SUPREME COURT
EN BANC

BINALBAGAN-ISABELA SUGAR CO., INC., (BISCOM),
***Petitioner*,**

-versus-

G.R. No. L-18782
August 29, 1963

PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU), ET AL.,
***Respondents*.**
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D E C I S I O N

BAUTISTA ANGELO, *J.*:

The Binalbagan-Isabela Sugar Co., Inc., BISCOM for short, is a corporation engaged in the manufacture of centrifugal sugar at Binalbagan, Negros Occidental. Among its employees were Enrique C. Entila and Victoriano Tenazas.

On March 6, 1952, Entila and Tenazas joined the Fraternal Labor Organization (FLO), which is a labor union composed of employees and laborers of the BISCOM. On May 3, 1957, the BISCOM entered into a two-year collective bargaining agreement containing a closed shop clause with said union wherein it was stipulated that the agreement may be extended for a period of one year unless either party notifies the other in writing not less than 60 days prior to its expiry date of its intention to terminate the same. The closed shop clause, among others, contains the following provision: "Any employee who resigns or for any reason ceases to be a member or a member in good standing of the UNION, or who, not being a member fails to become member of the UNION, within the aforementioned fifteen (15) day-period shall be considered as a sufficient cause for dismissal by the COMPANY and for the forfeiture of all privileges extended by the COMPANY by virtue of this Agreement."

On March 4, 1959, the BISCOM and the aforesaid union entered into a new collective bargaining agreement incorporating therein the same closed shop clause which was also made effective for a period of two years from March 4, 1959, extendible for another period of one year unless either party notifies the other in writing, not less than 60 days prior to the expiry date, of its intention to terminate the same. This as well as the original collective bargaining agreement were signed by Entila and Tenazas who agreed to abide by and respect its terms and conditions.

Notwithstanding their commitment to respect the collective bargaining agreement signed on March 4, 1959, Entila and Tenazas, in violation of its closed shop provision, joined the Philippine Association of Free Labor Unions (PAFLU), another labor organization composed of laborers and employees of the BISCOM, and campaigned among their co-employees and laborers persuading them to join and affiliate with the latter union, for which reason they were investigated in connection with their union activities. Two hearings were held at which Entila and Tenazas were given an opportunity to explain their behavior. And having been found guilty of misconduct they were expelled from the Fraternal Labor Organization. On May 31, 1959, the Fraternal Labor Organization notified the BISCOM of the action taken against Entila and Tenazas, and, acting in line with the closed shop provision contained in the

collective bargaining agreement, it decreed the dismissal of said employees.

As a result of their dismissal, the two employees, together with the Philippine Association of Free Labor Unions (PAFLU), with which they were later affiliated, filed a complaint for unfair labor practice against the BISCOM and the Fraternal Labor Organization (FLO) with the Court of Industrial Relations alleging that because said employees joined the PAFLU and campaign actively for membership therein among their co-employees especially those affiliated with the FLO, they were dismissed from their employment by the BISCOM.

The BISCOM denied the unfair labor practice imputation. It alleged that Entila and Tenazas were dismissed pursuant to the closed shop provision contained in the collective bargaining agreement executed between the FLO and the BISCOM, and that on May 31, 1959, the BISCOM was notified by the FLO of the expulsion from the union of said employees asking for their dismissal, and so it had to accede to the demand in line with the closed shop provision. The FLO, in turn, also denied the charge and alleged that the expulsion of Entila and Tenazas was effected in accordance with its constitution and by-laws and because of their failure to respect the closed shop provision contained in the collective bargaining agreement.

In a decision rendered on March 29, 1961, Presiding Judge Jose S. Bautista, who was assigned to receive the evidence, found that the unfair labor practice charge was justified and so he decreed that Entila and Tenazas be reinstated to their former positions with payment of back wages from time of their dismissal, the judge stating that, since it was established that said employees performed the duties of supervisors, it was improper for them to join the FLO or any other rank and file union even if they may become members of a supervisors' union. And as this decision was affirmed by the Court of Industrial Relations en banc, the BISCOM interposed the present petition for review.

The issues posed by the parties when this case was submitted for decision after the presentation of their evidence were boiled down by the court a quo as follows: (1) Do Entila and Tenazas come within the scope of supervisory employees?; (2) Was their suspension and

expulsion by the FLO in accordance with due process?; (3) Is the closed shop provision contained in the collective bargaining agreement concluded on March 3, 1947 valid?; and (4) Was the dismissal of Entila and Tenazas legal?

Anent the first issue, the parties submitted both testimonial as well as documentary evidence, and after a detailed and minute analysis thereof, the court a quo found that Entila and Tenazas performed the duties of foremen or supervisors. In other words, contrary to the contention of the BISCOM, the court a quo became convinced that the duties performed by them were essentially those of foremen since they were given the right to recommend or suggest the disciplinary measures that should be taken against the erring employees. Indeed, the court said: "Within the purview of the legal definition of supervisor, both complainants (employees herein) had exercised the inherent powers as such when they were allowed by the company to make suggestions or recommendations for disciplinary matters on their men," and this conclusion is supported not only by testimonial evidence but by numerous exhibits.

The company now disputes this finding, but being a question of fact which is supported by substantial evidence, we are not now justified in inquiring into the matter.

Anent the second issue, the court a quo likewise found that Tenazas, being a member of the Board of Directors of the FLO, did not undergo an impeachment proceeding as provided in its by-laws relative to the action to be taken against an officer of the union, while Entila was not given proper hearing even if he was called before a lawyer of the union for investigation. The court found that during the alleged hearing not a single witness was presented as Entila was merely questioned regarding the contents of certain affidavits. In fact, the son of Entila who was a law student asked for postponement of the hearing so that he could prepare the defense of his father, but the request was denied. This is also a question of fact which we cannot now look into being supported by substantial evidence.

Concerning the collective bargaining agreement involved in the third issue, the company disputes the view taken by the court a quo that said collective bargaining agreement was illegal because it was

entered into with a union which was not certified by the court as the one chosen by the employees as their collective bargaining unit for, it is contended, such view ignores the fact that under the law there are four different ways under which a collective bargaining agreement may be entered into by an employer and his employees, one of them being when "a majority of the employees designate the labor organization it may choose to act as its representative for the purpose of collective bargaining, which it can do without court intervention, and the organization so designated may immediately conclude a collective bargaining agreement with the employer."

This contention may be correct if a majority of the employees should request the employer to designate certain labor union as their representative in order that it may conclude with it the necessary collective bargaining agreement, but this can only take place when there is no dispute as to what union counts in its membership with a majority of its employees for otherwise there would be need to file in court a petition for certification election, the reason for this requirement being that a labor union cannot on its own accord and responsibility determine by itself the question of majority membership. Here this is precisely the question in dispute when the Visayan Free Workers Union, one of the several unions existing in the BISCOM, filed a petition for certification election in order that the court may determine the union that has a majority representation, but notwithstanding this petition, which was joined by other legally existing unions, the BISCOM concluded with the FLO the disputed collective bargaining agreement. Said the court a quo on this matter:

> "However, the records show that before the execution of the contract on May 3, 1957, there was already a pending petition for certification election docketed as Case No. 3-MC-Iloilo which was filed by the Free Visayan Workers Union on December 8, 1956. Summons was served to the Binalbagan-Isabela Sugar Co., Inc. (BISCOM) on December 14, 1956 where a return of service was executed by a police officer of the Municipality of Binalbagan. A motion for intervention under the same case was filed by the Allied Workers Association on August 15, 1957 and another motion for intervention was filed by the Philippine Association of Free Labor Unions (PAFLU) on January 27, 1959. Based on these dates, it could be clearly said

> that there was already an issue of majority representation in the proper collective bargaining unit before the execution of the agreement on May 3, 1957. The filing of a petition for certification election raises a doubt as to the majority representation. Only the Court should resolve this point. The company or any interested union has no authority to resolve it as in this case, there were other unions apparently existing in the company aside from the FLO before May 3, 1957. The three or four contending unions were asserting their majority representation. The written affirmation made by the members of the FLO or their willingness to aide with the FLO for purposes of executing a collective bargaining agreement does not cure nor resolve the question of majority representation. Nevertheless, the company, despite the absence of any compelling necessity for dealing only with the FLO, executed a collective bargaining agreement on May 3, 1957. There was no cogent reason why it hurriedly executed such contract. It may be surmised that the company just relied on the different signatures of alleged members as the only factor that led to the execution of the contract of May 3, 1957. However, there was no positive proof that all the signatures obtained were genuine and freely given for such purpose. Precisely, the very reason why court's intervention is mandatory on cases of certification involving many unions in a particular unit is to assure freedom of choice through democratic proceedings. The Court frowns at unilateral determination of majority representation in a unit for this leads to either company domination or preference. In the case at bar, at least four (4) unions claim for majority, hence it is incumbent for the Court to determine and the company to defer its execution of a contract. The impact of company's preference with the FLO is revealing at the expense of other unions then existing."

Having reached the conclusion that the collective bargaining agreement in question was concluded not in accordance with law, we find no cogent reason for disturbing the decision of the Court of Industrial Relations.

WHEREFORE, the decision appealed from is affirmed, with costs against petitioner.

Bengzon, *C.J.*, Padilla, Labrador, Concepcion, Reyes, Barrera, Paredes, Dizon, Regala and Makalintal, *JJ.*, concur.
