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SUPREME COURT
SECOND DIVISION

KAPISANAN NG MGA MANGGAGAWA SA LA SUERTE-FOITAF,
***Petitioner*,**

-versus-

G.R. No. L-45475
June 20, 1977

THE HONORABLE CARMELO C. NORIEL, IN HIS CAPACITY AS DIRECTOR OF THE BUREAU OF LABOR RELATIONS, ALL OFFICERS ACTING IN HIS BEHALF AND FEDERACION OF FREE WORKERS (FFW-LA SUERTE CHAPTER),
***Respondents*.**

x---x

D E C I S I O N

FERNANDO, *J.*:

It is now settled rule that under the present Labor Code,[1] if lack of power or arbitrary or improvident exercise of authority be shown, thus giving rise to a jurisdictional question, this Court may, in appropriate certiorari proceedings, pass upon the validity of the decisions reached by officials or administrative agencies in labor controversies. So it was assumed in Maglasang vs. Ople.[2] It was

explicitly announced in San Miguel Corporation vs. Secretary of Labor,[3] the opinion being penned by Justice Aquino. Accordingly, cases of that character continue to find a place in our docket.[4] The present suit is of that category. Petitioner labor union would impugn the holding of a certification election ordered by respondent Director of Bureau of Labor Relations, Carmelo C. Noriel,[5] it being alleged that there was a failure to comply with the thirty percent requirement in the petition for certification and that it was filed after the sixty-day period provided for by law. In the comment of Acting Solicitor General Vicente V. Mendoza, treated as the answer, it was pointed out that the first objection was factual, the determination by respondent Noriel being entitled to respect and that the other was not supported by a reasonable interpretation of the sixty-day period being unduly restrictive and failing to carry out its basic purpose. The weakness of the petition is thus apparent. Certiorari does not lie. The certification election must be held.

The facts are undisputed. On February 6, 1976, private respondent Federation of Free Workers, La Suerte Chapter, filed a petition for certification election alleging that out of a bargaining unit of more or less 3,500, there were 1,068 signatories. The previous certified collective bargaining agreement between the employer La Suerte Cigar and Cigarette Factory and petitioner labor union terminated on December 5, 1975. There was, eleven days later, a motion to intervene filed by petitioner followed on March 1, 1976 by a motion to dismiss on the ground that respondent Union had not complied with the thirty percent consent requirement and that the petition for certification was filed beyond the sixty-day period to the expiration of the collective bargaining contract. When a few days later the employer submitted a list of the rank and file employees numbering 4,055, private respondent countered with an additional list of signatories, 331 in number, making a total of 1,399 signatories. Private respondent thereafter opposed the motion to dismiss, stating that there was compliance with the thirty percent consent requirement and that the filing was within the period allowed by law. On April 6, 1976, Med-Arbiter Eusebio M. Jimenez issued an order denying the motion to dismiss and granting the petition for certification election filed by private respondent, the choice being between petitioner and respondent unions, with employees likewise being given the opportunity to vote for "No Union." An appeal was

taken to respondent Noriel as Director of the Bureau of Labor Relations. Then came on October 23, 1976 an order from him, the dispositive portion of which is to the effect that the appeal was denied. A motion for reconsideration having proved futile, this petition for certiorari was filed.

As stated at the outset, there is no showing of arbitrary or improvident exercise of authority to justify granting the writ of certiorari. The petition must be dismissed.

1. The present Labor Code, as the former Industrial Peace Act, rightfully stresses the importance of a certification election to ascertain which labor union should be the collective bargaining agent and thus assure the success of the collective bargaining procedure. This excerpt from the recent case of Philippine Association of Free Labor Unions vs. Bureau of Labor Relations[6] finds pertinence: "Petitioner thus appears to be woefully lacking in awareness of the significance of a certification election for the collective bargaining process. It is the fairest and most effective way of determining which labor organization can truly represent the working force. It is a fundamental postulate that the will of the majority, if given expression in an honest election with freedom on the part of the voters to make their choice, is controlling. No better device can assure the institution of industrial democracy with the two parties to a business enterprise, management and labor, establishing a regime of self-rule. As was pointed out by Chief Justice Castro in Rivera vs. San Miguel Brewery Corporation, Inc., 'a collective bargaining agreement is the law of the plant.' To the same effect is this explicit pronouncement in Mactan Workers Union vs. Aboitiz: 'The terms and conditions of a collective bargaining contract constitute the law between the parties.' What could be aptly stressed then, as was done in Compania Maritima vs. Compania Maritima Labor Union, is 'the primacy to which the decision reached by the employees themselves is entitled.' Further, it was therein stated: 'That is in the soundest tradition of industrial democracy. For collective bargaining implies that instead of a unilateral imposition by management, the terms and conditions of employment

should be the subject of negotiation between it and labor. Thus the two parties indispensable to the economy are supposed to take care of their respective interests. Moreover, the very notion of industrial self-rule negates the assumption that what is good for either party should be left to the will of the other. On the contrary, there is an awareness that labor can be trusted to promote its welfare through the bargaining process. To it then must be left the choice of its agent for such purpose.' There is, it would appear, a decidedly unsympathetic approach by petitioner to the institution of collective bargaining at war with what has so often and so consistently decided by this Tribunal."[7] The above principle has been adhered to in subsequent decisions of this Court.[8]

2. The objection of petitioner as to the alleged lack of the thirty percent requirement in the number of signatories according to the present Labor Code is without merit.[9] Private respondent, as noted in the comment, "filed the petition for certification supported by 1,068 signatories of the employees of the employer or more than 30% of the 3,500 rank and file employees of the employer. After the petition was filed, the employer however submitted a list of its regular rank and file employees with a total number of 4,055. Private respondent, in order to comply with the 30% consent requirement, submitted an additional list of 331 rank and file employees. Thus, the signatories totalled 1,399 or more than 30% of the 4,055 employees."[10] Even if, as contended by petitioner, there were among the signatories submitted 105 falsified or double entries and 7 came from those not qualified to vote or a total of 112, that would still leave 1,287 signatories or more than thirty percent of the 4,055 employees.[11] The matter is thus essentially factual in character, the determination by respondent Noriel being entitled to respect.[12]

3. Any rate, as again noted in the comment, petitioner did miss the point that such a requirement of thirty percent of all the employees in the bargaining unit is relevant only when it becomes mandatory for respondent Noriel to conduct a certification election. So Article 258 explicitly provides. Petitioner ignored that respondent Noriel is likewise

possessed of discretionary power whether or not a certification election should be held. In such a case, there is no such thirty percent requirement. So it was held in the above Philippine Association of Free Labor Unions decision. Thus: "Petitioner would minimize its failure to abide by what is settled law by invoking this provision in the New Labor Code: 'Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least 30% of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit.' It cannot change the outcome. It does not suffice to impress the petition with merit. Petitioner's contention to the effect that the 30% requirement should be satisfied suffers from an even graver flaw. If fails to distinguish between the right of a labor organization to be able to persuade 30% of the labor force to petition for a certification election, in which case respondent Bureau is left with no choice but to order it, and the power of such governmental agency precisely entrusted with implementation of the collective bargaining process to determine, considering the likelihood that there may be several unions within a bargaining unit, to order such an election precisely for the purpose of ascertaining which of them shall be the exclusive collective bargaining representative. The decision of respondent Bureau of April 14, 1975 was intended for that purpose. *** To reiterate a thought already expressed, what could be more appropriate than such a procedure if the goal desired is to enable labor to determine which of the competing organizations should represent it for the purpose of a collective bargaining contract?"[13]

4. Nor was there any improvident or arbitrary exercise of authority when respondent Noriel ordered the certification election after the lapse of the sixty-day period provided for by law. The law cannot be any clearer. It argues against the

> pretension of petitioner. According to the Labor Code: "No certification election issue shall be entertained by the Bureau in any collective bargaining unit if a collective bargaining agreement exists between the employer and a legitimate labor organization, except within sixty (60) days prior to the expiration of the life of such certified collective bargaining agreement."[14] No other meaning can be attached to such provision, as applied to the present situation, except that the former collective bargaining agreement having expired on December 5, 1975, sixty days prior to that date, a petition for certification election could have been filed. It does not mean that after December 5, 1975, no such petition could be entertained by respondent Noriel, provided there was no certified collective bargaining agreement that had taken its place. It is undisputed that no subsequent certified collective contract was in existence at the time the petition for holding the certification election was filed by respondent union on February 6, 1976. There was no legal bar then to such a move. Moreover, the restrictive interpretation sought to be fastened on such a provision by petitioner would set at naught the basic objective of the Labor Code to institute a true system of industrial democracy, through the collective bargaining process with the representative of labor chosen after a free and honest certification election. This Court then is not prepared to accept the theory of petitioner, which is not only unsound in theory but pernicious in its consequences.

WHEREFORE, the Petition for *Certiorari* is dismissed. Respondent Noriel is directed to set the date for the holding of the certification election. This decision is immediately executory.

Barredo, Antonio, Aquino and Fernandez, *JJ.*, concur.
Concepcion Jr., *J.*, is on leave.

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[1] Presidential Decree No. 442, as amended (1974).
[2] L-38813, April 29, 1975, 63 SCRA 508.
[3] L-39195, May 16, 1975, 64 SCRA 56.

[4] Cf. United Employees Union of Gelmart Industries vs. Noriel, L-40810, Oct. 3, 1975, 67 SCRA 267; Scott vs. Inciong, L-38868, Dec. 29, 1975, 68 SCRA 473; Philippine Association of Free Labor Unions vs. Bureau of Labor Relations, L-42115, Jan. 27, 1976, 69 SCRA 132; Mafinco Trading Corporation vs. Ople, L-37790, March 25, 1976, 70 SCRA 139; Philippine Labor Alliance Council vs. California Employees Labor Union, L-42155, May 31, 1976, 71 SCRA 214; Federacion Obrera vs. Noriel, L-41937, July 6, 1976, 72 SCRA 24; Foamtex Labor Union vs. Noriel, L-42359, Aug. 17, 1976, 72 SCRA 371; Philippine Association of Free labor Unions vs. Bureau of Labor Relations, L-43760, Aug. 21, 1976, 72 SCRA 396; Station DYRH vs. Noriel, L-43731, Oct 5, 1976, 73 SCRA 330; U.E. Automotive Employees vs. Noriel, L-44350, Nov. 25, 1976; Philippine Labor Alliance vs. Bureau of Labor Relations, L-41288, Jan. 31, 1977; Today's Knitting Free Workers Union vs. Noriel, L-45057, Feb. 28, 1977; Benguet Exploration Miners Union vs. Noriel, L-44110, March 29, 1977.

[5] The private respondent is Federation of Free Workers (FFW-La Suerte Chapter).

[6] L-42115, January 27, 1976, 69 SCRA 132.

[7] Ibid, 139-140. Rivera, L-26197, July 20, 1968, is reported in 24 SCRA 86; Mactan Workers Union, L-30241, June 30, 1972, in 45 SCRA 517; Compania Maritima, L-29504, Feb. 29, 1972, in 43 SCRA 464. Reference was made to fourteen cases starting from PLDT Employees Union vs. PLDT Co., 97 Phil. 424 (1955) to Phil. Communications Workers Federation vs. Court of Industrial Relations, L-34531, March 29, 1974, 56 SCRA 480.

[8] Cf. Federacion Obrera vs. Noriel, L-41937, July 6, 1976, 72 SCRA 24; U.E. Automotive Employees and Workers Union-Trade Unions of the Philippines and Allied Services vs. Noriel, L-44350, Nov. 27, 1976; Philippine Labor Alliance Council vs. Bureau of Labor Relations, L-41288, Jan. 31, 1977; Today's Knitting Free Workers Union vs. Noriel, L-45057, Feb. 28, 1977; Benguet Exploration Miners' Union vs. Noriel, L-44110, March 29, 1977.

[9] Article 258 of the Labor Code reads as follows: "Requisites for certification election. — Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least thirty percent (30%) of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."

[10] Comment of Acting Solicitor General Vicente V. Mendoza, 6-7.

[11] Cf. Ibid, 7.

[12] Cf. Antipolo Highway Lines vs. Inciong, L-38523, June 27, 1975, 64 SCRA 441; Jacqueline Industries vs. National Labor Relations Commission, L-37034, Aug. 29, 1975, 66 SCRA 397; Federacion Obrera vs. Noriel, L-41937, July 1976, 72 SCRA 24.

[13] 69 SCRA 132. 140-141.

[14] Article 257 of the Labor Code, 2nd par.

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