SUPREME COURT
FIRST DIVISION

KAISAHAN NG MANGGAGAWANG PILIPINO (KAMPIL-KATIPUNAN),
***Petitioner*,**

-versus-

G.R. No. 75810
September 9, 1991

HON. CRESENCIANO B. TRAJANO, IN HIS CAPACITY AS DIRECTOR, BUREAU OF LABOR RELATIONS, AND VIRON GARMENTS MFG., CO., INC.,
***Respondents*.**
x----------x

R E S O L U T I O N

NARVASA, *J.*:

The propriety of holding a certification election is the issue in the special civil action of *certiorari* at bar.

By virtue of a Resolution of the Bureau of Labor Relations dated February 27, 1981, the National Federation of Labor Unions (NAFLU) was declared the exclusive bargaining representative of all rank-and-file employees of Viron Garments Manufacturing Co., Inc. (VIRON).

More than four years thereafter, or on April 11, 1985, another union, the Kaisahan ng Manggagawang Pilipino (KAMPIL-Katipunan) filed with the Bureau of Labor Relations a petition for certification election among the employees of VIRON. The petition allegedly counted with the support of more than thirty percent (30%) of the workers at VIRON.

NAFLU opposed the petition, as might be expected. The Med-Arbiter however ordered, on June 14, 1985, that a certification election be held at VIRON as prayed for, after ascertaining that KAMPIL had complied with all the requirements of law and that since the certification of NAFLU as sole bargaining representative in 1981, no collective bargaining agreement had been executed between it and VIRON.

NAFLU appealed. It contended that at the time the petition for certification election was filed on April 11, 1985, it was in process of collective bargaining with VIRON; that there was in fact a deadlock in the negotiations which had prompted it to file a notice of strike; and that these circumstances constituted a bar to the petition for election in accordance with Section 3, Rule V, Book V of the Omnibus Rules Implementing the Labor Code,[1] reading as follows:

> "SEC. 3. When to file. — In the absence of a collective bargaining agreement submitted in accordance with Article 231 of the Code, a petition for certification election may be filed at any time. However, no certification election may be held within one year from the date of issuance of declaration of a final certification election result. Neither may a representation question be entertained if, before the filing of a petition for certification election, a bargaining deadlock to which an incumbent or certified bargaining agent is a party had been submitted to conciliation or arbitration or had become the subject of a valid notice of strike or lockout.
>
> If a collective bargaining agreement has been duly registered in accordance with Article 231 of the Code, a petition for certification election or a motion for intervention can only be entertained within sixty (60) days prior to the expiry date of such agreement."

Finding merit in a NAFLU's appeal, the Director of Labor Relations rendered a Resolution on April 30, 1986 setting aside the Med-Arbiter's Order of June 14, 1985 and dismissing KAMPIL's petition for certification election. This disposition is justified in the Resolution as follows.

> "While it may be true that the one year period (mentioned in Section 3 above quoted) has long run its course since intervenor NAFLU was certified on February 27, 1981, it could not be said, however, that NAFLU slept on its right to bargain collectively with the employer. If a closer look was made on the history of labor-management relations in the company, it could be readily seen that the delay in the negotiations for and conclusion of a collective agreement — the object of the one-year period could be attributed first, on the exhaustion of all legal remedies in the representation question twice initiated in the company before the filing of the present petition and second, to management who had been resisting the representations of NAFLU in collective bargaining.
>
> The one-year period therefore, should not be applied literally to the present dispute, especially considering that intervenor had to undergo a strike to bring management to the negotiation table."

KAMPIL moved for reconsideration, and when this was denied, instituted in this Court the present *certiorari* action.

It is evident that the prohibition imposed by law on the holding of a certification election "within one year from the date of issuance of declaration of a final certification election result" — in this case, from February 27, 1981, the date of the Resolution declaring NAFLU the exclusive bargaining representative of rank-and-file workers of VIRON — can have no application to the case at bar. That one-year period — known as the "certification year" during which the certified union is required to negotiate with the employer, and certification election is prohibited[2] — has long since expired.

Thus the question for resolution is whether or not KAMPIL's petition for certification election is barred because, before its filing, a bargaining deadlock between VIRON and NAFLU, as the incumbent bargaining agent, had been submitted to conciliation or arbitration or had become the subject of a valid notice of strike or lockout, in accordance with Section 3, Rule V, Book V of the Omnibus Rules above quoted.

Again it seems fairly certain that prior to the filing of the petition for election in this case, there was no such "bargaining deadlock (which) had been submitted to conciliation or arbitration or had become the subject of a valid notice of strike or lockout." To be sure, there are in the record assertions by NAFLU that its attempts to bring VIRON to the negotiation table had been unsuccessful because of the latter's recalcitrance, and unfulfilled promises to bargain collectively;[3] but there is no proof that it had taken any action to legally coerce VIRON to comply with its statutory duty to bargain collectively. It could have charged VIRON with unfair labor practice; but it did not. It could have gone on a legitimate strike in protest against VIRON's refusal to bargain collectively and compel it to do so; but it did not. There are assertions by NAFLU, too, that its attempts to bargain collectively had been delayed by continuing challenges to the resolution pronouncing it the sole bargaining representative in VIRON; but there is no adequate substantiation thereof, or of how it did in fact prevent initiation of the bargaining process between it and VIRON.

The stark, incontrovertible fact is that from February 27, 1981 — when NAFLU was proclaimed the exclusive bargaining representative of all VIRON employees — to April 11, 1985 — when KAMPIL filed its petition for certification election or a period of more than four (4) years, no collective bargaining agreement was ever executed, and no deadlock ever arose from negotiations between NAFLU and VIRON resulting in conciliation proceedings or the filing of a valid strike notice.

The respondents advert to a strike declared by NAFLU on October 26, 1986 for refusal of VIRON to bargain and for violation of terms and conditions of employment, which was settled by the parties' agreement, and to another strike staged on December 6, 1986 in connection with a claim of violation of said agreement, a dispute

which has since been certified for compulsory arbitration by the Secretary of Labor & Employment.[4] Obviously, however, these activities took place after the initiation of the certification election case by KAMPIL, and it was grave abuse of discretion to have regarded them as precluding the holding of the certification election thus prayed for.

WHEREFORE, it being apparent that none of the proscriptions to certification election set out in the law exists in the case at bar, and it was in the premises grave abuse of discretion to have ruled otherwise, the contested Resolution of the respondent Director of the Bureau of Labor Relations dated April 30, 1986 in BLR Case No. A-7-139-85 (BZEO-CE-04-004-85) is **NULLIFIED AND SET ASIDE**. Costs against private respondent.

SO ORDERED.

Cruz, Griño-Aquino and Medialdea, *JJ.*, concur.

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[1] As amended by Sec. 3, Rules Implementing Batas Pambansa Bilang 130.
[2] SEE Sec 1, Rule 3, Rules and Regulations Implementing PD 1391.
[3] Comment filed by public respondent himself dated Sept. 14, 1987 (Rollo, pp. 60, 63) in view of the refusal of the Solicitor General to do so (Rollo, pp. 34-44).
[4] Rollo, p. 63.
