

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**TRADE UNIONS OF THE
PHILIPPINES/FEBRUARY SIX
MOVEMENT (TUPAS/FSM),**
Petitioner,

-versus-

**G.R. No. 95013
September 21, 1994**

**HON. BIENVENIDO LAGUESMA,
TRANSUNION CORPORATION-GLASS
DIVISION, AND INTEGRATED LABOR
ORGANIZATION (ILO-PHILIPPINES).**
Respondents.

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DECISION

PUNO, J.:

Petitioner Trade Unions of the Philippines-February Six Movement (TUPAS-FSM) seeks the reversal of the Resolution, dated July 25,

1990, rendered by then Secretary of Labor and Employment Ruben D. Torres, in OS-MA-A-5-167-90, which dismissed the petition for certification election filed by petitioner TUPAS-FSM for being prematurely filed.^[1]

The controlling facts, as culled from the records, are as follows:

On March 23, 1990, TUPAS-FSM filed a petition for certification election with the Regional Office No. IV of the Department of Labor and Employment (DOLE), for the purpose of choosing a bargaining representative for the rank-and-file employees of Transunion Corporation's industrial plant, situated in Canlubang, Laguna, known as the Transunion Corporation-Glassware Division. Petitioner has then secured a Certification, dated March 22, 1990, issued by Tomas B. Bautista, Jr., Director IV of the DOLE (Region IV), that "Transunion Corporation" has no existing collective bargaining agreement with any labor organization.^[2]

It appears, however, that before the filing of said petition, or on November 15, 1989, Integrated Labor Organization (ILO-Phils.) was duly certified by DOLE as the sole and exclusive bargaining agent of the rank-and-file employees of Transunion Corporation-Glassware Division.^[3] On November 28, 1989, a collective bargaining agreement (CBA) was then forged between Transunion-Glassware Division of ILO-Phils covering the company's rank-and-file employees. The CBA, with a five-year term from December 1, 1989 to December 1, 1994, was ratified by a great majority of the rank-and-filers on December 8, 1989.^[4] In the meantime, the President of ILO-PHILS died. An inter-union conflict followed and the subject CBA was filed with DOLE, for registration purposes, only on March 14, 1990, more or less, three (3) months from its execution. Finally, on May 4, 1990, the Certification of Registration was issued by DOLE through Regional Director Romeo A. Young.^[5]

ILO-Phils., intervened in the certification election proceedings initiated by TUPAS-FSM. It opposed the petition in view of the existing CBA between ILO and the Transunion Corporation-Glassware Division. It stressed that the petition for certification election should be entertained only during the freedom period, or

sixty days before the expiration of the CBA. Med-Arbiter Rolando S. dela Cruz dismissed the petition on the ground of prematurity.

TUPAS-FSM appealed contending: (1) that pursuant to Article 231 of the Labor Code, CBAs shall be filed with the Regional Office of the DOLE within thirty (30) days from the date signing thereof; (2) that said requirement is mandatory, although it would not affect the enforceability of the CBA as between the parties thereto; and (3) since the CBA was filed outside the 30-day period specified under Article 231 of the Labor Code, the prohibition against certification election under Article 232 of the same Code should not apply to third parties such as petitioner.

As stated earlier, the Secretary of Labor and Employment affirmed the impugned Order of the Med-Arbiter, ruling that the belated submission of the CBA was excusable and that the requirement of the law was substantially complied with upon the filing of a copy of the CBA prior to the filing of the petition for certification election. TUPAS-FSM then filed a motion for reconsideration, but it was also denied. Hence, this petition for certiorari where petitioner alleged:

GRAVE ABUSE OF DISCRETION ON THE PART OF THE PUBLIC RESPONDENTS AMOUNTING TO LOSS OF JURISDICTION; and

THE RESOLUTION IS CONTRARY TO THE FACTS AND THE LAW.

The petition lacks merit.

Petitioner raises both factual and legal issues in this present petition.

First, the factual issues. Relying on the March 22, 1990 DOLE Certification issued by Director Bautista, Jr., supra, petitioner insists there was no existing CBA between Transunion Corporation and any labor organization when it filed its petition for certification election on March 23, 1990. To further strengthen its position, petitioner charges that the filing of the CBA was antedated to March 14, 1990, to make it appear that the same was already existing and filed before the filing of the petition for certification election. Petitioner also claims

that since Article 231 of the Labor Code mandates DOLE to act on the CBA filed in its office within five (5) days from date of filing thereof, the subject CBA was filed on April 30, 1990, or five (5) days before its registration on May 4, 1990.

The argument deserves scant consideration. It is elementary that the special civil action for certiorari under Rule 65 of the Revised Rules of Court can be availed of to nullify or modify the proceedings before the concerned tribunal, board, or officer exercising judicial functions who has acted without or in excess of its jurisdiction or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law. This Court is not a trier of facts and it is not its function to examine and evaluate the probative value of all evidence presented to the concerned tribunal which formed the basis of its impugned decision, resolution or order.^[6] Following this hoary rule, it is inappropriate to review the factual findings of the Med-Arbiter and the Secretary of Labor, regarding the date of filing of the CBA on March 14, 1990 prior to the filing of the petition for certification election; the company's voluntary recognition and DOLE's certification of ILO-PHILS. as the sole and exclusive bargaining representative of the rank-and-file employees of Transunion Corporation-Glassware Division; and the subsequent registration of the CBA. They are binding on this Court as they are supported by substantial evidence. In contrast, petitioner's bare allegation pertaining to the "antedating" of the date of filing of the CBA is unsubstantiated and based purely on conjectures.

It is crystal clear from the records that the rank-and-file employees of private respondent's Glassware Division are, at present, represented by ILO-PHILS. Hence, petitioner's reliance on the March 22, 1990 Certification issued by Director Bautista, Jr., is misplaced. The existence and filing of their CBA was confirmed in a Certification, dated April 24, 1990, issued by Director Romeo A. Young of DOLE-Region IV.^[7] The certification of ILO-PHILS. "as the sole and exclusive bargaining agent of the rank-and-file workers of Transunion-Glassware Division," means it shall remain as such during the existence of the CBA, to the exclusion of other labor organizations, including petitioner, and no petition questioning the majority status of the incumbent bargaining agent shall be entertained, nor shall certification election be conducted, outside of

the sixty-day freedom period immediately before the expiry date of the five-year term of the CBA.^[8]

We now resolve the legal issue. Petitioner points out that the subject CBA was filed beyond the 30-day period prescribed under Article 231 of the Labor Code. It also insists that under Article 232 of the Labor Code, the prohibition on the filing of the petition for certification election applies when the CBA was not registered in accordance with the Art. 231, the prohibition will not apply. We disagree.

Articles 231 and 232 of the Labor Code read:

“Art. 231. — Registry of unions and file of collective agreements.
— ...

“Within thirty (30) days from the execution of the Collective Bargaining Agreement, the parties shall submit copies of the same directly to the Bureau or the Regional Office of the Department of Labor and Employment for registration accompanied with verified proofs of its posting in two conspicuous places in the place of work and ratification by the majority of all the workers in the bargaining unit. The Bureau or Regional Office shall act upon the application for registration of such Collective Bargaining Agreement within five (5) days from receipt thereof. The Regional Offices shall furnish the Bureau with a copy of the Collective Bargaining Agreement within five (5) days from its submission.

“x x x”

“Art. 232. — Prohibition on Certification Election. — The Bureau shall not entertain any petition for certification election or any other action which may disturb the administration of duly registered existing collective bargaining agreements affecting the parties except under Articles 253, 253-A and 256 of this Code.”

Corollary thereto, Article 253-A of the same Code reads:

“Art. 253-A. — Any Collective Bargaining Agreement that the parties may enter into shall, insofar as the representation aspect is concerned, be for a term of five (5) years. No petition questioning the majority status of the incumbent bargaining agent shall be entertained and no certification election shall be conducted by the Department of Labor and Employment outside the sixty-day period immediately before the date of expiry of such five year term of the Collective Bargaining Agreement.”

It appears that the procedural requirement of filing the CBA within 30 days from date of execution under Article 231 was not met. The subject CBA was executed on November 28, 1989. It was ratified on December 8, 1989, and then filed with DOLE for registration purposes on March 14, 1990. Be that as it may, the delay in the filing of the CBA was sufficiently explained, i.e., there was an inter-union conflict on who would succeed to the presidency of ILO-PHILS. The CBA was registered by the DOLE only on May 4, 1990. It would be injudicious for us to assume, as what petitioner did, that the said CBA was filed only on April 30, 1990, as five (5) days before its registration, on the unsupported surmise that it was done to suit the law that enjoins Regional Offices of DOLE to act upon an application for registration of a CBA within five (5) days from its receipt thereof. In the absence of any substantial evidence that DOLE officials or personnel, in collusion with private respondent, had antedated the filing date of the CBA, the presumption on regularity in the performance of official functions holds.

More importantly, non-compliance with the cited procedural requirement should not adversely affect the substantive validity of the CBA between ILO-PHILS and the Transunion Corporation-Glassware Division covering the company's rank and file employees. A collective bargaining agreement is more than a contract. It is highly impressed with public interest for it is an essential instrument to promote industrial peace. Hence, it bears the blessings not only of the employer and employees concerned but even the Department of Labor and Employment. To set it aside on technical grounds is not conducive to the public good.

IN VIEW WHEREOF, the impugned July 25, 1990 Resolution, and August 23, 1990 Order of Secretary Ruben D. Torres and Undersecretary Bienvenido E. Laguesma, respectively, in OS-MA-A-5-167-90, is **AFFIRMED** in toto. Costs against petitioner.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado and Mendoza, JJ., concur.

[1] Annex “A” of Petition; Rollo, p. 20; reiterated by the Order dated August 23, 1990 denying petitioner’s motion for reconsideration.

[2] Annex “B” of Petition; Rollo, p. 26.

[3] The Order dated November 15, 1989 of Med-Arbiter Rolando S. dela Cruz, reads:

“O R D E R

“Considering PSSLU’s (Philippine Social Security Labor Union) manifestation during the conference on July 27, 1989, that it is withdrawing from further participation in this (petition for certification election) case, and the Company’s Manifestation filed on October 13, 1989 stating, among others, that it is voluntarily recognizing petitioner ILO as the sole and exclusive bargaining agent of its rank-and-file workers, let the Integrated Labor Organization (ILO-PHILS.) be, as it is hereby CERTIFIED as the sole and exclusive bargaining agent of the rank-and-file workers of Transunion Corporation-Glassware Division.

“SO ORDERED.”

[4] Annex “C” of Petition; Rollo, p. 27; See also Annexes “D” and “E”, Comment (Transunion Corporation-Glassware Division); Rollo, pp. 84-94.

[5] Rollo, p. 27.

[6] Valdez, Jr., et al., vs. Comelec, G.R. No. 85129, January 31, 1989, En Banc, Minute Resolution.

[7] Rollo, p. 112.

[8] Article 253-A, Labor Code, as amended by RA 6715.