SUPREME COURT
SECOND DIVISION

TABLANTE-TUNGOL ENTERPRISES,
***Petitioner*,**

-versus-

G.R. No. L-47848
August 23, 1978

HON. CARMELO C. NORIEL, ELISEO E. PEÑAFLOR and ASSOCIATION OF DEMOCRATIC LABOR ORGANIZATION,
***Respondents*.**
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R E S O L U T I O N

FERNANDO, *J.*:

Petitioner Tablante-Tungol Enterprises, resolute in its determination not to bargain collectively with private respondent, Association of Democratic Labor Organization, has once again filed a certiorari proceeding against respondents Director Carmelo C. Noriel, Bureau of Labor Relations, and the Chief of its Med-Arbiter Section, Regional Office No. 3, Eliseo Peñaflor. The first attempt,[1] embodied in a certiorari and prohibition petition dated May 3, 1976, to set aside a resolution of respondent Noriel ordering a certification election, was dismissed in a minute resolution of May 12, 1976[2] for lack of merit. The second petition for certiorari was filed on December 8, 1976,[3] this time to nullify a certification election held on May 26, 1976,

wherein private respondent[4] was unanimously chosen as the collective bargaining representative.[5] For obvious lack of merit, it was likewise dismissed in a Resolution of November 18, 1977.[6] In this certiorari proceeding, it was alleged that public respondents should have cancelled the registration and permit of private respondent labor organization as private respondent labor union had engaged in an illegal strike. That was the novel issue raised in this petition. Solicitor General Estelito P. Mendoza,[7] in his exhaustive Comment, considered as the answer, found no merit in such an allegation and sustained the action of respondent public officials.

Petitioner is quite insistent that private respondent labor union having engaged in an illegal strike, its registration permit must be cancelled. It based its contention on the relevant section of Presidential Decree No. 823.[8] It did admit that as amended by Presidential Decree No. 849, there is no mention of such a penalty. It now reads in full: "Violation of any provision thereof shall be punished by a fine of P1,000 to P10,000 and/or imprisonment of 1 year to 5 years. Any person violating any provision of Presidential Decree No. 823 shall be dealt with under General Order No. 2-A and General Order No. 49."[9]

Petitioner, nonetheless, would seek to import a semblance of plausibility to its claim by the assertion that the Labor Code itself provides, in another section, that cancellation of registration follows from "any activity prohibited by law."[10] The argument is false and misleading according to the Comment of the Solicitor General. Thus: "By this amendatory law, it is evident that no cause of action exists which will warrant the cancellation of [Association of Democratic Labor Organization's] permit and registration. Of course, petitioner tried to evade said issue by relying on Article 240 (e) and Article 242 (p) of the Labor Code of the Philippines, as amended. Let us examine its legal contention on this matter. For expediency, we quote in entirety the aforesaid Article relied upon by the petitioner for cancellation of the registration and permit of the union: 'Article 239. Ground for cancellation of union registration. The following shall constitute grounds for cancellation of union registration: (e) Acting as a labor contractor or engaging in the "cabo" system, or otherwise engaging in any activity prohibited by law. Suppletory to the above provision is Section 6 (c) of Rule II, Book V of the Rules and

Regulations implementing the Labor Code of the Philippines, as amended, which reads as follows: 'Section 6. Denial of Registration of local unions — The Regional Office may deny the application for registration on any of the following grounds: (c) Engaging in the "cabo" system or other illegal practices.' It is a fact that [Association of Democratic Labor Organization] is not a labor contractor or is it engaged in the 'cabo' system or is it otherwise engaged in any activity of such nature which is prohibited by law. The above-quoted article should not be interpreted or construed to include an illegal strike engaged into by any union. This is so because the phrase 'or otherwise engaging in any activity prohibited by law' should be construed to mean such activity engaged into by a union that par takes of the nature of a labor contractor or 'cabo' system. The law does not intend to include in the said phrase illegally declared strike simply because strike per se is legal. Also, if the law intends to include illegally declared strike, the same could have been expressly placed therein as had been previously done in Presidential Decree No. 823."[11] Clearly, an awareness of the relevance of the maxims noscitur a sociis and ejusdem generis ought to have cautioned counsel for petitioner to shy away from this approach.

The realization must have dawned on petitioner's counsel, Ramos L. Cura, whose abilities could have been enlisted for a more worthwhile cause, that the petition filed by him hardly has any prospect for success. The Comment of Solicitor General Mendoza was filed on July 12, 1978. Then came, less than a month later, August 3, 1978 to be exact, a joint motion to dismiss filed by petitioner and private respondent. It alleges: "1. That, or February 27, 1978, petitioners filed with this Honorable Court a petition for certiorari and mandamus; 2. That, after the filing of the aforesaid petition, the parties through their respective representatives/counsel, met for the purpose of amicable settlement of the issues raised in the aforesaid petition, 3. That, both parties have threshed-out their respective disputes and have found ways and means which would render the above-entitled case moot and academic; 4. That, both parties are no longer interested in the outcome/result of this case and pray of this Honorable Court to dismiss it for being moot and academic."[12] The prayer is for the dismissal of the petition on the ground that it is moot and academic.

WHEREFORE, this petition for certiorari is dismissed for being moot and academic.

Barredo, Antonio, Aquino and Santos, *JJ.*, concur.
Concepcion Jr., *J.*, took no part.

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[1] L-43701, Tablante-Tungol Enterprises vs. Bureau of Labor Relations and Regional Office No. 3, Department of Labor and Association of Democratic Labor Organization (ADLO).
[2] The resolution reads as follows: "L-43701, (Tablante-Tungol Enterprises vs. Bureau of Labor Relations, et al.) - Considering the allegations contained, the issues raised and the arguments adduced in the petition for certiorari and prohibition with preliminary injunction, the Court Resolved to [dismiss] the petition for lack of merit.
[3] L-45177, Tablante-Tungol Enterprises vs. Hon. Carmelo C. Noriel, Eliseo A. Peñaflor and Association of Democratic Labor organization.
[4] The private respondent is Association of Democratic Labor Organization.
[5] Petition, I.
[6] The resolution reads as follows: "Considering the allegations contained, the issues raised and the arguments adduced in the petition for certiorari as well as the respective comments of respondents, the Court Resolved to [dismiss] the petition for lack of merit, there being no showing of grave abuse of discretion on the part of respondent public officials."
[7] He was assisted by Assistant Solicitor-General Reynato S. Puno and Trial Attorney Felix B. Lerio.
[8] According to Presidential Decree No. 823 (1975), Section 11, par. (2): "Violations of this Decree by any legitimate labor organization shall be a ground for disciplinary action including but not limited to the cancellation of their registration permits."
[9] Section 5 of Presidential Decree No. 849.
[10] Petition, 6. Petitioner cited Article 239 of the New Labor Code, but as correctly pointed out in the Comment of the Solicitor General, the third official edition of such Code refers to is as Article 240.
[11] Comment. 5-6.
[12] Joint Motion to Dismiss, 1-2.
