

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**LAKAS NG MANGGAGAWANG
MAKABAYAN (LAKAS),**
Petitioner,

-versus-

**G.R. No. L-38258
November 19, 1982**

**MARCELO ENTERPRISES and
MARCELO TIRE & RUBBER CORP.,
MARCELO RUBBER AND LATEX
PRODUCTS, MARCELO STEEL
CORPORATION, MARCELO CHEMICAL
& PIGMENT CORP., POLARIS
MARKETING CORPORATION and THE
COURT OF INDUSTRIAL RELATIONS,**
Respondents.

X-----X

**MARCELO TIRE & RUBBER
CORPORATION, MARCELO RUBBER &
LATEX PRODUCTS, INC., MARCELO
STEEL CORPORATION, POLARIS
MARKETING CORPORATION,
MARCELO CHEMICAL AND PIGMENT
CORP., MARCELO ENTERPRISES,**

under which name or style they are also known,

Petitioners,

-versus-

**G.R. No. L-38260
November 19, 1982**

**LAKAS NG MANGGAGAWANG
MAKABAYAN (LAKAS) AND THE
HONORABLE COURT OF INDUSTRIAL
RELATIONS,**

Respondents.

X-----X

DECISION

GUERRERO, J.:

Separate appeals by *Certiorari* from the Decision of the Court of Industrial Relations (Manila) dated July 20, 1973, as well as the Resolution of the court en banc dated January 24, 1974 denying the reconsideration thereof rendered in ULP Case No. 4951 entitled, "Lakas ng Manggagawang Makabayan, Petitioner, versus Marcelo Enterprises and Marcelo Tire and Rubber Corporation, Marcelo Rubber and Latex Products, Marcelo Steel Corporation, Polaris Marketing Corporation, and Marcelo Chemical and Pigment Corporation, Respondents."

The antecedent facts as found by the respondent Court of Industrial Relations embodied in the appealed Decision are correct, supported

as they are by the evidence on record. Nevertheless, We find it necessary to make a re-statement of the facts that are integrated and inter-related, drawn from the voluminous records of these cases which are herein jointly decided, since it would only be from a statement of all the relevant facts of the cases made in all fullness, collectively and comprehensively, can the intricate issues posed in these appeals be completely and judiciously resolved.

It appears that prior to May 23, 1967, the date which may be stated as the start of the labor dispute between Lakas ng Manggagawang Makabayan (hereinafter referred to as complainant LAKAS) and the management of the Marcelo Tire and Rubber Corporation, Marcelo Rubber and Latex Products, Inc., Polaris Marketing Corporation, Marcelo Chemical and Pigment Corporation, and the Marcelo Steel Corporation (Nail Plan) (hereinafter referred to as respondent Marcelo Companies) the Marcelo Companies had existing collective bargaining agreements (CBAs) with the local unions then existing within the appropriate bargaining units, viz: (1) the respondent Marcelo Tire and Rubber Corporation, with the Marcelo Camelback Tire and Foam Union (MACATIFU); (2) the respondent Marcelo Rubber and Latex Products, Inc., with the Marcelo Free Workers Union (MFWU); and (3) the respondent Marcelo Steel Corporation with the United Nail Workers Union (UNWU). These existing CBAs were entered into by and between the parties while the aforesated local unions were then affiliated with a national federation, the Philippine Social Security Labor Union (PSSLU).

It is well to note from the records that when the aforesated CBAs of the said local unions were nearing their respective expiration dates (March 15, 1967) for MACATIFU and UNWU, and June 5, 1967 for MFWU), the general situation within the ranks of labor was far from united. The MACATIFU in respondent Marcelo Tire and Rubber Corporation, then headed by Augusto Carreon, did not enjoy the undivided support of all the workers of the respondent corporation, as there existed a rival union, the Marcelo United Employees and Workers Association (MUEWA) whose president was then Paulino Lazaro. As events would later develop, the members of the MACATIFU of Augusto Carreon joined the MUEWA of Paulino Lazaro, after the latter filed a petition for direct certification which was granted by the industrial court's Order of July 5, 1967 recognizing

and certifying MUEWA as the sole and exclusive bargaining representative of all the regular workers of the respondent corporation. The union rivalry between MACATIFU and MUEWA did not, however, end with the Order of July 5, 1967, but more than ever developed into a more pressing problem of union leadership because Augusto Carreon also claimed to be the president of the MUEWA by virtue of the affiliation of his MACATIFU members with MUEWA. The records also reveal that even the ranks of MFWU in respondent Marcelo Rubber and Latex Products, Inc. was divided between those supporting Ceferino Ramos and Cornelio Dizon who both claimed the presidency in said union. Only the UNWU in respondent Marcelo Steel Corporation was then enjoying relative peace as Jose Roque was solely recognized as the union's president. The events that followed are hereinafter stated in chronological order for a clearer understanding of the present situation.

On March 14, 1967, the management of respondent Marcelo Steel Corporation received a letter requesting the negotiation of a new CBA together with a draft thereof, from the PSSLU president, Antonio Diaz, for and in behalf of UNWU whose CBA was to expire the following day. Similar letters and proposals were, likewise, sent to the management of respondent Marcelo Tire and Rubber Corporation for and in behalf of MACATIFU, and to respondent Marcelo Rubber and Latex Products for and in behalf of MFWU, whose respective CBAs were both to expire on June 5, 1967.

However, on that very same day of March 14, 1967, the management of respondent Marcelo Tire and Rubber Corporation received a letter from the UNWU president, Jose Roque, disauthorizing the PSSLU from representing his union.

Then, on April 14, 1967, Paulino Lazaro of MUEWA requested negotiation of a new CBA with respondent Marcelo Tire and Rubber Corporation, submitting therewith his union's own proposals.

Again, on May 3, 1967, the management of respondents Marcelo Tire and Rubber Corporation and Marcelo Rubber and Latex Products, Inc., received another letter requesting negotiation of new CBAs also for and in behalf of the MACATIFU and the MFWU from J.C. Espinas & Associates.

Finally, on May 23, 1967, the management of all the respondent Marcelo Companies received a letter from Prudencio Jalandoni, the alleged president of the complainant LAKAS. In this letter of May 23, 1967, the complainant LAKAS informed management of the affiliation of the Marcelo United Labor Union (MULU) with it. Included therein was a 17-points demand for purposes of the requested collective bargaining with management.

Confronted with a problem of whom to recognize as the bargaining representative of all its workers, the management of all the respondent Marcelo Companies understandably dealt with the problem in this wise, viz: (1) it asked proof of authority to represent the MFWU and the MACATIFU from J.C. Espinas & Associates; and (2) in a letter dated May 25, 1967, it apprised PSSLU, Paulino Lazaro of MUEWA and complainant LAKAS of the fact of the existing conflicting demands for recognition as the bargaining representative in the appropriate units involved, consequently suggesting to all to settle the question by filing a petition for certification election before the Court of Industrial Relations, with an assurance that the management will abide by whatever orders the industrial court may issue thereon.

PSSLU demurred to management's stand and informed them of its intention to file an unfair labor practice case because of management's refusal to bargain with it, pointedly stating that it was with the PSSLU that the existing CBAs were entered into. Again, as events later developed, on or about the middle of August 1981, PSSLU filed a Notice of Strike which became the subject of conciliation with the respondent companies. In the case of MUEWA, Paulino Lazaro threatened that his union will declare a strike against respondent Marcelo Tire and Rubber Corporation. On the other hand, complainant LAKAS for MULU filed on June 13, 1967 before the Bureau of Labor Relations a Notice of Strike against all the respondent Marcelo Companies, alleging as reasons therefor harassment of union officers and members due to union affiliation and refusal to bargain. This aforesaid Notice of Strike was, however, withdrawn on July 14, 1967.

In the meantime, as stated earlier in this Decision, the MUEWA filed a petition for direct certification before the industrial court. There being no other union or interested person appearing before the court except the MUEWA, and finding that MUEWA represented more than the majority of the workers in respondent Marcelo Tire and Rubber Corporation, the court granted the petition and by Order of July 5, 1967, certified MUEWA of Paulino Lazaro as the sole and exclusive bargaining representative of all the regular workers in said respondent.

On July 11, 1967, Augusto Carreon of MACATIFU wrote the management of respondent Marcelo Tire and Rubber Corporation expressly stating that no one was yet authorized to submit proposals for and in behalf of the union for the renewal of its CBA, adding that “(a)ny group representing our Union is not authorized and should not be entertained.”

On July 14, 1967, as earlier stated, the Notice of Strike filed by complainant LAKAS was withdrawn pursuant to a Memorandum Agreement signed on the same day by management and LAKAS.

Thereafter, or on July 20, 1967, letters of proposal for collective bargaining were sent by Prudencio Jalandoni of LAKAS to all the respondent Marcelo companies. In answer thereto, management wrote two (2) letters, both dated July 24, 1967, addressed to Jalandoni, expressing their conformity to sit down in conference on the points to be negotiated as soon as LAKAS can present evidence of authority to represent the employees of respondent corporations in said conference. The records disclose that it was in the atmosphere of constant reservation on the part of management as to the question of representation recognition that complainant LAKAS and management sat down for CBA negotiations.

The first conference was held on August 14, 1967, followed by one on August 16, 1967 whereby management, in formal reply to union's economic demands, stated its willingness to give pay adjustments and suggested renewal of other provisions of the old CBAs. A third conference was set although no one from LAKAS or the local unions appeared. On August 29, 1967, the fourth conference was held where, from a letter dated August 30, 1967 from Jose Delfin of Management

to Jose B. Roque of UNWU, can be inferred that in the conference of August 29, 1967, the management with respect to respondent Marcelo Steel Corporation, agreed to give pay adjustments from Po.15 to Po.25 to meritorious cases only, and to increase its contribution to the retirement fund from 1-1/2% to 3% provided the employees' contribution will be increased from 1% to 2%. Management likewise suggested the renewal of the other provisions of the existing CBA. Management's offers were not accepted by complainant LAKAS who insisted on the grant of all its economic demands and in all of the Marcelo Companies.

As it would later appear during the trial of the ULP case below, and as found as a fact by the respondent court, only the economic proposals of complainant LAKAS were the matters taken up in all these CBA conferences.

Less than a week after the fourth CBA conference, or on September 4, 1967, the complainant LAKAS declared a strike against all the respondent Marcelo Companies. Acts of violence and vandalism attended the picketing. Ingress and egress at the respondents' premises were successfully blocked. One worker, Plaridel Tiangco, was manhandled by the strikers and was hospitalized. Windows of the Chemical Plant were badly damaged. As a consequence, ten (10) strikers were later charged before the Municipal Court of Malabon, Rizal, four of whom were convicted while the others were at large.

On September 13, 1967, the respondent Marcelo Companies obtained a writ of preliminary injunction from the Court of First Instance of Rizal enjoining the strikers from preventing the ingress and egress at the respondents' premises. The following day, a "Return to Work Agreement" (Exhibit "A") was executed by and among the management, represented by Jose P. Marcelo and Jose A. Delfin, and the local unions, together with complainant LAKAS, represented by Prudencio Jalandoni for LAKAS, Jose B. Roque for UNWU, Cornelio Dizon for MFWU and Augusto Carreon for MUEWA, the representations of the latter two, however, being expressly subjected by management to non-recognition. Aside from providing for the immediate lifting of the picket lines, the agreement, more pertinently provides, to wit:

- “4. The management agrees to accept all employees who struck without discrimination or harassment consistent with an orderly operation of its various plants, provided it is understood that management has not waived and shall continue to exercise freely its rights and prerogatives to punish, discipline and dismiss its employees in accordance with law and existing rules and regulations that cases filed in court will be allowed to take their normal course.”

By virtue of this agreement, the respondent Marcelo Companies resumed operations and the strikers went back to work. As found by the respondent court, all strikers were admitted back to work, except four (4) namely, Wilfredo Jarquio, Leonardo Sakdalan, Jesus Lim and Arlington Glodeviza, who chose not to report for work because of the criminal charges filed against them before the municipal court of Malabon and because of the administrative investigation conducted by management in connection with the acts of violence and vandalism committed during the September 4 strike. Together with Jesus Lim, three other strikers who reported for work and were admitted, namely, Jose Roque, Alfredo Cabel and Ramon Bataycan, were convicted in said criminal case.

After the resumption of normal business, the management of the respondent Marcelo Companies, the complainant LAKAS together with the local unions resumed their bargaining negotiations subject to the conditions earlier mentioned. On October 4, 1967, the parties met and discussed the bargaining unit to be covered by the CBA in case one is entered into, union shop arrangement, check-off, waiver of the employer of the notice requirement in case of employees' separation, separation pay in cash equivalent to 12-days pay for every year of service, retirement plan, and one or two years duration of the CBA. It was also agreed in that meeting not to negotiate with respect to respondent Marcelo Tire and Rubber Corporation inasmuch as a CBA had already been entered into by management with the MUEWA of Paulino Lazaro, the recently certified union in said respondent.

Finally, on October 13, 1967, the negotiations reached its final stage when the management of respondents Marcelo Rubber and Latex Products, Inc. and Marcelo Steel Corporation gave the complainant

LAKAS a copy of management's drafts of the collective bargaining proposals for MFWU and UNWU, respectively.

Unexpectedly and without filing a notice of strike, complainant LAKAS declared another strike against the respondent Marcelo Companies on November 7, 1967, resulting in the complete paralyzation of the business of said respondents. Because of this second strike, conciliation conferences were again set by the Conciliation Service Division of the Department of Labor on November 8, November 23, and December 4, 1967. On the last aforementioned date, however, neither complainant LAKAS nor the local unions appeared.

Instead, on December 13, 1967, Prudencio Jalandoni of complainant LAKAS, in behalf of the striking unions, coursed a letter (Exhibit "B") to Jose P. Marcelo of management advising that, "on Monday, December 18, 1967, at 7:00 o'clock in the morning, all your striking workers and employees will return to work under the same terms and conditions of employment before the strike." The letter was attested to by Cornelio Dizon for MFWU, Jose Roque for UNWU and Augusto Carreon for MUEWA. On December 15, 1967, the Bureau of Labor Relations was informed by the complainant LAKAS who requested for the Bureau's representative to witness the return of the strikers to their jobs.

The records reveal that in the meantime, prior to December 13, 1967, some of the strikers started going back to work and were admitted; and that as early as December 4, 1967, the management started posting notices at the gates of the respective premises of the respondents for strikers to return back to work. Similar notices were also posted on December 18 and December 27, 1967.

Upon their return, the reporting strikers were requested to fill up a certain form (Exhibit "49") wherein they were to indicate the date of their availability for work in order that they may be scheduled. According to the respondent Marcelo Companies, this requirement was asked of the strikers for legitimate business reasons within management prerogative. Several of the strikers filled up the required form and were accordingly scheduled for work. The remaining others, led and supported by complainant LAKAS, refused and insisted that

they be all admitted back to work without complying with the aforestated requirement, alleging that the same constituted a “screening” of the striking workers. As matters stood, Management refused to forego the requirement; on the other hand, the remaining strikers demanded to be re-admitted without filing up the form for scheduling.

These then constitute the factual background when the complainant LAKAS, represented by its counsel, Atty. Benjamin C. Pineda, on December 26, 1967, filed before the respondent court a charge for unfair labor practice against the respondent Marcelo Companies, alleging non-readmission of the striking members of the three (3) affiliated local unions despite the unconditional offer to return to work after the strike of November 7, 1967. Based on the allegations of the foregoing charge and after a preliminary investigation conducted by the acting Prosecutor of said respondent court, the acting Chief Prosecutor, Atty. Antonio Tria Tirona, filed on February 12, 1968 the instant complaint under authority of Section 5(b) of Republic Act 875, otherwise known as the Industrial Peace Act.

The Complaint below alleges, among others, to wit:

“1. That complainant is a legitimate labor organization, with its affiliates, namely: Marcelo Free Workers Union, United Nail Workers Union, and Marcelo United Employees Unions, whose members listed in Annexes “A”, “B”, and “C” of this complaint are considered employees of respondent within the meaning of the Act;

“2. x x x;

x x x

“3. That individual complainants listed in Annexes “A”, “B”, and “C” of this complaint are members of the Marcelo United Employees and Workers Association, Marcelo Free Workers Union, and United Nail Workers Union, respectively; that the members of the Marcelo United Employees and Workers Union are workers of respondent Marcelo Tire and Rubber Corporation; that the members of

the Marcelo Free Workers Union compose the workers of the Marcelo Rubber and Latex Products, Polaris Marketing Corporation, and the members of the United Nail Workers Union compose the workers of the Marcelo Steel Corporation (Nail Plant);

- “4. That each of the aforesaid local unions, before their affiliation with the complainant union LAKAS, had a collective bargaining agreement with respondents; that after the expiration of the collective bargaining agreement above-mentioned and after the above-mentioned local unions affiliated with the complainant LAKAS, the said federation sent to respondents’ president, Jose P. Marcelo, on May 23, 1967, a letter, requesting for a negotiation for collective bargaining, together with union proposals thereof, but respondents refused;
- “5. That after respondents knew of the affiliation of the aforementioned local unions with the LAKAS, the said respondents, thru their officers and agents began harassing the union members, discriminated against them by transferring some of its officers and members from one section to another in such a way that their work was reduced to manual labor, and by suspending them without justifiable cause, in spite of long years of service with said respondents;
- “6. That as a result of the abovementioned unfair labor practice of respondents, and after complainant sent communication thereto, protesting against the acts of the above-mentioned, complainant decided to stage a strike on September 4, 1967, after filing a notice of strike with the Department of Labor;
- “7. That on September 14, 1967, however, Jose P. Marcelo, and Jose A. Delfin, president and vice-president of the respondents, respectively, on one hand and the presidents of the three local unions above-mentioned and the national president of complainant union on the other, entered into a

Return-to-Work Agreement, providing among others, as follows:

‘4. The management agrees to accept all employees who struck without discrimination or harassment consistent with an orderly operation of its various plants provided it is understood that management has not waived and shall continue to exercise freely its rights and prerogatives to punish, discipline and dismiss its employees in accordance with law and existing rules and regulations and that cases filed in Court will be allowed to take their normal course.’

“8. That, contrary to the above Return-to-Work agreement, and in violation thereof, respondents refused to admit the members of the three striking local unions; that in admitting union members back to work, they were screened in spite of their long employment with respondent, but respondents gave preference to the casual employees;

“9. That, because of the refusal of the respondents to accept some union members, in violation of the above-mentioned Return-to-Work agreement and refusal of respondents to bargain in good faith with complainant, the latter, together with the members of the three local unions above-mentioned, again staged a strike on November 7, 1967;

“10. That on December 13, 1967, complainant sent a letter to respondents that the members of the striking unions above-mentioned offered to return to work on December 18, 1967 without any condition, but respondents likewise refused, and still continue to refuse to reinstate them up to the present;

“11. That hereto attached are the list of names of the members of the three local unions above-mentioned who were not admitted back to work by respondents, marked as Annexes

“A”, “B”, and “C” and made as an integral part of this complaint;

“12. That the union members listed in Annexes “A”, “B “, and “C” hereof were not able to secure substantial employment in spite of diligent efforts exerted by them;

“13. That the above unfair labor practice acts of respondents are in violation of Section 4, subsections 1, 4 and 6 in relation to Sections 13, 14 and 15 of Republic Act No. 875.”

The complaint prayed “that after due hearing, judgment be rendered, declaring respondents guilty of unfair labor practice; and

“(a) Ordering respondents to cease and desist from further committing the acts complained of;

“(b) Ordering respondents to comply with the Return-to-Work agreement dated September 14, 1967, and to admit back to work the workers listed in annexes “A”, “B” and “C” hereof, with back wages, without loss of seniority rights and privileges thereof;

“(c) Ordering respondents to bargain in good faith with complainant union; and

“(d) Granting complainant and its complaining members thereof such other affirmative reliefs and remedies equitable and proper, in order to effectuate the policies of the Industrial Peace Act.”

On March 16, 1968, after an Urgent Motion for Extension of Time to File Answer, the respondents filed their Answer denying the material allegations of the Complaint and alleging as affirmative defenses:

“I. That the Collective Bargaining Agreement between respondent Marcelo Steel Corporation and the United

Nail Workers Union expired on March 15, 1967; The Collective Bargaining Agreement between the United Rubber Workers Union (which eventually became the Marcelo Free Workers Union) and the respondent Marcelo Rubber and Latex Products, Inc., expired on June 5, 1967; the Collective Bargaining Agreement between Marcelo Camelback Tire and Foam Union and the Marcelo Tire and Rubber Corporation expired on June 5, 1967;

- “II. That on May 23, 1967, one Mr. Prudencio Jalandoni of complainant addressed a communication to Mr. Jose P. Marcelo of respondents informing him of the alleged affiliation of the Marcelo United Labor Union with complainant and submitting a set of collective bargaining proposal to which counsel for respondents replied suggesting that a petition for certification election be filed with the Court of Industrial Relations in view of the several demands for representation recognition;
- “III. That the transfers of workers from one job to another were made in accordance with needs of the service. Respondents afforded union officers and members affected by the transfers the privilege to watch out for vacancies and select positions they prefer to be in. No suspensions without justifiable cause were made as alleged in the Complaint;
- “IV. That between May 23, 1967, the date of their first demand for negotiations, and September 4, 1967, the start of the first strike, proposals and counter-proposals were had. Respondents are not aware of whether or not a notice of strike was filed with the Court of Industrial Relations;
- “V. That Mr. Jose P. Marcelo is the President of Marcelo Rubber and Latex Products, Inc., Marcelo Tire and Rubber Corporation, and Marcelo Steel Corporation, while Mr. Jose A. Delfin is the acting Personnel Manager of respondent Marcelo Rubber and Latex Products, Inc., Marcelo Tire and Rubber Corporation, Marcelo Steel

Corporation and Marcelo Chemical and Pigment Corporation;

- “VI. That respondents did not refuse to admit members of the striking union. Only four (4) workers who had criminal cases filed against them voluntarily failed to report to the Personnel Department for administrative investigation;
- “VII. That after September 14, 1967, all workers of the different respondent corporations returned to work except the four mentioned in the preceding paragraph hereof who have pending criminal cases; between September 14, 1967, and November 7, 1967 another strike was declared without justifiable cause;
- “VIII. That on November 28, 1967, respondent obtained an injunction from the Court of First Instance of Rizal, Caloocan City Branch, against the illegal picketing of the local unions; in the first week of December, 1967, the striking workers began returning to work; on December 13, 1967, a letter was received from complainant advising respondents that its striking workers were calling off, lifting the picket line and returning to work, that from the first week of December, 1967, respondents invited the striking workers desiring to return to work to fill out an information sheet stating therein their readiness to work and the exact dates they were available so that proper scheduling could be done; a number of workers showed no interest in reporting to work; management posted in the Checkpoint, Bulletin Boards, and the gates notices calling all workers to return to work but a number of workers obviously were not interested in returning anymore;
- “IX. That respondents posted several times lists of names of workers who had not returned to work with the invitation to return to work, but they did not return to work;

- “X. That a number of workers in the list Annexes “A” “B” and “C” have resigned after they found more profitable employment elsewhere;
- “XI. That the local unions referred to in the Complaint if they ever had affiliated with complainant union had subsequently disaffiliated therefrom;
- “XII. That the strikes called and declared by the striking unions were illegal;
- “XIII. That the local unions were bargaining in bad faith with respondents,”

And praying for the dismissal of the Complaint as well as for the declaration of illegality of the two (2) strikes called by the striking unions.

Thereafter, the trial commenced. Then on October 24, 1968, a development occurred which gave a peculiar aspect to the case at bar. A Manifestation and Motion signed by the respective officers and members of the MUEWA, headed by Paulino Lazaro, was filed by the said union, alleging, to wit:

- “1. That the above-entitled case purportedly shows that the Marcelo United Employees and Workers Association is one of the Complainants being represented by the Petitioner Lakas ng Manggagawang Makabayan (LMM);
- “2. That it likewise appears in the above-entitled case that the services of the herein Petitioner was sought by a certain Augusto Carreon together with his cohorts who are not members of the Marcelo United Employees and Workers Association much less connected with the Marcelo Tire and Rubber Corporation wherein the Marcelo United Employees and Workers Association has an existing Collective Bargaining Agreement;
- “3. That to set the records of this Honorable Court straight, the undersigned officers and members of the Marcelo United

Employees and Workers Association respectfully manifest that the aforesaid organization has no complaint whatsoever against any of the Marcelo Enterprises;

“4. x x x;

“5. x x x, the Complaint filed by the Petitioner in the above-entitled case in behalf of the Marcelo United Employees and Workers Association is without authority from the latter and therefore the officers and/or representatives of the petitioning labor organization should be cited for Contempt of Court;

“6. x x x, the Complaint filed by the Petitioner in the above-entitled case in behalf of the Marcelo United and Employees and Workers Association should be considered as withdrawn;

x x x”

This was followed by another Manifestation and Motion filed on November 6, 1968 and signed by the officers and members of the UNWU, headed by its President, Juan Balgos, alleging, to wit:

“1. That the above-entitled case purportedly shows that the United Nail Workers Union is being represented by the Petitioner Lakas ng Manggagawang Makabayan for the alleged reason that the former is one of the affiliates of the latter;

“2. That on January 15, 1968, all the Officers and members of the United Nail Workers Union disaffiliated from the herein Petitioning labor organization for the reason that Petitioning labor organization could not serve the best interest of the Officers and members of the United Nail Workers Union and as such is a stumbling block to a harmonious labor-management relations within all the Marcelo enterprises;

- “3. That the filing of the above-entitled case by the herein Petitioning labor organization was made over and above the objections of the officers and members of the United Nail Workers Union;
- “4. That in view of all the foregoing, the Officers and members of the United Nail Workers Union do hereby disauthorize the Petitioner of the above-entitled case (Re: Lakas ng Manggagawang Makabayan) from further representing the United Nail Workers Union in the above-entitled case;
- “5. That in view further of the fact that the filing of the above-entitled case was made over and above the objections of the Officers and members of the United Nail Workers Union, the latter therefore manifest their intention to cease and desist as they hereby ceased and desisted from further prosecuting the above-entitled case in the interest of a harmonious labor-management relation within the Marcelo Enterprises;

x x x”

Likewise, a Manifestation and Motion signed by the Officers and members of the MFWU, headed by its president, Benjamin Mañol, dated October 28, 1968 and filed November 6, 1968, stated the same allegations as the Manifestation and Motion filed by the UNWU quoted above, except that the disaffiliation of the MFWU from LAKAS was made effective January 25, 1968. The Resolutions of Disaffiliation of both MFWU and UNWU were attached to these Manifestations.

On November 19, 1968, complainant LAKAS filed an Opposition to these Manifestations and Motions, materially alleging that, to wit:

- “1. That complainants respectfully stated that when Charge No. 2265 was filed on December 26, 1967 in this case, giving rise to the instant complaint, the alleged officers of the union-movants were not yet officers on the filing of said Charge No. 2265.

- “2. That the alleged officers and members who signed the three (3) Manifestations and Motions are the very employees who were accepted back to work by the respondents during the strike by the complainants on September 4, 1967 and November 7, 1967, and the said alleged officers and members who signed the said manifestations and motions are still working up to the present in the establishments of the respondents.

- “3. That precisely because of the acceptance back to work of these alleged officers and members of the union-movants, and the refusal of respondents to accept back to work all the individual complainants in this case mentioned in Annexes “A”, “B” and “C” of the instant complaint, inspite of the offer to return to work by the complainants herein made to the respondents without any conditions at the time of the strike, as per complainants’ letter of December 13, 1967 (Exh. “B”, for the complainants), which fact precisely gave rise to the filing of this case.

X X X

On January 31, 1969, after the submission of their respective Memoranda on the motions asking for the dismissal and withdrawal of the complaint, the Court of Industrial Relations issued an Order deferring the resolution of the Motions until after the trial on the merits. To this Order, two separate Motions for Reconsideration were filed by the respondent companies and the movant-unions, which motions were, however, denied by the court en banc by its Resolution dated March 5, 1969.

After the trial on the merits of the case, and after submission by the parties of their respective memoranda, the respondent court rendered on July 20, 1973 the Decision subject of these petitions. On the motions for dismissal or withdrawal of the complaint as prayed for by MUEWA, UNWU and MFWU, the respondent court denied the same on the ground that the instant case was filed by the Lakas ng Manggagawang Makabayan for and in behalf of the individual employees concerned and not for the movants who were not authorized by said individual complainants to ask for the dismissal.

On the merits of the case, while the Decision contained opinions to the effect that the respondent Marcelo Companies were not remiss in their obligation to bargain, and that the September 4, 1967 strike as well as the November 7, 1967 strike, were economic strikes, and were, therefore, illegal because of lack of the required notices of strike before the strikes were declared in both instances, the Decision, nevertheless, on the opinion that the “procedure of scheduling adopted by the respondents was in effect a screening of those who were to be readmitted,” declared respondent Marcelo Companies guilty of unfair labor practice in discriminating against the employees named in Annexes “A”, “B”, and “C” by refusing to admit them back to work while other strikers were admitted back to work after the strike of November 7, 1967. The dispositive portion of the appealed Decision states, to wit:

“WHEREFORE, in view of all the foregoing, respondents should be, as they are hereby, declared guilty of unfair labor practice only for the discrimination on terms or conditions of employment as hereinbefore discussed in connection with the return of the strikers-complainants back to work after the second strike, and, therefore, ordered to pay the individual complainants appearing in Annexes “A”, “B” and “C” of the Complaint, except Arlington Glodeviza, Jesus Lim, Wilfredo Jarquio, Leonardo Sakdalan, Jose Roque, Alfredo Cabel, and those still working, were dismissed for cause. whose contracts expired or who had resigned as above indicated, their back wages from December 18, 1967 but only up to June 29, 1970 when this case was submitted for decision, without reinstatement, minus their earnings elsewhere for the same period.

“As to those who died without having been reemployed, the back wages shall be from December 18, 1967 up to the date of their demise, as indicated in the body of this Decision, but not beyond June 20, 1970, likewise less their earnings elsewhere.

“The Chief Auditing Examiner of this Court, or his duly authorized representative, is hereby directed to proceed to the premises of respondent companies to examine their books, payrolls, vouchers and other pertinent papers or documents as

may be necessary to compute the back wages due the individual complainant in line with this Decision, and to submit his Report thereon not later than twenty (20) days after completion of such examination for further disposition of the Court.

SO ORDERED.”

On August 9, 1973, counsel for respondent Marcelo Companies filed a Motion for Reconsideration of the above Decision assigning as errors, to wit:

- “I. The trial court erred in not finding that complainant Lakas ng Manggagawang Makabayan (Lakas) has no authority to file and/or to prosecute the Complaint against respondents in representation of the local unions and/or individual complainants and/or members of local unions in their individual capacities and in not dismissing the complaint on that ground upon motions of the local unions concerned and/or their members.
- II. The trial court erred in finding that respondent discriminated against individual complainants who were not readmitted to work after the November 7, 1967 strike while others were able to return to their former employment and in holding that the procedure adopted by respondents was in effect a screening of those who were readmitted and in finding respondents guilty of unfair labor practice by reason thereof.”

On August 14, 1973, the individual complainants who had earlier disauthorized the counsel of record, Atty. Benjamin Pineda, from further representing them and from amicably settling their claims, on their own behalf filed their arguments in support of their Motion for Reconsideration, through a newly retained counsel, Atty. Pablo B. Castillon. Assigned as errors are, to wit:

- “I. The findings of the trial court excluding some of the employees from the aforementioned Decision as well as from the benefits resulting therefrom is not in accordance with law and the facts.

“II. The findings of the trial court declaring the strikes of September 4 and November 7, 1967 as illegal for being an economic strike is not in accordance with law and the facts adduced in this case.

“III. The Honorable trial court in ordering the reduction of the back wages, without reinstatement, appears to have departed from the substantial evidence rule and established jurisprudence.”

By Resolution of January 24, 1974, the Court en banc denied the two (2) Motions for Reconsideration filed by both the respondent Marcelo Companies and the individual complainants. On February 19, 1974 and on February 20, 1974, both parties filed their respective Notices of Appeals. Hence, these petitions.

In L-38258, the petition filed by complainant Lakas ng Manggagawang Makabayan (LAKAS), the following were assigned as reversible errors, to wit:

- I. The respondent court erred in finding the strikes of September 4 and November 7, 1967 to be economic strikes and declaring the said strikes illegal for non-compliance with the procedural requirement of Section 14(d) of Republic Act 875, although its illegality was condoned or waived because of the Return-to-Work agreement on the first strike, and the discriminatory rehiring of the striking employees after the second strike.
- II. The respondent court erred in denying reinstatement to the striking complainants in Case No. 4951-ULP, and limiting the computation of their backwages from December 18, 1967 to June 29, 1970 only, despite its findings of unfair labor practice against private respondents herein as a consequence of the discriminatory rehiring of the striking employees after the November 7, 1967 strike.
- III. The respondent court erred in excluding the other individual complainants, except those who are still

working, those who resigned on or before December 18, 1967, and those whose employment contract expired, and denying to these individual complainants the benefits resulting therefrom.

On the other hand, in L-38260 which is the petition filed by respondents Marcelo Enterprises, Marcelo Tire and Rubber Corporation, Marcelo Rubber & Latex Products, Marcelo Steel Corporation, Marcelo Chemical & Pigment Corporation, and Polaris Marketing Corporation, the following is the alleged assignment of errors, to wit:

- I. Respondent court erred in not finding that respondent Lakas ng Manggagawang Makabayan (LAKAS) had no authority to file and/or to prosecute the complaint against the petitioners herein in representation of the local unions and or individual complainants and/or members of local unions in their individual capacities and in not dismissing the complaint in Case No. 4951-ULP of respondent court on that ground upon motions of the local unions concerned and/or their officers and members.
- II. Respondent court erred in finding that petitioners herein discriminated against individual complainants in Case No. 4951-ULP of respondent court who were not readmitted to work after the November 7, 1967 strike, while others were able to return to their former employment and in holding that the procedure adopted by petitioners herein was in effect a screening of those who were readmitted and in finding petitioners herein guilty of unfair labor practice by reasons thereof.
- III. Respondent court erred in rendering judgment ordering petitioners herein to pay individual complainants in Case No. 4951-ULP of respondent court backwages from December 18, 1967, to June 29, 1970, minus their earnings elsewhere, except those who have resigned, those who have been dismissed for cause, those whose contracts have expired and those who are already working.

IV. Respondent court erred in holding that petitioners herein have waived their right to declare the strikes of September 4, 1967 and November 7, 1967, illegal.

From the aforesaid assignments of errors respectively made in both petitions before Us, We find that there are only two basic issues posed for Our resolution, viz: (1) whether or not the complaint filed by LAKAS against the Marcelo Companies can be sustained, in view of the alleged fact that its authority to file and prosecute the same has been squarely raised in issue at the first instance before the respondent court; and (2) whether or not the Marcelo Companies are guilty of unfair labor practice, for which they should be made liable for backwages and be obliged to reinstate the employees appearing in Annexes "A", "B", and "C" of the complaint, taking into consideration the prayer of LAKAS anent the correct payment of said backwages and the non-exclusion of some employees from the benefits arising from the appealed Decision.

The first issue poses a procedural question which We shall dwell on after a resolution of the second issue, this latter issue being of greater significance to the correct determination of the rights of all parties concerned as it treats of the merits of the present petitions.

Hence, anent the second issue of whether or not the complaint for unfair labor practice can be sustained, this Court rules in favor of the respondent Marcelo Companies and consequently, the appealed Decision is reversed. This reversal is inevitable after this Court has pored through the voluminous records of the case as well as after applying the established jurisprudence and the law on the matters raised. We are not unmindful of the plight of the employees in this case but We consider it oppressive to grant their petition in G.R. No. L-38258 for not only is there no evidence which shows that the respondent Marcelo Companies were seeking for an opportunity to discharge these employees for union activities, or to discriminate against them because of such activities, but there is affirmative evidence to establish the contrary conclusion.

The present controversy is a three-sided conflict, although focus has been greatly placed upon an alleged labor dispute between complainant LAKAS and the respondent Marcelo Companies. It

would bear emphasizing, however, that what had been patently disregarded by the respondent industrial court and the parties alike, is the fact that LAKAS had never been the bargaining representative of any and all of the local unions then existing in the respondent Marcelo Companies.

Contrary to the pretensions of complainant LAKAS, the respondent Marcelo Companies did not ignore the demand for collective bargaining contained in its letter of June 20, 1967. Neither did the companies refuse to bargain at all. What it did was to apprise LAKAS of the existing conflicting demands for recognition as the bargaining representative in the appropriate units involved, and suggested the settlement of the issue by means of the filing of a petition for certification election before the Court of Industrial Relations. This was not only the legally approved procedure but was dictated by the fact that there was indeed a legitimate representation issue. PSSLU, with whom the existing CBAs were entered into, was demanding of respondent companies to collectively bargain with it; so was Paulino Lazaro of MUEWA, J.C. Espinas & Associates for MACATIFU and the MFWU, and the complainant LAKAS for MULU which we understand is the aggragation of MACATIFU, MFWU and UNWU. On top of all of these, Jose Roque of UNWU disauthorized the PSSLU from representing his union; and similarly, Augusto Carreon of MACATIFU itself informed management as late as July 11, 1967 or after the demand of LAKAS that no group representing his Union "is not authorized and should not be entertained."

Indeed, what We said in *Philippine Association of Free Labor Unions (PAFLU) vs. The Bureau of Labor Relations*, 69 SCRA 132, applies as well to this case.

"In a situation like this where the issue of legitimate representation in dispute is viewed for not only by one legitimate labor organization but two or more, there is every equitable ground warranting the holding of a certification election. In this way, the issue as to who is really the true bargaining representative of all the employees may be firmly settled by the simple expedient of an election."

The above-cited case gives the reason for the need of determining once and for all the true choice of membership as to who should be their bargaining representative, which is that, “(E)xperience teaches us, one of the root causes of labor or industrial disputes is the problem arising from a questionable bargaining representative entering into CBA concerning terms and conditions of employment.”

Respecting the issue of representation and the right of the employer to demand reasonable proof of majority representation on the part of the supposed or putative bargaining agent, the commentaries in Rothenberg on Labor Relations, pp. 429-431, are forceful and persuasive, thus:

“It is essential to the right of a putative bargaining agent to represent the employees that it be the delegate of a majority of the employees and, conversely, an employer is under duty to bargain collectively only when the bargaining agent is representative of the majority of the employees. A natural consequence of these principles is that the employer has the right to demand of the asserted bargaining agent proof of its representation of its employees. Having the right to demonstration of this fact, it is not an ‘unfair labor practice’ for an employer to refuse to negotiate until the asserted bargaining agent has presented reasonable proof of majority representation. It is necessary however, that such demand be made in good faith and not merely as a pretext or device for delay or evasion. The employer’s right is however to reasonable proof.

“Although an employer has the undoubted right to bargain with a bargaining agent whose authority has been established, without the requirement that the bargaining agent be officially certified by the National Labor Relations Board as such, if the informally presented evidence leaves a real doubt as to the issue, the employer has a right to demand a certification and to refuse to negotiate until such official certification is presented.”

The clear facts of the case as hereinbefore restated indisputably show that a legitimate representation issue confronted the respondent Marcelo Companies. In the face of these facts and in conformity with

the existing jurisprudence, We hold that there existed no duty to bargain collectively with the complainant LAKAS on the part of said companies. And proceeding from this basis, it follows that an acts instigated by complainant LAKAS such as the filing of the Notice of Strike on June 13, 1967 (although later withdrawn) and the two strikes of September 4, 1967 and November 7, 1967 were calculated, designed and intended to compel the respondent Marcelo Companies to recognize or bargain with it notwithstanding that it was an uncertified union, or in the case of respondent Marcelo Tire and Rubber Corporation, to bargain with it despite the fact that the MUEWA of Paulino Lazaro was already certified as the sole bargaining agent in said respondent company. These concerted activities executed and carried into effect at the instigation and motivation of LAKAS are illegal and violative of the employer's basic right to bargain collectively only with the representative supported by the majority of its employees in each of the bargaining units. This Court is not unaware of the present predicament of the employees involved but much as We sympathize with those who have been misled and so lost their jobs through hasty, ill-advised and precipitate moves, We rule that the facts neither substantiate nor support the finding that the respondent Marcelo Companies are guilty of unfair labor practice.

There are also other facts which this Court cannot ignore. The complaint of LAKAS charge that after their first strike of September 4, 1967, management and the striking employees entered into a Return-to-Work Agreement but that it was violated by the respondent companies who "refused to admit the members of the three striking local unions and gave preference to the casual employees." (No. 8, Complaint). It is also alleged that the strike of November 7, 1967 was staged "because of the refusal of the respondents to accept some union members and refusal of respondents to bargain in good faith with complainant" (No. 9, Complaint). We find however, that in making these charges, complainant LAKAS lacked candor, truth and fidelity towards the courts.

It is a fact found by the respondent court, and as revealed by the records of the case, that the respondent Marcelo Companies did not violate the terms of the Return-to-Work Agreement negotiated after the first strike. All of the strikers were admitted back to work except

four (4) who opted not to report for work because of the administrative investigation conducted in connection with the acts of violence perpetrated during the said strike.

It is also evident from the records that the charge of bargaining in bad faith imputed to the respondent companies, is hardly credible. In fact, such charge is valid as only against the complainant LAKAS. The parties had a total of five (5) conferences for purposes of collective bargaining. It is worth considering that the first strike of September 4, 1967 was staged less than a week after the fourth CBA conference and without any benefit of any previous strike notice. In this connection, it must be stated that the notice of strike filed on June 13, 1967 could not have been the strike notice for the first strike because it was already withdrawn on July 14, 1967. Thus, from these stated facts can be seen that the first strike was held while the parties were in the process of negotiating. Nor can it be sustained that the respondent Marcelo Companies bargained in bad faith since there were proposals offered by them, but the complainant LAKAS stood pat on its position that all of their economic demands should be met and that all of these demands should be granted in all of the respondent Marcelo Companies. The companies' refusal to accede to the demands of LAKAS appears to be justified since there is no showing that these companies were in the same state of financial and economic affairs. There is reason to believe that the first strike was staged only for the purpose of compelling the respondent Marcelo Companies to accede to the inflexible demands of the complainant LAKAS. The records further establish that after the resumption of normal operations following the first strike and the consequent Return-to-Work Agreement, the striking unions led by complainant LAKAS and the management of the respondent Marcelo Companies resumed their bargaining negotiations. And that on October 13, 1967, complainant LAKAS sent the final drafts of the collective bargaining proposals for MFWU and UNWU. The second strike-of November 7, 1967 was then staged immediately after which strike, as before, was again lacking of a strike notice. All of these facts show that it was complainant LAKAS, and not the respondent Marcelo Companies, which refused to negotiate in the pending collective bargaining process. All that the facts show is that the bargaining position of complainant LAKAS was inflexible and that it was in line with this uncompromising attitude that the strikes were declared, significantly

after notice that management did not or could not meet all of their 17-points demand.

Respondent court, upholding the contention of petitioner LAKAS that after the second strike, the respondent Marcelo Companies, despite the strikers' unconditional offer to return to work, refused to readmit them without "screening" which LAKAS insists to be "discriminatory hiring of the striking employees," declared that although the two strikes were illegal, being economic strikes held in violation of the strike notice requirement, nevertheless held the Marcelo Companies guilty of unfair labor practice in discriminating against the complaining employees by refusing to readmit them while other strikers were admitted back to work. We do not agree.

It is the settled jurisprudence that it is an unfair labor practice for an employer not to reinstate, or refuse re-employment to, members of union who abandon their strike and make unconditional offer to return to work.^[1] As indeed Exhibit "B" presents an unconditional offer of the striking employees to return to work under the same terms and conditions of employment before the strike, the question then confronting Us is whether or not on the part of the respondent companies, there was refusal to reinstate or re-employ the strikers.

We find as a fact that the respondent Marcelo Companies did not refuse to reinstate or re-employ the strikers, as a consequence of which We overrule the finding of unfair labor practice against said companies based on the erroneous conclusion of the respondent court. It is clear from the records that even before the unconditional offer to return to work contained in Exhibit "B" was made, the respondent Marcelo Companies had already posted notices for the strikers to return back to work. It is true that upon their return, the strikers were required to fill up a form (Exhibit "49") wherein they were to indicate the date of their availability for work. But We are more impressed and are persuaded to accept as true the contention of the respondent Marcelo Companies that the aforestated requirement was only for purposes of proper scheduling of the start of work for each returning striker. It must be noted that as a consequence of the two strikes which were both attended by widespread acts of violence and vandalism, the businesses of the respondent companies were completely paralyzed. It would hardly be justiciable to demand of the

respondent companies to readmit all the returning workers in one big force or as each demanded readmission. There were machines that were not in operating condition because of long disuse during the strikes. Some of the machines needed more than one worker to operate them so that in the absence of the needed team of workers, the start of work by one without his teammates would necessarily be useless, and the company would be paying for his time spent doing no work. Finally, We take judicial cognizance of the fact that companies whose businesses were completely paralyzed by major strikes cannot resume operations at once and in the same state or force as before the strikes.

But what strikes Us most in lending credence to respondents' allegation that Exhibit "49" was not meant to screen the strikers, is the fact that all of the returning strikers who filled up the form were scheduled for work and consequently started with their jobs. It is only those strikers who refused or failed to fill-up the required form, like the herein complaining employees, who were not scheduled for work and consequently have not been re-employed by the respondent Marcelo Companies. Even if there was a sincere belief on their part that the requirement of Exhibit "49" was a ruse at "screening" them, this fear would have been dispelled upon notice of the fact that each and all of their co-strikers who filled up the required form were in fact scheduled for work and started to work. The stoppage of their work was not, therefore, the direct consequence of the respondent companies' complained act. Hence, their economic loss should not be shifted to the employer.^[2]

It was never the state policy nor Our judicial pronouncement that the employees' right to self-organization and to engage in concerted activities for mutual aid and protection, are absolute or be upheld under all circumstances. Thus, in the case of Royal Interocean Lines, et al. vs. CIR,^[3] We cited these authorities giving adequate panoply to the rights of employer, to wit:

"The protection of workers' right to self-organization in no way interfere with employer's freedom to enforce such rules and orders as are necessary to proper conduct of his businesses, so long as employer's supervision is not for the purpose of intimidating or coercing his employees with respect to their

self-organization and representation. (National Relations Board vs. Hudson Motor Car Co., C.C.A., 1942, 123 F 2d. 528).”

“It is the function of the court to see that the rights of self-organization and collective bargaining guaranteed by the Act are amply secured to the employee, but in its effort to prevent the prescribed unfair labor practice, the court must be mindful of the welfare of the honest employer (Martel Mills Corp. vs. M.L.R.L., C.C.A., 1940, 11471 F2d. 264).”

In *Pagkakaisang Itinataguyod ng mga Manggagawa sa Ang Tibay (PIMA), Eliseo Samson, et al. vs. Ang Tibay, Inc., et al.*, L-22273, May 16, 1967, 20 SCRA 45, We held that the exaction, by the employer, from the strikers returning to work, of a promise not to destroy company property and not to commit acts of reprisal against union members who did not participate in the strike, cannot be considered an unfair labor practice because it was not intended to discourage union membership. It was an act of a self-preservation designed to insure peace and order in the employer’s premises. It was also held therein that what the Industrial Peace Act regards as an unfair labor practice is the discrimination committed by the employer in regard to tenure of employment for the purpose of encouraging or discouraging union membership.

In the light of the above ruling and taking the facts and circumstances of the case before Us in relation to the requirement by the respondent companies in the filling up of Exhibit “49”, We hold and rule that the requirement was an act of self-preservation, designed to effect cost-savings as well as to insure peace and order within their premises. Accordingly, the petition in G. R. No. L-38258 should be dismissed, it having failed to prove, substantiate and justify the unfair labor practice charges against the respondent Marcelo Companies.

Now to the procedural question posed in the first issue brought about by the respondent court’s denial of the motions to withdraw the complaint respectively filed by MUEWA, UNWU and MFWU. In their petition (G.R. L-38260) the respondent Marcelo Companies maintain that the respondent court erred in not dismissing the complaint even as it knew fully well that the very authority of LAKAS to represent the labor unions who had precisely disaffiliated from the LAKAS, was

open to serious question and was being ventilated before it. On the other hand, the respondent court rationalized the denial of the aforesaid motions to withdraw by holding that the complaint was filed by LAKAS on behalf of the individual employees whose names were attached to the complaint and hence, that the local unions who were not so authorized by these individual employees, cannot withdraw the said complaint. The lower court's opinion is erroneous.

Firstly, LAKAS cannot bring any action for and in behalf of the employees who were members of MUEWA because, as intimated earlier in this Decision, the said local union was never an affiliate of LAKAS. What appears clearly from the records is that it was Augusto Carreon and his followers who joined LAKAS, but then Augusto Carreon was not the recognized president of MUEWA and neither he nor his followers can claim any legitimate representation of MUEWA. Apparently, it is this split faction of MUEWA, headed by Augusto Carreon, who is being sought to be represented by LAKAS. However, it cannot do so because the members constituting this split faction of MUEWA were still members of MUEWA which was on its own right a duly registered labor union. Hence, any suit to be brought for and in behalf of them can be made only by MUEWA, and not LAKAS. It appearing then that Augusto Carreon and his cohorts did not disaffiliate from MUEWA nor signed any individual affiliation with LAKAS, LAKAS bears no legal interest in representing MUEWA or any of its members.

Nor will the lower court's opinion be availing with respect to the complaining employees belonging to UNWU and MFWU. Although it is true, as alleged by LAKAS, that when it filed the charge on December 26, 1967, the officers of the movant unions were not yet then the officers thereof, nevertheless, the moment MFWU and UNWU separated from and disaffiliated with LAKAS to again exercise its rights as independent local unions, registered before as such, they are no longer affiliates of LAKAS, as what transpired here. Naturally, there would no longer be any reason or occasion for LAKAS to continue representing them. Notable is the fact that the members purportedly represented by LAKAS constitute the mere minority of the movant unions, as may be inferred from the allegations of the movant unions as well as the counter-allegations of LAKAS filed below. As such, they cannot prevail or dictate upon the will of the

greater majority of the unions to which they still belong, it appearing that they never disaffiliated from their unions; or stated in another way, they are bound by the action of the greater majority.^[4]

In NARIC Workers' Union vs. CIR,^[5] We ruled that, "(a) labor union would go beyond the limits of its legitimate purposes if it is given the unrestrained liberty to prosecute any case even for employees who are not members of any union at all. A suit brought by another in representation of a real party in interest is defective." Under the uncontroverted facts obtaining herein, the aforesated ruling is applicable, the only difference being that, here, a labor federation seeks to represent members of a registered local union never affiliated with it and members of registered local unions which, in the course of the proceedings before the industrial court, disaffiliated from it.

This is not to say that the complaining employees were without any venue for redress. Under the aforesated considerations, the respondent court should have directed the amendment of the complaint by dropping LAKAS as the complainant and allowing the suit to be further prosecuted in the individual names of those who had grievances. A class suit under Rule 3, Section 12 of the Rules of Court is authorized and should suffice for the purpose.

In fairness to the complaining employees, however, We treated their Motion for Reconsideration of the Decision subject of appeal as curing the defect of the complaint as the said motion expressly manifested their collective desire to pursue the complaint for and in their own behalves and disauthorizing LAKAS' counsel from further representing them. And We have also treated their petition before Us in the same manner, disregarding the fact that LAKAS remained the petitioning party, as it appears from the verification that the petition in L-38258 was for and in behalf of the complaining employees. The merits of their petition, however, fall short of substantiating the charge of unfair labor practice against the respondent Marcelo Companies. On the other hand, the appeal of the Marcelo Companies in L-38260 must be upheld and sustained.

WHEREFORE, upon the foregoing considerations, the petition in L-38258 is dismissed and the petition in L-38260 is granted. The decision of the Court of Industrial Relations is hereby **REVERSED**

and **SET ASIDE** and a new judgment is rendered holding that the respondent Marcelo Companies are not guilty of unfair labor practice.

No Costs.

SO ORDERED.

Makasiar, J., (Chairman), Concepcion, Jr., Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., concurs in the result.

[1] People's Bank & Trust Company Employees Union, et al. vs. CIR, et al., 69 SCRA 10; Cromwell Commercial Employees and Laborers Union (PTUC) vs. CIR, et al., 12 SCRA 124.

[2] See Dinglasan vs. National Labor Union, L-14183, November 28, 1959.

[3] 109 Phil. 900 (1960).

[4] National Labor Union vs. Ang Bisig ng P.M.C., L-12575, May 13, 1959.

[5] 3 SCRA 804.