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**SUPREME COURT
SECOND DIVISION**

**TRADE UNIONS OF THE PHILIPPINES
AND ALLIED SERVICES (TUPAS) —
Local Chapter No. RO VI-001
(VISTRANCO TRANSPORT WORKERS
ASSOCIATION,**

Petitioners,

-versus-

**G.R. No. L-46499
August 19, 1982**

**AMADO G. INCIONG, FRANCISCO L.
ESTRELLA, BUREAU OF LABOR
RELATIONS, UNION DE MARINOS DE
ILOILO (UMI); and LUZON
STEVEDORING COMPANY-
VISTRANCO,**

Respondents.

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DECISION

CONCEPCION, JR., J.:

Petition for *Certiorari* to annul and set aside the Resolutions of the respondents Amado G. Inciong and Francisco L. Estrella issued on March 17, 1977 and June 17, 1977, respectively, in BLR Case No. A-618-77 (LRD Case No. 384) entitled: "In re Petition for Certification

Election as the Sole and Exclusive Bargaining Agent of the Rank and File Workers at Luzon Stevedoring Company-Vistranco, Iloilo Division; Trade Unions of the Philippines and Allied Services (TUPAS) – Local Chapter No. RO-VI-001 (VISTRANCO Transport Workers Association), petitioner; Union de Marineros de Iloilo (UMI), intervenor,” and to declare the decision rendered in the said case by Med-Arbiter Rodolfo G. Lagoc on December 20, 1976 as final and executory.

The record shows that on September 20, 1976, the herein petitioner Trade Unions of the Philippines and Allied Services (TUPAS) – Local Chapter No. RO VI-001 (Vistranco Transport Workers Association), hereinafter referred to as TUPAS for short, filed with Regional Office No. VI of the Department of Labor, at Iloilo City, a petition seeking a certification election among the rank and file workers of the Luzon Stevedoring Company-VISTRANCO-Iloilo Division, hereinafter referred to as LUSTEVECO, for short. TUPAS therein alleged that there was no collective bargaining agreement between the existing labor organization in the company and LUSTEVECO, duly certified by the Bureau of Labor Relations; that there were about 300 regular employees in the said company, 30% of whom had signified their assent to the filing of the petition, attaching thereto the signatures of 113 workers, and desired that TUPAS be their sole and exclusive bargaining agent for purposes of collective bargaining; and that there had been no certification election in LUSTEVECO during the past 12 months immediately prior to the filing of the petition.^[1] The case, docketed therein as RO VI-Med Case No. 384, was assigned to Med-Arbiter Rodolfo G. Lagoc who, thereafter, issued an order on September 22, 1976, directing LUSTEVECO to submit the payroll of its workers for the period from September 1 to 15, 1976, on or before the hearing of the case set for October 19, 1976.

On October 21, 1976, TUPAS amended its petition, stating, among others, that there were about 400 regular workers in the company 30% of whom had signified their assent to the filing of the petition. TUPAS submitted 128 additional signatures.^[2]

On October 25, 1976, the Union de Marineros de Iloilo (UMI), hereinafter referred to as UMI, for short, filed an intervention in the case claiming that there were more than 600 rank and file workers in

LUSTEVECO so that the 113 signatories in the petition did not constitute the 30% of the total number of the regular workers required by law; that there was an existing collective bargaining agreement between LUSTEVECO and UMI, signed on September 1, 1976, but retroactive to March 16, 1976; and that the petition for certification election should have been filed within 60 days immediately prior to the expiration of the collective bargaining agreement.^[3] LUSTEVECO also opposed the petition on substantially the same grounds and alleged that there were 641 employees in its Transport and Marine Division.^[4]

After appropriate proceedings, or on December 20, 1976, the Med-Arbiter issued a decision granting the petition and directing the holding of a certification election among the rank and file workers of the Transport and Marine Division of LUSTEVECO to determine whether the workers therein should be represented by TUPAS or by UMI in their bargaining agreement with management.^[5]

UMI appealed to the Bureau of Labor Relations,^[6] and on March 17, 1977, the respondent Amado G. Inciong, as Acting Director of the Bureau of Labor Relations, set aside the decision of the Med-Arbiter and dismissed the petition of TUPAS, holding that while an uncertified collective bargaining agreement does not bar the filing of a petition for certification election, the petition for certification election filed by TUPAS was not supported by the written consent of at least 30% of all the workers in the bargaining unit since 113 of around 641 regular workers fall short of the 30% requirement.^[7] TUPAS filed a motion for the reconsideration of the resolution,^[8] but the said motion was denied by the respondent Francisco L. Estrella, Acting Director of the Bureau of Labor Relations, who affirmed the disputed resolution on June 17, 1977.^[9]

Hence, the present recourse.

The petitioner, TUPAS, contends that the basis in determining whether or not there has been compliance with the requirements of Art. 257 of the Labor Code that at least 30% of all the regular workers in the bargaining unit have given their consent to the holding of a certification election, should be the amended petition, and not the original petition, and since 243 of the 641 employees in the Marine

and Transport Division of LUSTEVECO had given their consent to the holding of a certification election, there was compliance with the requirements of the law.

We find no merit in the petition. As observed by the Solicitor General, while the petition of TUPAS for a certification election may have the written support of 30% of all the workers of the bargaining unit, it is also an undisputed fact that UMI has a clear majority of the said workers, as shown by the fact that 499 workers out of the total working force of 641 have not only ratified the collective bargaining agreement concluded between UMI and LUSTEVECO, but also affirmed their membership in UMI so that there is no more need for holding a certification election. He said:

“True, TUPAS’ petition for certification election has the written support of 30% of all the employees in the bargaining unit. But it is equally undisputable that herein respondent union possesses a clear majority of said employees. And this is unequivocally shown in the document marked as Annex ‘A’ of herein respondent union’s appeal to the Bureau of Labor Relations wherein 499 employees out of a total working force of 641 signified not only their ratification of the collective bargaining agreement concluded between respondent union and the company but, more importantly, their affirmation of membership in Union de Marinos de Iloilo.

“Considering, therefore, that the overwhelming majority of the employees in the bargaining unit have recognized the Union de Marinos de Iloilo (respondent union) as their sole collective bargaining agent, the issue of majority choice no longer exists, thereby, clearing away the need for a certification election which entails tremendous expenses and causes disruption of the company’s business, not to mention the fact that such an election generally brings about disharmony among employees. Indeed, such a situation is not salutary to the purposes of the Labor Code.

“In an attempt to salvage a lost cause, petitioner TUPAS has submitted a list of alleged members of respondent union, totaling 280, who have supposedly disaffiliated from UMI in

order to join TUPAS. The said list cannot be considered at all. First, it was not taken up during the hearings blow. It was submitted only after the BLR Director had rendered his decision. It is but a scrap of paper which cannot now be considered without running a foul of the demands of due process.”^[10]

At any rate, TUPAS was not without another remedy more expeditious and adequate than recourse to the extraordinary remedy of *certiorari*. To render ineffective the disputed resolutions, all that TUPAS had to do was to file another petition for a certification election with all the formalities of law.

WHEREFORE, the Petition should be, as it is hereby **DISMISSED**. With costs against the petitioner.

SO ORDERED.

Barredo, J., (Chairman), Guerrero, Abad Santos, and De Castro, JJ., concur.
Aquino and Escolin, JJ., concur in the result.

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- [1] Rollo, p. 26.
[2] Id., p. 28.
[3] Id., p. 30.
[4] Id., p. 33.
[5] Id., p. 40.
[6] Id., p. 44.
[7] Id., p. 54.
[8] Id., p. 57.
[9] Id., p. 67.
[10] Id., pp. 266-268.