

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
SECOND DIVISION**

**LITTON MILLS EMPLOYEES  
ASSOCIATION-KAPATIRAN AND  
ROGELIO ABONG,**

*Petitioners,*

*-versus-*

**G.R. No. 78061  
November 24, 1988**

**HONORABLE PURA FERRER-  
CALLEJA, in her capacity as Director of  
the Bureau of Labor Relations,  
RODOLFO UMALI AND LITTON  
MILLS, INC.,**

*Respondents.*

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**DECISION**

**PADILLA, J.:**

This is a Petition for Review on *Certiorari*, with Prayer for Preliminary Injunction, seeking to prevent private respondent Rodolfo Umali from affiliating the petitioner-union, Litton Mills Employees Association-Kapatiran (LMEA-K, for short), with the National Union of Garments, Textile Cordage and General Workers of the Philippines (GATCORD, for short), and to enjoin the latter or any of its representatives from representing petitioner-union in any

capacity whatsoever. The petition also seeks to declare as null and void petitioner union's affiliation with GATCORD: that LMEA-K union President, Rodolfo Umali, be declared impeached, and that respondent company, Litton Mills, Inc. (LMI, for short) be ordered by this Court to terminate Umali from his employment.

Petitioner-union, LMEA-K, is a legitimate labor organization in the respondent company, LMI, while individual petitioner, Rogelio Abong, and individual respondent, Rodolfo Umali, are the vice-president, respectively, of LMEA-K.

The facts of the case are as follows:

On 14 August 1986, without the knowledge and approval of the general membership of LMEA-K, Umali "Affiliated" petitioner-union with the federation of GATCORD. This is evidenced by the Pledge of Allegiance signed by the union's newly appointed shop steward, Norberto David, dated 14 August 1986, which was attested to by Timoteo Aranjuez, GATCORD's president, as inducting officer.<sup>[1]</sup>

Umali then caused mimeographed leaflets to be distributed to the union-members, urging them to continue affiliating with GATCORD, at the same time maligning petitioner-union's legal counsel Paterno D. Menzon, as well as Messrs. Badillo and Abong, the former and incumbent vice-president of petitioner-union.<sup>[2]</sup>

As a consequence, a majority of the union-members, numbering 725,<sup>[3]</sup> out of a total membership of 1,100, more or less, opposed the affiliation of LMEA-K with GATCORD, and expressly manifested their intention to remain as an independent-union, in a statement, "Sama-Samang Kapasiyahan", dated 18 August 1986,<sup>[4]</sup> which, among others, also authorized petitioner Abong to take appropriate steps against respondent Umali, including impeachment, should the latter continue the affiliation of the petitioner-union with GATCORD.

Despite the opposition of a majority of the union membership to the petitioner-union's affiliation with GATCORD, Umali continued with it, as evidenced by a letter he wrote to LMI, dated 20 August 1986, which was written on paper with the letterhead of GATCORD printed on it. The said letter, which was in reference to the number of workers

of LMI who were to be given regular appointments, and those who were to be terminated and replaced, was again attested to by Timoteo Aranjuez, GATCORD's National President.<sup>[5]</sup>

Thereafter, Abong and the majority of the elected union officers signed a letter, dated 24 August 1986, addressed to Umali, accusing him of disloyalty by reasons of his affiliation with GATCORD, and advising him to appear before them on 27 August 1986 at 2:00 p.m. in the company canteen, to refute the charge of disloyalty against him. The same letter warned Umali that his failure to attend said meeting would be interpreted as an admission on his part of the charge levelled against him. Umali did not show up at the appointed confrontation of 27 August 1986.

Consequently, the majority of the union officers, led by Abong, voted to impeach Umali, who was informed of this fact by letter, dated 30 August 1986, addressed to him, with copy furnished Mr. James Go, the senior vice-president of LMI. Abong also wrote the latter, informing him, of Umali's impeachment, and invoking the provision of the collective bargaining agreement on union security, i.e., that the petitioner-union may request LMI to dismiss an impeached officer or members of the union.

The company's position on the request of the petitioners, as stated in its letter to the petitioners, dated 10 September 1986, was that the petitioners should first comply with the provision of the CBA, to wit:

“An employee who is expelled from the Union for cause shall, upon demand by the Union, be terminated from employment, provided that all pertinent requirements of the Ministry of Labor and Employment are first complied with; provided that the Union shall hold the company free from any liability that may arise due to said termination.”<sup>[5a]</sup>

In other words, LMI required the petitioners to first thresh out the matter with the proper office of the Department of Labor and Employment, before it could act on petitioners' request to terminate Umali from his employment with LMI.

On 25 September 1986, petitioners lodged a complaint against Umali and LMI before the med-arbiter section of the National Capital Region of the Department of Labor and Employment, docketed as NCR-LRD-M-9-718-86, praying that, after notice and hearing, an order be issued declaring as valid the impeachment of Rodolfo Umali and that respondent company be ordered to comply with Sec. 5, par. b Article IV of the CBA, by terminating the employment of Umali, and proclaiming Rogelio Abong, the union's vice-president, as the new president of the union.<sup>[6]</sup>

Umali filed his answer, after which petitioners filed their reply averring that Umali's open defiance of the will of the majority of the union members for the union to remain an independent union, and Umali's contention that the majority wanted to affiliate with GATCORD, without submitting up to that time any evidence to support such contention were clear evidence of his disloyalty to petitioner-union, for which he ought to be impeached. Thereafter, petitioners filed a Supplemental Reply stating, among others, that of the 700 signatures of union members eventually submitted by Umali, as belonging to those who supported affiliation with GATCORD, a) 111 signatures were forged or faked signatures, b) 6 were those of resigned employees, and c) 44 were by those who signed 2 or 3 times, summing up to a total of 161 signatures that should be excluded from Umali's submission of 700 affirming signatures, thereby leaving only 539 signatures in favor of affiliation with GATCORD.

Aside from averring unauthorized affiliation of LMEA-K with GATCORD, petitioner-union (LMEA-K) alleged in its supplemental reply that the mere use by Umali of falsified signatures of union members was enough reason for his expulsion as president of LMEA-K.

On 15 November 1986, Med-Arbiter Residali Abdullah issued an order declaring that the issue of affiliation cannot be dealt with in the complaint filed by petitioners, and that the impeachment of Umali was null and void.

The Med-Arbiter found no valid ground to sustain the impeachment of Rodolfo Umali as president of the petitioner-union, since Umali was not afforded his right to due process, his impeachment having

been approved without compliance with the procedure laid down in the petitioner-union's constitution and by-laws. The Med-Arbiter also considered the petitioner-union's "Sama-Samang Kapasiyahan" as mere declarations of some union members opposing the proposed affiliation of the union with GATCORD, and stating their preference to remain an independent union, but not as a petition charging respondent Umali with a specific offense against the union.

The Med-Arbiter further held that the letter-decision of the petitioner-union which impeached respondent Umali was bereft of any legal merit, because the non-appearance of Umali at the first scheduled meeting of 27 August 1986 cannot be legally construed as an admission on his part of the charges levelled against him. The Med-Arbiter then held thus:

"Again, even on the assumption that respondent Umali urged the general membership of the complainant union to join with him in his move to affiliate the union with the federation but [sic] such act on the part of Rodolfo Umali cannot to our mind be considered union disloyalty to warrant his removal from office and his expulsion from the union. It should be noted that Litton Mills Employees Association-KAPATIRAN is an independent registered labor organization without any affiliation. So that, respondent Umali cannot be held liable under Par. (b), Section 5, Art. IV of the union's constitution and by-laws as he was only trying to affiliate the union with the federation for reason, perhaps, to avail [sic] the services and assistance of the federation and not organizing or joining another labor union. Organizing or joining another labor union is different from affiliation of the union. The former implies abandonment of the union membership as what the [sic] respondent Umali did. On this score, respondent Umali cannot be stripped of his membership much less to remove him (sic) from the union presidency.

"As to the second issue, it appearing that the impeachment of respondent Umali is adjudged to be without valid ground, the union security clause of the existing CBA does not apply. Hence, the prayer of the complainants to terminate the employment of Rodolfo Umali with Litton Mills, Inc. should not be given due course."<sup>[7]</sup>

Petitioners appealed the Med-Arbiter's order to the public respondent, who, in a Resolution, dated 13 February 1987, dismissed the appeal for lack of merit, and affirmed in toto the order of the Med-Arbiter, dated 17 November 1986. Petitioner's motion for reconsideration was denied in an order, dated 1 April 1987.

Hence, the present recourse.

The controversy, in the case at bar stems from respondent Umali's act of affiliating the petitioner-union with GATCORD, which caused the union officers to impeach Umali for disloyalty to the union. The impeachment is anchored on a provision in the petitioner-union's Constitution and By-Laws, which reads as follows:

“Art. IV, Section 5. Membership may be lost under the following grounds:

X X X

b) Organizing or joining another labor union or any federation.

X X X<sup>[7a]</sup>

(Emphasis supplied)

One of the grounds for losing membership in the union, as aforestated, is by joining a federation. There is no dispute in the present case that GATCORD is a labor federation, to which respondent Umali affiliated the petitioner-union as evidenced by mimeographed leaflets he caused to be distributed among the union-members, urging them to continue affiliating with GATCORD, the Pledge of Allegiance of newly-appointed Shop Steward Norberto David, and the letter of Umali to LMI, dated 20 August 1986, the last two (2) being attested to by GATCORD's National President Timoteo Aranjuez, and the fact that the letter dated 20 August 1986 was written on paper with GATCORD's letterhead. Also, the affiliation of the petitioner-union with GATCORD was affirmed by Umali himself, when he presented the alleged 700 signatures of union-members who supported his move of affiliating the union (LMEA-K) with GATCORD. Hence, it cannot be denied that Umali did not only

propose the affiliation, but in fact affiliated the petitioner-union with GATCORD, in contravention of the above-cited prohibition in Section 5, Article IV of the petitioner-union's Constitution and By-Laws.

And yet, if the act of Umali in affiliating the petitioner-union with GATCORD, is with the consent of a majority of the union membership, then any violation of the petitioner-union's Constitution and By-Laws becomes of little consequence. It will appear in such case that the union itself has ratified the act of affiliation. It will be noted that Umali, albeit belatedly, presented the signatures of 700 members of the union, as proof of the support he had from them for the union's affiliation with GATCORD.

On the other hand, petitioners presented 725 signatures, or 65.9% of the entire union membership, who signed the "Sama-Samang Kapasiyahan", as proof of those who opposed the affiliation, in addition to petitioners' allegation that out of the 700 signatures presented by Umali, 161 signatures were either forged or faked, twice or thrice written, or signatures of already resigned employees.

This Court takes notice of the fact that in all of the pleadings submitted by respondent Umali, he never bothered to refute the charge of the petitioners as to the questioned 161 signatures; neither has he denied that the union members who opposed the affiliation were more than those who supported it. Hence, this Court finds that the affiliation of the petitioner-union with GATCORD was done by Umali without the support of the majority of the union membership.

Furthermore, the Court notes that the collective bargaining agreement of the petitioner-union (LMEA-K) with LMI was to expire only on 31 October 1987, whereas, Umali affiliated the union around August 1986, or about 14 months before the expiration of said CBA. The affiliation of the petitioner-union with GATCORD converted the former's status from that of an independent union to that of a local of a labor federation. Such change in status not only affects the identity of the petitioner-union but also its powers, duties and privileges, for as a local, it will have to contend with and consult the federation, in matters affecting the union.

The act of affiliating with a federation is a major modification in the status of the petition-union. And such act is a violation of the rule that no modification of the CBA can be made during its existence, unless either party serves written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date.<sup>[8]</sup> Hence, there was a violation of the existing CBA, on the part of Umali.

As to the impeachment of a union officer, Section 2, Article XV of the petitioner-union's Constitution and By-Laws provides the procedures to be followed, to wit: (1) Impeachment should be initiated by petition signed by at least 30% of all bona fide members of the union, and addressed to the Chairman of the Executive Board; (b) A general membership meeting shall be convened by the Board Chairman to consider the impeachment of an officer; (c) Before any impeachment vote is finally taken, the union officer against whom impeachment charges have been filed shall be given ample opportunity to defend himself; and (d) A majority of all the members of the union shall be required to impeach or recall union officers.

It clearly appears that the above cited procedure was not followed by the petitioners when they impeached Umali. To be sure, there was difficulty on the part of the petitioners in complying with the required procedure for impeachment, considering that the petition to impeach had to be addressed to the Chairman of the Executive Board of the Union, and that the majority membership which would decide on the impeachment had to be convened only upon call of the Chairman of the Executive Board who, in the case at bar, happened to be respondent Umali himself.

Nevertheless, despite the practical difficulties in complying with the said procedure, petitioners should have shown substantial compliance with said impeachment procedure, by giving Umali ample opportunity to defend himself, as contrasted to an outright impeachment, right after he failed to appear before the first and only investigation scheduled on 27 August 1986 in the Litton Canteen.

The above conclusions notwithstanding, the Court believes that the union-members themselves know what is best for them, i.e., whether they still want respondent Umali as their Union President, and whether they wish to affiliate their union with GATCORD. And, the

best and most appropriate means of ascertaining the will of the union members is through a certification election.

Consistent with the foregoing observations, it appears from the record that a group of employees headed by petitioner Rogelio Abong broke away from the petitioner-union and formed a new union, called Litton Mills Workers Union, and that in a certification election that followed, said Litton Mills Workers Union, headed by petitioner Abong, was chosen as the collective bargaining agent.<sup>[9]</sup>

Because of this supervening event, it now appears clear that the majority of the heretofore members of petitioner-union (LMEA-K) do not wish respondent Umali to continue as their president; neither do they wish their union to be affiliated with the GATCORD federation. Consequently, the issues in this petition have become moot and academic.

The Manifestation of the petitioners, dated 9 October 1987, after informing the Court of the election of the Litton Mills Workers union headed by petitioner Abong, as the collective bargaining representative in LMI, reiterates the prayer that respondent Umali be considered and declared as impeached. This issue has, to the mind of the Court, likewise become moot and academic for it is inconceivable that Umali will be retained as president of the new collective bargaining agent, the Litton Mills Workers Union, while Umali's continued presidency of LMEA-K., as a minority union if still existing in LMI, has ceased to be of any moment in the instant case.

**WHEREFORE**, the petition is **DENIED** for having become moot and academic. Without pronouncement as to costs.

**SO ORDERED.**

**Melencio-Herrera, Paras, Sarmiento and Regalado, JJ., concur.**

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[1] Petition, Annex "A", Rollo, p. 11.

[2] Id., Annex "B", Rollo, p. 12.

[3] Decision of the Med-Arbiter, Rollo, pp. 34, 36.

- [4] Petition, Annex "C", Rollo, p. 13.
- [5] Id., Annex "D", Rollo, p. 14.
- [5.a] Rollo, p. 18.
- [6] Decision of Med-Arbiter, Rollo, p. 32.
- [7] Rollo, pp. 38-39.
- [7.a] Rollo, p. 57.
- [8] Article 253, Labor Code.
- [9] Rollo, p. 114. This information is contained in a Manifestation, dated 9 October 1987, filed by counsel for the petitioners, served on all the parties, and unrebutted by respondents.