

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**LA TONDEÑA WORKERS UNION,  
*Petitioner,***

***-versus-***

**G.R. No. 96821  
December 9, 1994**

**THE HONORABLE SECRETARY OF  
LABOR AND EMPLOYMENT, and HON.  
PURA FERRER-CALLEJA, in her  
capacity as Director, Bureau of Labor  
Relations,**

***Respondents.***

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**DECISION**

**MENDOZA, J.:**

This is a Petition for Certiorari to set aside Orders and the Decision of respondent Director of the Bureau of Labor Relations (BLR) and Secretary of Labor and Employment in BLR-AE-8-18-89, finding Ramon de la Cruz and Norma Marin, president and treasurer respectively of petitioner La Tondeña Worker's Union (LTWU), accountable for union funds in the amount of P367,553.00.

Petitioner LTWU is a duly registered labor organization. For more that thirty years it was bargaining agent of the rank-and-file workers

of La Tondeña Inc. at its Tondo Plant. On May 31, 1989 it lost in a certification election to the Ilaw at Buklod ng Manggagawa (IBM).

It appears that, on March 14, 1989, about 200, out of 1,015 members of petitioner, petitioned the National Capital Region Office of the Department of Labor and Employment (hereafter referred to as DOLE-NCR) for an audit or examination of the funds and financial records of the union. Accordingly an audit was ordered and, on April 17, 1989, the acting auditing examiner of the DOLE-NCR, Nepomuceno Leño II, submitted a report finding Ramon de la Cruz and Norma Marin accountable for P367,553.00 for union dues remitted by La Tondeña Inc. to LTWU.

De la Cruz and Marin appealed to them DOLE Secretary Franklin Drilon, complaining that they had not been heard before the report was made. The case was indorsed to the respondent Director of the Bureau of Labor Relations, who, on August 7, 1989, directed the DOLE-NCR to forward to the BLR the records of the case.

In her order dated September 29, 1989, the respondent BLR Director found that indeed De la Cruz and Marin had not been heard before they were held liable for union funds. For this reason she set aside the findings and recommendations of the DOLE-NCR and ordered another audit/examination to be conducted. The dispositive portion of her order stated:

WHEREFORE, premises considered, the findings / recommendations of the National Capital Region contained in the letter of NCR Director Luna C. Piezas to Teodoro Monleon, et al. petitioners, dated 11 May 1989 are hereby set aside.

Accordingly, the Labor Relations and Reporting Division (LRRD), this Bureau is hereby directed to conduct an audit/examination of the books of accounts and other financial records of La Tondeña Workers Union (LTWU) for the period of 1986 to February 1989.

SO ORDERED.

Petitioner moved for a reconsideration of the order insofar as it ordered an audit/examination of books of accounts and financial records. It argued that certain requirements of art. 274 of the Labor Code, as amended by R.A. 6715, must first be complied with before an audit/examination could be ordered, to wit: (1) there must be a sworn written complaint, (2) it must be supported by at least 20% of the total membership of the union and (3) it must not have been conducted during the freedom period nor within the 30 days immediately preceding the date of election of union officials.

Petitioner's motion was denied by the BLR in a resolution dated December 1, 1989. Ramon de la Cruz, Danilo Manrique, Arturo Bautista and Norma Marin were ordered to submit "all financial records and related documents of the union for the period 1986 to February 1989 within ten (10) days from receipt of this order."

The union, through its new president, Danilo Manrique, again moved for a reconsideration, this time raising a jurisdictional question: That under art. 274 of the Labor Code, as amended by Republic Act No. 6715, the power to order an examination of the books of accounts and financial activities of a union is vested in the Secretary of Labor and Employment or his representative and the BLR can not be considered the Secretary's representative. In its order of January 22, 1990, however, the BLR denied petitioner's motion, even as it reiterated its previous order of December 1, 1989, with warning that if the records and documents required were not produced within five days petitioner would be deemed to have waived the right to present its evidence.

The union filed a petition for review of the orders of December 1, 1989 and January 22, 1990 to the DOLE Secretary. But the BLR proceeded with its examination, and, as the union officers refused to comply with its orders, the BLR based the audit/examination on the certification of the company. In an order dated July 5, 1990, the BLR found the union officers personally accountable and liable for the total amount of P367,553.00, which La Tondeña Inc. certified it had remitted to LTWU as union dues.

The Secretary of Labor and Employment did not act on the petition for review of the union. Instead, he referred the petition to the BLR

which denied the petition for having become moot and academic. The dispositive portion of its order, dated November 21, 1990, states:

WHEREFORE, premises considered, the petition for review is denied for lack of merit. The Order of this Bureau dated 5 July 1990 issued in the exercise of its appellate jurisdiction over audit/examination case heard before the Regional Office, this Department, is hereby affirmed in toto.

Hence this petition, alleging grave abuse of discretion by respondent Secretary of Labor and Employment and Director of the Bureau of Labor Relations. Petitioner alleges several grounds which raise the following issues:

1. Whether under the law the power to examine the books of accounts of petitioner is vested in the Secretary of Labor and Employment or in the Bureau of Labor Relations.
2. If it is vested in the Secretary of Labor and Employment, whether the power was not delegated by him in this case to the Bureau of Labor Relations.
3. Whether the examination of petitioner's books was validly ordered despite the fact that the requirements of art. 274 of the Labor Code had not been complied with.
4. Whether the union officers were properly held accountable for union funds.

With regard to the first issue, the petitioner cites art. 274 of the Labor Code and Rule VIII-A of the implementing rules, in support of its contention that the BLR had no authority to conduct an examination of the books of the LTWU and that such authority is vested solely in the Secretary of Labor or his duly authorized representative. These provision state:

Art. 274. Visitorial Powers. — The Secretary of Labor and Employment or his duly authorized representative is hereby empowered to inquire into the financial activities of legitimate labor organizations upon the filing of a complaint under oath

and duly supported by the written consent of at least twenty (20%) percent of the total membership of the labor organization concerned and to examine their books of accounts and other records to determine compliance or non-compliance with the law and to prosecute any violations of the law and the union constitutions and by-laws; Provided, that such inquiry or examination shall not be conducted during the sixty (60) day freedom period nor within the thirty (30) days immediately preceding the date of election of union officials.

### **Rule VIII-A VISITORIAL POWER**

Sec. 1. Exercise of visitorial power. — The Secretary of Labor and Employment or his duly authorized representative shall inquire into the financial activities of any legitimate labor organization and examine their books of accounts and other records to determine compliance with the law and the organization, constitution and by-laws, upon the filing of a complaint under oath and duly supported by the written consent of at least 20% of the total membership of the labor organization concerned.

Sec. 2. Period of inquiry or examination. — No inquiry or examination of the financial activities and books of accounts as well as other records of any legitimate labor organization mentioned in the preceding section shall be conducted during the 60 day freedom period nor within 30 days immediately preceding the date of election of union officials.

The petitioner argues that although art. 274 authorizes the Secretary to delegate the examination of accounts to a representative, the BLR Director cannot be considered a duly authorized representative because the power to examine the books of accounts of a union has already been delegated to union account officers pursuant to the implementing rules, Rule 1, Sec. 1 (ff) which provides:

“Union Accounts Examiners” are officials of the Bureau or the Industrial Relations Division in the Regional Office empowered to audit books of accounts of the union.

On the other hand, the public respondents contend that union accounts examiners are actually officials of the BLR because the word “Bureau” in Sec. 1 (ff) refers to the Bureau of Labor Relations. At any rate, they contend that by endorsing the case to the BLR , the Secretary of Labor and Employment clearly designated the BLR to act on his behalf.

Respondent’s contention is well taken. The “union accounts examiners of the Bureau” mentioned in Rule 1, Sec. 1 (ff) of the implementing rules as having the power to audit the books of accounts of unions are actually officials of the BLR because the word “Bureau” is defined in Rule 1, Sec. 1 (b) of the same rules as the Bureau of Labor Relations.

Anyway, the delegation of authority to union accounts examiners in Rule 1, Sec. 1 (ff) is not exclusive. By indorsing the case to the BLR, the Secretary of Labor and Employment must be presumed to have authorized the BLR to act on his behalf. As already stated, the Secretary made two endorsement: first, when he referred to the BLR the letter dated July 27, 1989 of Ramon de la Cruz and Norma Marin seeking the annulment of the audit report of the DOLE NCR, and second, on September 4, 1990 when, instead of acting on the petition for review of the union, he indorsed it to the BLR.

Independently of any delegation, the BLR had power of its own to conduct the examination of accounts in this case. Book IV, Title VII, Chapter 4, sec. 16 of the Administrative Code of 1987 provides:

Sec. 16. Bureau of Labor Relations. — The Bureau of Labor Relations shall set policies, standards, and procedures on the registration and supervision of legitimate labor union activities including denial, cancellation and revocation of labor union permits. It shall also set policies, standards, and procedure relating to collective bargaining agreements, and the examination of financial records of accounts of labor organizations to determine compliance with relevant laws.

The Bureau shall also provide proper orientation to workers on their rights and privileges under existing laws and regulations, and develop schemes and project for the improvement of the standards of living of workers and their families.

The Labor Code, as amended by RA 6715, likewise authorizes the BLR to decide intra-union disputes. This includes the examinations of accounts. Thus, art. 226 of the Code provides:

Art. 226. Bureau of Labor Relations. — The Bureau of Labor Relations and the Labor Relations Divisions in the regional offices of the Department of Labor shall have original and exclusive authority to act, at their own initiative or upon request of either or both parties, on all inter-union and intra-union conflicts, and all disputes, grievances or problems arising from or affecting labor-management relations in all workplaces whether agricultural or non-agricultural, except those arising from the implementation or interpretation of collective bargaining agreements which shall be the subject of grievance procedure and/or voluntary arbitration.

The Bureau shall have fifteen (15) working days to act on labor cases before it, subject to extension by agreement of the parties.

Petitioner's contention that the intra-union dispute mentioned in this provision does not include the examination of accounts of the union because it contemplates intra-union conflicts affecting labor-management relations is untenable. Conflicts affecting labor-management relations are apart from intra-union conflicts, as is apparent from the text of Art. 226.

This brings us to the second question, whether the examination of accounts in this case is valid considering that it was not initiated through a sworn written complaint by at least 20% of the total membership of the LTWU. As already stated, the case arose from a letter written by 200, out of a total membership force of 1,015 of the LTWU. These represented 19.70% of the total membership of the union, just a little less than the required number.

The requirements referred to were inserted in art. 274 by way of an amendment by R.A. 6715 which took effect on March 21, 1989. On the other hand, the letter of the union members petitioning for an examination of the financial records of the union was made on March 14, 1989, i.e., seven days before the effectivity of the amendments. At the time the letter was made, art. 274 merely provided:

Art. 274. Visitorial power. — The Secretary of Labor or his duly authorized representative is hereby empowered to inquire, from time to time, into the financial activities of legitimate labor organizations and to examine their books of accounts and other records to determine compliance or non-compliance with the law and to prosecute any violations of the law and the union constitution and by-laws.

The validity of the request for examination of union accounts must be determined as of the time of its filing. Hence we hold that the request of the 200 union members in this case was validly made and conferred jurisdiction on the DOLE-NCR to conduct the examination of the books of accounts of the petitioners.

It is indeed true that, in setting aside the audit report of the DOLE-NCR, the BLR cited the fact that the examination of accounts had been made within the so-called “freedom period.” But as the BLR pointed out in its order dated September 29, 1989, the ban on examination or audit of union funds within 60 days of the expiration of the collective bargaining agreement had been a policy of the Department of Labor and Employment even before R.A. 6715 took effect. There is, therefore, nothing inconsistent in holding that the examination of accounts by the DOLE-NCR as void for having been conducted within the freedom period and saying now that since the letter requesting such an examination was made before the effectivity of R.A. 6715, the requirements of sworn written complaint and support of at least 20% of the total membership of the union do not apply.

The examination subsequently ordered by the BLR, although made after the effectivity of R.A. 6715, was validly conducted because it was simply a continuation of proceedings already begun in the DOLE-NCR. As a matter of fact the petitioners, in elevating the matter to the

Secretary of Labor, specifically requested that their letter be treated as a motion for reconsideration or as an appeal from the audit report of the DOLE-NCR.

Finally, it is claimed that petitioners Ramon de la Cruz and Norma Marin were denied due process by the BLR. As already shown, however, they were given every opportunity to defend themselves, including a warning that if they persisted in their refusal to submit the books of accounts of the union they would be considered to have waived the right to present their evidence. As they did not heed the warning, we think the BLR was justified in using, as basis of its examination, the certification of La Tondeña, Inc. as to the amount remitted by it to the LTWU as union dues. This, at any rate, is a factual matter and the rule is that the findings of facts of administrative agencies, when supported by substantial evidence, will not be disturbed.

**WHEREFORE**, the petition for certiorari is **DISMISSED**.

**SO ORDERED**.

**Narvasa, C.J., Regalado and Puno, JJ., concur.**