

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**ILAW AT BUKLOD NG MANGGAGAWA
(IBM) LOCAL NO. 56,**

Petitioner,

-versus-

**G.R. No. 84685
February 23, 1990**

**HON. PURA FERRER-CALLEJA, in her
capacity as Director, BUREAU OF
LABOR RELATIONS, and SAN MIGUEL
CORPORATION,**

Respondents.

X-----X

DECISION

GRÑO-AQUINO, J.:

This is a Special Civil Action of *Certiorari* with a prayer for the issuance of a writ of preliminary injunction to annul the orders dated February 22, 1988 and June 23, 1988, of the Med-Arbiter and the Bureau of Labor Relations (BLR), respectively, for the holding of a certification election in the Calasiao Beer Region of the San Miguel Corporation.

On September 7, 1987, petitioner Union, formerly registered with the Labor Organization Division of the Bureau of Labor Relations, as the

San Miguel Corporation Sales Force Union Calasiao Beer Region-IBM Local No. 56, a local union of Ilaw at Buklod ng Manggagawa (IBM), which is a national union, requested San Miguel Corporation for voluntary recognition as the sole and exclusive bargaining representative of all the covered employees which consist of the monthly-and daily-paid employees of the Calasiao Sales Office, now Dagupan Sales Office. As the territorial coverage of the Calasiao Beer Region embraces the regional sales office and the six (6) sales offices in Calasiao, Carmen, Alaminos, Tarlac, Cabanatuan and San Isidro, SMC denied the union's request and instead, suggested that it avail of a certification election. So, on November 27, 1987, SMC, through its North-Central Luzon Sales Operations Manager, filed a petition for certification election among the sales personnel of the Region only, excluding the daily-paid and monthly-paid employees, but including the sales offices of the entire beer region.

The Union filed a motion to dismiss alleging that the petition for certification election was premature as it did not ask SMC to bargain collectively with it. It cited Article 258 of the Labor Code which provides:

“ART. 258. When an employer may file petition. — When requested to bargain collectively, an employer may petition the Bureau for an election. If there is no existing certified collective bargaining agreement in the unit, the Bureau shall, after hearing, order a certification election.

“All certification cases shall be decided within twenty (20) working days.

“The Bureau shall conduct a certification election within twenty (20) days in accordance with the rules and regulations prescribed by the Secretary of Labor.”

On February 22, 1988, the Med-Arbiter issued an order, the dispositive portion of which reads as follows:

“IN VIEW OF ALL THE FOREGOING, let therefore, a certification election be conducted among the sales force personnel of the SMC-North Central Luzon Beer Region

covering the following sales offices: Dagupan City, Carmen, Alaminos, Tarlac, Cabanatuan and San Isidro, within twenty (20) days from receipt hereof with the following choices:

- “1. San Miguel Corporation Sales Force Labor Union Calasiao Beer Region — Ilaw at Buklod ng Manggagawa (IBM) Local No. 56;
- “2. No union.

Parties are hereby directed to attend a pre-election conference which shall be called by this Office one (1) week before the actual conduct of said election, with corresponding notices to be sent to them.” (p. 6, Rollo.)

Petitioner appealed the order to the Bureau of Labor Relations (BLR) which denied the appeal on June 23, 1988 for lack of merit. Hence, this petition for *certiorari* alleging that the Director of the BLR gravely abused her discretion in ordering the holding of a certification election. Parenthetically, the certification election was actually conducted on September 19, 1988 resulting in “NO UNION” as the winner.

The petition has no merit. Ordinarily, in an unorganized establishment like the SMC Calasiao Beer Region, it is the union that files a petition for a certification election if there is no certified bargaining agent for the workers in the establishment. If a union asks the employer to voluntarily recognize it as the bargaining agent of the employees, as the petitioner did, it in effect asks the employer to certify it as the bargaining representative of the employees — a certification which the employer has no authority to give, for it is the employees’ prerogative (not the employer’s) to determine whether they want a union to represent them, and, if so, which one it should be.

The petitioner’s request for voluntary recognition as the bargaining representative of the employees was in effect a request to bargain collectively, or the first step in that direction, hence, the employer’s request for a certification election was in accordance with Article 258

of the Labor Code, and the public respondents did not abuse their discretion in granting the request.

WHEREFORE, the Petition for *Certiorari* is dismissed for lack of merit. Costs against the petitioner.

SO ORDERED.

Narvasa, Gancayco and Medialdea, JJ., concur.
Cruz, J., took no part.

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