rights and privileges accorded by law to a legitimate labor union; and to declare all individual respondents therein and others as having lost their employment status by virtue of the illegality of the strike staged by them. We then pointed out that unless the case for unfair labor practice against Maspe Workers Union, its officers and members is decided the status of that union and its members who are respondents would be uncertain (i.e., in

relation to the requested certification election and the outcome thereof.” Unfortunately, the respondent Honorable Court of Industrial Relations denied our motion to dismiss or hold case in abeyance.”<sup>[2]</sup> It remains only to be added that subsequently the Court of Industrial Relations en banc denied a motion for reconsideration, failing “to find sufficient justification to alter or to modify the aforesaid Order.”<sup>[3]</sup>

To repeat, the petition cannot prosper.

1. As set forth in the B.F. Goodrich Philippines, Inc. decision: “There is novelty in the specific question raised, as to whether or not a certification election may be stayed at the instance of the employer, pending the determination of an unfair labor practice case filed by it against certain employees affiliated with respondent-unions. That is a matter of which this Court has not had an opportunity to speak on previously. What is settled law, dating from the case of Standard Cigarette Workers’ Union vs. Court of Industrial Relations, decided in 1957, is that if it were a labor organization objecting to the participation in a certification election of a company-dominated union, as a result of which a complaint for an unfair labor practice case against the employer was filed, the status of the latter union must be first cleared in such a proceeding before such voting could take place.”<sup>[4]</sup>
2. This is the more relevant excerpt: “The unique situation before us, however, is exactly the reverse. It is management that would have an unfair labor practice case filed by it for illegal strike engaged in by some of its employees concluded, before it would agree to the holding of a certification election. That is the stand of petitioner. It does not carry conviction. The reason that justifies the postponement of a certification election pending an inquiry, as to the bona fides of a labor union, precisely calls for a different conclusion. If under the circumstances disclosed, management is allowed to have its way, the result might be to dilute or fritter away the strength of an organization bent on a more zealous defense of labor’s prerogatives. The difficulties and obstacles

that must be then hurdled would not be lost on the rest of the personnel, who had not as yet made up their minds one way or the other. This is not to say that management is to be precluded from filing an unfair labor practice case. It is merely to stress that such a suit should not be allowed to lend itself as a means, whether intended or not, to prevent a truly free expression of the will of the labor group as to the organization that will represent it. It is not only the loss of time involved, in itself not likely to enhance the prospect of respondent-unions, but also the fear engendered in the mind of an ordinary employee that management has many weapons in its arsenal to bring the full force of its undeniable power against those of its employees dissatisfied with things as they are. There is no valid reason then for the postponement sought. This is one instance that calls for the application of the maxim, *lex dilationes semper exhorret*. Moreover, is there not in the posture taken by petitioner a contravention of what is expressly set forth in the Industrial Peace Act, which speaks of the labor organizations 'designated or selected for the purpose of collective bargaining by the majority of the employees in an appropriate collective bargaining unit [be the exclusive] representative of all the employees in such unit for the purpose of collective bargaining.' The law clearly contemplates all the employees, not only some of them. As much as possible then, there is to be no unwarranted reduction in the number of those taking part in a certification election, even under the guise that in the meanwhile, which may take some time, some of those who are employees could possibly lose such status, by virtue of a pending unfair labor practice case."<sup>[5]</sup>

3. Even on the assumption that the vigorous condemnation of the strike and the picketing were attended by violence, it does not automatically follow that thereby the strikers in question are no longer entitled to participate in the certification election for having automatically lost their jobs. So it was made clear in another B.F. Goodrich decision:<sup>[6]</sup> "What was set forth in the facts as found by respondent Judge Salvador would indicate that it was during the

picketing, certainly not peaceful, that the imputed acts of violence did occur. It cannot be ignored, however, that there were injuries on both sides because management did not, understandably, play a passive role confronted as it was with the unruly disruptive tactics of labor. This is not, by any means, to condone activities of such character, irrespective of the parties responsible. It is merely to explain what cannot be justified. Nonetheless, did the acts in question call for an automatic finding of illegality? Again, the order issued on February 4, 1972 appeared to be oblivious of a 1971 decision of this Court, *Shell Oil Workers' Union vs. Shell Company of the Philippines, Ltd.* There it was clearly held: 'A strike otherwise valid, if violent in character, may be placed beyond the pale. Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed.' It must be pointed out likewise that the facts as there found would seem to indicate a greater violence. Thus: 'Respondent Court must have been unduly impressed by the evidence submitted by the Shell Company to the effect that the strike was marred by acts of force, intimidation and violence on the evening of June 14 and twice in the mornings of June 15 and 16, 1967 in Manila. Attention was likewise called to the fact that even on the following day, with police officials stationed at the strike-bound area, molotov bombs did explode and the streets were obstructed with wooden planks containing protruding nails. Moreover, in the branches of the Shell Company in Iloilo City as well as in Bacolod, on dates unspecified, physical injuries appeared to have been inflicted on management personnel. Respondent Court in the appealed decision did penalize with loss of employment the ten individuals responsible for such acts. Nor is it to be lost sight of that before the certification

on June 27, 1967, one month had elapsed during which the Union was on strike. Except on those few days specified then, the Shell Company could not allege that the strike was conducted in a manner other than peaceful. Under the circumstances, it would be going too far to consider that it thereby became illegal.’ Then, mention was made of a decision ‘in *Insular Life Assurance Co., Ltd. Employees’ Association vs. Insular Life Assurance Co., Ltd.* [where] there is the recognition by this Court, speaking through Justice Castro, of picketing as such being “inherently explosive.” It is thus clear that not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment by the guilty party.’<sup>[7]</sup>

**WHEREFORE**, this Petition is dismissed and the appealed order affirmed. No costs.

**Aquino, Guerrero, Abad Santos and De Castro, JJ., concur.  
Barredo, J., is on official leave.  
Concepcion Jr., J., is on sick leave.**

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[1] L-34069-70, February 28, 1973, 49 SCRA 532.

[2] Brief for the Petitioner, 9-10.

[3] Petition, Annex P.

[4] 49 SCRA 532, 538. *Standard Cigarette Worker’s Union vs. Court of Industrial Relations* is reported in 101 Phil. 126.

[5] *Ibid*, 540-541.

[6] *Almira vs. B.F. Goodrich Philippines, Inc.*, L-34974, July 25, 1974, 58 SCRA 120.

[7] *Ibid*, 127-128. *Shell Oil Workers Union*, L-28607, May 31, 1971, is reported in 39 SCRA 276; *Insular Life Assurance Co.*, L-25291, January 30, 1971, in 37 SCRA 244.