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**SUPREME COURT
SECOND DIVISION**

**CONFEDERATION OF CITIZENS
LABOR UNIONS (CCLU) and REDSON
EMPLOYEES AND LABORERS
ASSOCIATION,**

Petitioners,

-versus-

**G.R. No. L-56902
September 21, 1982**

**HON. CARMELO C. NORIEL, OFFICER-
IN-CHARGE OF THE BUREAU OF
LABOR RELATIONS, MARGARITA C.
ENRIQUEZ, ELECTION SUPERVISOR
OF THE MINISTRY OF LABOR AND
EMPLOYMENT, ASSOCIATED LABOR
UNIONS (ALU) AND REDSON TEXTILE
MANUFACTURING CORPORATION,**

Respondents.

X-----X

DECISION

AQUINO, J.:

These Special Civil Actions of *Certiorari* and Prohibition deal with the alleged irregular holding of a certification election.

Petitioner Confederation of Labor Unions (CCLU) was one of the four unions wanting to be certified as the collective bargaining representative of the employees in the Redson Textile Manufacturing Corporation with place of business at Brixton Hill Street, Capitolyo, Pasig, Metro Manila. Its co-petitioner, the Redson Employees and Laborers Association, is a CCLU local in the said corporation.

The other unions aspiring to become the collective bargaining representative were the National Union of Garments Textile and General Workers of the Philippines (GATCORD), the National Trade Union (NATU) and the Associated Labor Unions (ALU).

On August 7, 1980, a certification election was held in the premises of the corporation from eight-twenty in the morning to five-thirty in the afternoon. Out of the 831 votes cast, CCLU garnered 356 votes; ALU, 338 votes; NATU, 82 votes and GATCORD, 42 votes. Eight votes were spoiled and five votes were challenged or segregated.

As no union obtained a majority vote, CCLU and ALU, which had the two largest number of votes, agreed in a pre-election conference on September 2, 1980 that a run-off election would be held on November 6, 1980 from six o'clock in the morning to six o'clock in the evening. CCLU requested that the certification election be conducted for two days but ALU objected to that request.

On November 6, 1980, Margarita C. Enriquez, Reynaldo F. de Luna and one Francisco, three election supervisors from the Ministry of Labor and Employment, arrived at around seven o'clock in the morning near the Redson Textile compound but they were not allowed by the security guard to enter the company premises in spite of the heavy rain. So, after consulting through the phone with their chief, a certain Attorney Padilla, the said election supervisors decided to hold the certification election "outside the premises of the company in a small store outside of the annex building" (Annex C, Rollo, p. 27). They used as ballot box "an improvised carton box." The union representatives did not object to the improvised polling place and ballot box.

Voting started at eleven o'clock. During the election and just before it was closed at six-thirty in the evening, the ALU representative,

Sebastian P. Taneo, executed a written protest or manifestation, alleging that the management of Redson Textile did not allow the run-off election to be held within its premises; that the company prevented fifty percent of the workers from voting by not allowing them to get out of the company premises and inducing them to work overtime; that its security guards “manhandled” the ALU vice-president and that their “active intervention” caused “chaos and confusion” for around thirty minutes; that the company refused to furnish election paraphernalia like the polling place and the ballot box and that the election supervisors declared the election closed in spite of ALU’s objection.

Taneo prayed that the votes should not be counted, that another day be scheduled for the continuation of the election and that the company be ordered to allow its workers to vote (Rollo, pp. 29-35).

At around seven-thirty in the evening, the votes cast were canvassed. Of the 692 votes cast, ALU got 366 votes as against CCLU’s 313 votes, or a margin of 53 votes. There were 1,010 voters. Because ALU won, its representative, Taneo, withdrew his protest or manifestation by writing on the minutes of the proceeding that his protest or manifestation was withdrawn “before the close of the proceedings”. On the other hand, the CCLU representatives refused to sign the minutes of the election.

On the following day, November 7, CCLU through its representative, Juan L. Fresnoza, filed with the Bureau of Labor Relations a protest wherein he prayed that the November 6 certification election as well as the “continuation of the election” on November 7 be annulled.

Fresnoza alleged that the previous day’s certification election was irregular and disorderly because (a) no booths were provided for by the company; (b) the election started much later than the hour agreed upon by the parties, and (c) ALU distributed white T-shirts printed with “ALU TAYO”, gave free tricycle rides to ALU voters and hired around fifteen husky men and around twenty-five women who “forced” voters to vote for ALU.

According to Fresnoza, when he and Oscar Sanchez, the acting president of Redson Employees and Laborers Association (RELA-

CCLU), protested against those activities before election supervisor Margarita C. Enriquez, the latter allegedly retorted, “Wala akong magagawa, magagalit na naman si Mr. Taneo” (Rollo, pp. 36-37).

On November 10, 1980, Fresnoza and Sanchez filed with the Bureau of Labor Relations a joint affidavit attesting to what transpired during the certification election as alleged in the aforesaid protest and added therein that when they protested before the election supervisors, the latter told them to “place their protest in writing so that they (supervisors) could consolidate the protests in their election report” (Rollo, pp. 38-39).

On February 19, 1981, CCLU informed the Bureau of Labor Relations that the election was conducted without regard to the provisions of section 6, Rule VI, Book V of the Rules and Regulations Implementing the Labor Code.

Carmelo C. Noriel, Officer-in-Charge of the Bureau of Labor Relations, in his resolution of February 26, 1981, dismissed CCLU’s protest for lack of merit. He observed that CCLU failed to submit the pleadings and evidences required in the hearing on January 19, 1981 and that CCLU failed to file a protest either “before or during the election proceeding” and therefore, pursuant to section 3, Rule VI, Book V of the aforementioned rules, CCLU is deemed to have waived its right to protest.

Noriel in his resolution of March 26, 1981, denying CCLU’s motion for reconsideration, certified ALU as the exclusive bargaining representative of the employees in Redson Textile Manufacturing Corporation.

On June 6, 1981 CCLU and RELA-CCLU filed the instant petition for certiorari and prohibition to annul the certification election. They complained that the certification election was conducted in violation of the following provisions of Rule VI, Book V of the Rules and Regulations Implementing the Labor Code:

“SEC. 6. Duties of representation officer. — Before the actual voting commences the representation officer shall inspect the polling place, the ballot boxes, and the polling booths to insure

secrecy of balloting. The parties shall be given opportunity to witness the inspection proceedings. After the examination of the ballot box, the representation officer shall lock it with three keys one of which he shall keep and the rest forthwith given one each to the employer's representative and the representative of the labor organization. If more than one union is involved, the holder of the third shall be determined by drawing of lots. The key shall remain in the possession of the representation officer and the parties during the entire proceedings and thereafter until all the controversies concerning the conduct of the election shall have been definitely resolved."

The Solicitor General in his comment contends that the certification election should be upheld because CCLU, by not filing a protest with the election supervisor before the close of the election proceeding, waived its right to protest (Sec. 3, Rule VI, Book V of Implementing Rules and Regulations).

We hold that the certification election is invalid because of certain irregularities such as that (1) the workers on the night shift (ten p.m. to six a.m.) and some of those in the afternoon shift were not able to vote, so much so that out of 1,010 voters only 692 voted and about 318 failed to vote (p. 88, Rollo); (2) the secrecy of the ballot was not safeguarded; (3) the election supervisors were remiss in their duties and were apparently "intimidated" by a union representative and (4) the participating unions were overzealous in wooing the employees to vote in their favor by resorting to such tactics as giving free tricycle rides and T-shirts.

The purpose of a certification election is to give the employees "true representation in their collective bargaining with an employer" (51 C.J.S. 969). That purpose was not achieved in the run-off election because many employees or union members were not able to vote and the employer, through apathy or deliberate intent, did not render assistance in the holding of the election.

It should be noted that ALU's written protest (later withdrawn) was based on the same grounds invoked by CCLU in its protest. That fact alone should have alerted Noriel to disregard the technicality that CCLU's protest was not filed on time.

WHEREFORE, the Resolutions of the Officer-in-Charge of the Bureau of Labor Relations dated February 26 and March 19, 1981 are hereby set aside. Another run-off certification election should be conducted inside the premises of Redson Textile Manufacturing Corporation. The management is ordered to allow all its employees to participate in the certification election and to assist in the holding of an orderly election. The election supervisors or representation officers are also enjoined to fulfill their duties under the Labor Code and the rules and regulations implementing the same.

SO ORDERED.

Barredo, J., (Chairman), Concepcion, Jr., Abad Santos and De Castro, JJ., concur.
Guerrero and Escolin, JJ., did not take part.