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SUPREME COURT
EN BANC

KAPISANAN NG MGA MANGGAGAWA SA MANILA RAILROAD COMPANY,
***Petitioner*,**

-versus-

G.R. No. L-12336
November 28, 1959

COURT OF INDUSTRIAL RELATIONS, ET AL.,
***Respondents*.**
x---x

D E C I S I O N

PADILLA, *J*.:

On 7 March 1955 the Kapisanan Ng Mga Manggagawa sa Manila Railroad Company filed a petition in the Court of Industrial Relations under section 12, Republic Act No. 875, alleging that it is one of the eight labor organizations with which the employees and workers of the Manila Railroad Company are affiliated; that within twelve months prior to the filing of the petition, no certification or election has been made or ordered by the Court designating or selecting the labor organization that will act as the exclusive collective bargaining representative of the employees and workers of the said Company; and that in view of the existence of eight labor organizations in the same Company, there is a necessity for designating or selecting the

labor organization for the purpose stated. It prayed that after investigation, the Court certify to the parties in writing the name of the collective bargaining representative designated or chosen from among the eight labor organizations of employees and laborers working in the Company or, if there be any doubt as to whom they had chosen as their representative for the purpose of collective bargaining, the Court order that a certification election be held by the employees and workers for the purpose of selecting their collective bargaining representative (Case No. 237-MC, Annex A).

On 18 March 1955 the Manila Railroad Labor Federation filed an answer claiming that it is the only labor organization or the appropriate union, and not any of the eight labor organizations named by the petitioner union, that can legally act for all or for the members of the union concerned as the exclusive collective bargaining representative of the employees and laborers working in the Company; that there is no urgent need for holding a certification election because there are no pending demands from the employees and workers; that the petitioner union is represented by one who is ineligible to become a member of that union because of the supervisory nature of the position he holds in the Company; that the petitioner union being a member of the Manila Railroad Labor Federation is estopped from demanding that it be designated as the exclusive bargaining representative of the employees and workers; and that should the Court order the holding of a certification election, the Federation be recognized as the collective bargaining unit to represent at such election all the employees and workers affiliated with it through its different labor union members. The Federation prayed that the petition or certification election be denied, or if it should be granted, that it be allowed to participate in the election as a unit representing the employees and workers of the Company (Annex B).

On 23 March 1955 the Manila Railroad Company filed an answer claiming that a large number of its employees and workers are "supervisors" within the meaning of section 2(k), Republic Act No. 875, who are ineligible for membership in a labor organization of employees like the petitioner union and the others existing in the Company and cannot participate and vote at such election, pursuant to section 3 of the same Act; that Vicente K. Olazo, president of the

petitioner union, who subscribed the petition or certification, is assistant chief, signal & electrical division of the Company, a supervisor, and for that reason he is ineligible for membership in the petitioner union; that the supervisors ineligble for membership in the different labor organizations existing in the Company should first be ascertained and segregated to prevent them from participating and voting at the "certification election" prayed for; that a majority of the members of the petitioner union is also affiliated with other labor organizations; that while the petitioner union claims to have a membership of 3,014, it cannot be taken as a conclusive proof that they all desire to be represented by the petitioner union for purposes of collective bargaining with the Company; and that under the circumstances, the question as to who should be the proper collective bargaining representative of all the employees and workers could only be determined by holding a certification election. It prayed that the petition for certification election be denied; that, in lieu thereof, the supervisors ineligible for membership in the various labor organizations be ascertained; and that after such ascertainment if the Court be of the opinion that a certification election is still necessary it order the holding thereof (Annex C.).

On 11 May 1955 the petitioner union filed a reply to the answer of the Federation denying that there are no pending labor demands submitted by it to the Company, the truth being that they have not yet been satisfactorily settled and are the subject of pending negotiations, and that the position its president is holding in the Company is supervisory in nature; and claiming that since 6 March 1955 the petitioner union has severed its connection with the Federation, and cannot be compelled to continue its affiliation with the Federation and be bound by the resolution of 16 March 1954 to which it was not a party; that as the Federation is a company controlled and dominated union it has forfeited its right, if any, to be certified as the collective bargaining representative of the employees and workers; and that in a secret ballot election the seven unions allegedly composing the Federation cannot be joined to form a unit for the purpose of being certified as a collective bargaining representative but should be considered as separate individual unions. It prayed that the Federation be declared disqualified to be certified as a collective bargaining representative of the employees and workers or to participate in the secret ballot election (Annex D).

After hearing, on 29 September 1956 the Court held that Vicente K. Olazo who is holding the position of assistant electrical and signal superintendent in the Company, is a supervisor ineligible for membership in the petitioner union, and rendered judgment as follows:

1. The locomotive drivers, firemen, assistant firemen and motormen of the Company are hereby declared a separate appropriate collective bargaining unit and the Union de Maquinistas, Fogoneros, Ayudantes y Motormen is certified as their exclusive representative for collective bargaining purposes;

2. The conductors, assistant conductors, route agents, assistant route agents, and train porters, are also hereby declared a separate appropriate collective bargaining unit purposes (?); and

3. The rest of the Company's personnel, except the supervisors, the temporary employees, the members of the Auditing Department, the members of the security group, and the professional and technical employees hereinabove enumerated, are hereby declared a separate collective bargaining unit and the Kapisanan Ng Mga Manggagawa sa Manila Railroad Company is hereby certified as their exclusive representative for collective bargaining purposes. (Annex E.)

The petitioner filed a motion for reconsideration of the decision by the Court in banc. In its motion it specifically sought a reconsideration of the decision —

> Only insofar as it holds Vicente K. Olazo, president of petitioner union, a supervisor within the meaning of Section 2(k) of Republic Act No. 875, on the ground that said ruling is contrary to the facts proven at the hearings as well as to the letter, intent and purpose of Republic Act No. 875. (Annex F.)

The petitioner filed a memorandum in support of its motion for reconsideration (Annex F-1). On 16 January 1957, the Court, sitting in banc denied the motion for reconsideration. Three associate judges voted to deny while the presiding judge and one associate judge voted to grant the motion to reconsider the part of the decision already stated (Annexes G & G-1). The petitioner has appealed. In its notice of appeal, it stated that it appeals —

> From the Resolution of the Court en banc dated January 16, 1957 denying petitioner's motion for reconsideration of the decision of the trial Court dated September 29, 1956, which resolution was received by petitioner on May 7, 1957, to the Honorable Supreme Court through a petition for review by certiorari; within the statutory period, on the ground that said resolution and decision are contrary to law. (Annex H.)

This petition for review is only concerned with the case of Vicente K. Olazo.

Section 3, Republic Act No. 875, provides:

> Employees shall have the right to self-organization and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. Individuals employed as supervisors shall not be eligible for membership in a labor organization of employees under their supervision but may form separate organizations of their own.

Section 2, clause (k), defines the term "supervisors" as —

> Any person having authority in the interest of an employer, to hire, transfer, suspend, lay-off, recall, discharge, assign, recommend, or discipline other employees, or responsibly to direct them, and to adjust their grievances, or effectively to recommend such acts if, in connection with the foregoing, the exercise of such authority is not of a merely routinary or clerical nature but requires the use of independent judgment.

With respect to Vicente K. Olazo, the Court found and held as follows:

Let us now take the case of Vicente K. Olazo, president of the petitioner union. Since 1946, he has been occupying the position of assistant electrical and signal superintendent and as such, he is the assistant head of the signal and electrical division. He receives a salary of P4,500.00 per annum.

Joaquin Romillo, Chief Engineer and head of the engineering department to which the electrical and signal division belongs, testified that Olazo has around sixty men under him in the said division; that he (Olazo) can recommend the promotion and the disciplining of his subordinates and such recommendation carries considerable weight; that he can assign work and effectively direct the work of his subordinates; that he acts as Superintendent in the absence of the latter and in fact he has acted more or less ten times as such during the last three years.

Geronimo Genilo, electrical and signal superintendent, and immediate superior of Olazo, identified the signatures appearing in Exhs. "10-Co." to "10-11-Co." to be that of Olazo and stated that he has given the standing authority to Olazo to issue the same. These exhibits appear to be "work orders" directed to his subordinates and signed by Olazo in his capacity as assistant superintendent.

On the witness stand, Olazo denied that he has the power to recommend the disciplining, promotion or transfer of any employee under him or that he could effectively direct the work of his subordinates.

The work of Olazo can be seen in Exh. "8-4-Company" which is the "Job Description Questionnaire" prepared and submitted by him to the Wage and Position Classification Office of the Budget Commission. In the item "Statement of Duties", it appears that 50% of his working time is used "to assist the Signal and Communication (now Electrical) Superintendent to maintain a sound and efficient Communications, (Telegraph and Telephone) signal, and switches including crossing gates for safe operation of trains, and to maintain good electrical installations; 25% "to execute orders designated by the

Superintendent especially for the inspection of communication lines, switches, signals, crossing gates and electrical installations throughout the line"; 20% to take charge of the division and do the work of the superintendent in case latter is on sick or vacation leave"; and the remaining 15% to "other office routinary work."

In the item "NAMES OR TITLES OF THOSE YOU SUPERVISE (if more than seven (7), list only the numbers and titles of those you supervise)", Olazo wrote the following: "Lineman Supervisors and their men, Jr. Communication Engineer and his men and Junior Signal Engineers and his men."

This document was prepared by him on July 15, 1955, i.e., during the pendency of this case, and the same was certified as correct by his immediate superior, Gerónimo Genilo, and by the Chief Engineer, Joaquin Romillo, who is the head of the engineering department. These two immediate superiors of Olazo also testified that the same duties are still exercised by him at present.

It is, however, contended by the petitioner that by virtue of a memorandum dated July 6, 1954 issued by the chief engineer, Romillo, to the division engineers, road master, superintendent of buildings and bridges and the electrical and signal superintendent (Exhibits "R" and "R-1"-, the supervision and control of the linemen and linemen supervisors, originally under the signal and electrical division is now being undertaken by the division engineers, leaving to the electrical and signal division only the planning, programming and research. On the other hand, Romillo pointed out in his testimony that the memorandum mentioned by the petitioner affected only the "field men" which refers to linemen and linemen supervisors but not the signal men, electricians, and electrical supervisors who still remain under the control and supervision of the signal and electrical division. Romillo further testified that the said memorandum was issued by him to coordinate the work of the signal and electrical division with that of the Division Engineers and Roadmaster and that said division was not completely deprived of its supervision over the linemen and linemen supervisors.

We are inclined to believe this testimony because of what Mr. Olazo himself wrote in Exh. "8-4-Company" to the effect that he (Olazo) has

supervision, among others, over the "linemen supervisors and their men". The said exhibit was prepared by Olazo very much later than the issuance of the memorandum (Exh. "R").

No valid reason has been presented why we ought to discredit the testimony of Messrs. Romillo and Genilo. In fact, it appears that the latter is also a member of the petitioner union.

Under the circumstances, we conclude that Vicente K. Olazo is a supervisor.

After a careful study of the facts as found by the Court of Industrial Relations, we find no reason for disturbing the conclusion drawn therefrom.

The part of the judgment appealed from is affirmed, with costs against the petitioner.

Paras, *C.J.*, Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, Endencia, Barrera and Gutierrez David, *JJ.*, concur.

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