SUPREME COURT
FIRST DIVISION

UNITED CMC TEXTILE WORKERS UNION,
***Petitioner*,**

-versus-

G.R. No. 51337
March 22, 1984

BUREAU OF LABOR RELATIONS, HON. CARMELO NORIEL, PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS, (JULY CONVENTION),
***Respondents*.**
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D E C I S I O N

MELENCIO-HERRERA, *J.*:

The question to resolve is whether or not public respondent acted with grave abuse of discretion in affirming the Order of the Med-Arbiter calling for a certification election despite: (a) the pendency of an unfair labor practice case filed by petitioner charging respondent PAFLU as being company-dominated; (b) the existence of a deadlock in negotiations for renewal of the collective bargaining agreement between petitioner and the Central Textile Mills, Inc. (CENTEX, for short); and (c) a reasonable doubt as to whether the 30% requirement for holding a certification election has been met.

Petitioner is a legitimate labor organization, the incumbent collective bargaining representative of all rank and file workers of CENTEX since 1956. Respondent PAFLU is also a legitimate labor organization seeking representation as the bargaining agent of the rank and file workers of CENTEX.

On August 31, 1978, petitioner filed a complaint for Unfair Labor Practice (R4-LRD-C-8-1493-78) (the ULP Case, for brevity) against CENTEX and PAFLU alleging that CENTEX had "helped and cooperated in the organization of the Central Textile Mills, Inc. Local PAFLU by allowing the organizing members of the PAFLU to solicit signatures of employees of the company who are members of the complainant union to disaffiliate from complainant union and join the respondent PAFLU, during company time and inside the company premises on August 21, 1978 and the following days thereafter."[1]

While the ULP Case was pending, PAFLU, on September 5, 1978, filed a Petition for Certification Election (R4-LRD-M-9432-78) (the Certification Case, for short) among the rank and file workers of CENTEX, alleging that: 1) there has been no certification election during the 12 months period prior to the filing of the petition; 2) the petition is supported by signatures of 603 workers, or more than 30% of the rank and file workers of CENTEX; 3) the collective bargaining agreement between CENTEX and petitioner will expire on October 31, 1978; 4) the petition is filed within the 60-day-freedom-period immediately preceding the expiration of the CBA, and 6) there is no legal impediment to the filing of the petition.[2]

Petitioner intervened in the Certification Case and filed a Motion to Dismiss on September 27, 1978 on the grounds that: 1) the ULP Case charging that PAFLU is a company-dominated union is a prejudicial question and bars the holding of the certification election; and 2) PAFLU failed to comply with the 30% requirement for mandatory certification election since only 440 of the 603 are valid signatures and that 719 signatories are required as constitutive of 30% of the rank and file workers totalling 2,397 and not 1,900 as alleged by PAFLU.[3]

On October 16, 1978, petitioner filed a Notice of Strike with the Bureau of Labor Relations for deadlock in the CBA negotiations with CENTEX. The parties having failed to effect a conciliation, the Labor Minister assumed jurisdiction on November 9, 1978 in Case No. AJML-033-78[4] (referred to hereafter as the Deadlock Case).

A Supplemental Motion to Dismiss in the Certification Case was filed by petitioner on December 7, 1978 alleging that the Labor Minister had already taken cognizance of the deadlock in the CBA negotiations and constituted an impediment to the holding of a certification election.[5]

On December 18, 1978, in the Deadlock Case, the Deputy Minister of Labor released a Decision directing petitioner and CENTEX to execute and sign a CBA to take effect on November 1, 1978 up to October 30, 1981 based on the guidelines enumerated therein, and to furnish the Office of the Minister of Labor with a signed copy of the renewed agreement not later than January 31, 1979.[6]

On January 23, 1979, in the Certification Case, the Med-Arbiter issued an Order for the holding of a certification election among CENTEX rank and file workers, whereby qualified voters could choose either PAFLU or petitioner as the collective bargaining representative or No Union at all.[7] This was affirmed by respondent Director of the Bureau of Labor Relations on appeal, in the challenged Resolution, dated May 25, 1979, stating that: 1) the Bureau has discretion to order certification election where several unions are contending for representation and when there is doubt as to whether the 30% requirement has been met; and 2) to preclude the filing of a petition for certification election the notice of strike for deadlock in CBA negotiations must occur prior to the petition.[8]

A Motion for Reconsideration filed by petitioner was denied for lack of merit in the Resolution of August 20, 1979,[9] also assailed herein.

Hence, this petition, on the general proposition that public respondent has committed serious error of law and acted with grave abuse of discretion, and that petitioner has no plain and adequate remedy in the ordinary course of law.

We issued a Temporary Restraining Order enjoining the conduct of the certification election, and eventually gave the Petition due course.

The issues raised are: (1) is the pendency of the ULP Case charging a participating union in the certification election proceedings as company-dominated a prejudicial question to the conduct of the election? (2) Does the decision in the Deadlock Case directing the parties to execute a CBA have the effect of barring the certification election? (3) Does respondent Director have the discretion to call for a certification election even if the 30% consent requirement is lacking?

The case can be resolved on the basis of the first issue alone, which must be answered in the affirmative. Under settled jurisprudence, the pendency of a formal charge of company domination is a prejudicial question that, until decided, bars proceedings for a certification election,[10] the reason being that the votes of the members of the dominated union would not be free.[11] The ULP Case herein was filed on August 31, 1978, or anterior to the Certification Case, which was presented on September 5, 1978. The pendency of the charge was known to respondent public official by virtue of the Motion to Dismiss filed by petitioner as intervenor in the Certification Case. No allegation has been made that said ULP Case was instituted in bad faith to forestall the Certification Case. The following ruling is thus squarely in point:

> "There is no assertion that such complaint was flimsy, or made in bad faith or filed purposely to forestall the certification election. So, no reason existed for the Industrial Court to depart from its established practice of suspending the election proceeding. And this seems to be accepted rule in the law of labor relations, the reason being, in the words of Mr. Justice Montemayor, 'if there is a union dominated by the company, to which some of the workers belong, an election among workers and employees of the company would not reflect the true sentiment and wishes of the said workers and employees because the votes of the members of the dominated union would not be free.' (Manila Paper Mills Employees vs. Court of Industrial Relations, 104 Phil. 10)

> "And we have held, through Mr. Justice J.B.L. Reyes, that such charge of company domination is a prejudicial question that until decided, shall suspend or bar proceedings for certification election. (Standard Cigarette Workers' Union vs. Court of Industrial Relations, 101 Phil. 126)
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> "Indeed, if as a result of the Pelta's complaint in Case No. 255-ULP, the Workers Union should be ordered dissolved as a company dominated union, any election held in the meantime would be a waste of energy and money to all parties concerned."[12]

The rationale for the suspension of the election proceedings has been further amplified as follows:

> "What is settled law, dating from the case of Standard Cigarette Workers' Union vs. Court of Industrial Relations (101 Phil. 126), decided in 1957, is that if it were a labor organization objecting to the participation in a certification election of a company-dominated union, as a result of which a complaint for an unfair labor practice case against the employer was filed, the status of the latter union must be first cleared in such a proceeding before such voting could take place. In the language of Justice J.B.L. Reyes as ponente: 'As correctly pointed out by Judge Lanting in his dissenting opinion on the denial of petitioner's motion for reconsideration, a complaint for unfair labor practice may be considered a prejudicial question in a proceeding for certification election when it is charged therein that one or more labor unions participating in the election are being aided, or are controlled, by the company or employer. The reason is that the certification election may lead to the selection of an employer-dominated or company union as the employees' bargaining representative, and when the court finds that said union is employer-dominated in the unfair labor practice case, the union selected would be decertified and the whole election proceedings would be rendered useless and nugatory.' (Ibid., 128). The next year, the same jurist had occasion to reiterate such doctrine in Manila Paper Mills Employees and Workers Association vs. Court of Industrial Relations (104 Phil. 10 [1958]), thus: `We agree with the CIR on the reasons given in

> its order that only a formal charge of company domination may serve as a bar to and stop a certification election, the reason being that if there is a union dominated by the Company, to which some of the workers belong, an election among the workers and employees of the company would not reflect the true sentiment and wishes of the said workers and employees from the standpoint of their welfare and interest, because as to the members of the company dominated union, the vote of the said members in the election would not be free. It is equally true, however, that the opposition to the holding of a certification election due to a charge of company domination can only be filed and maintained by the labor organization which made the charge of company domination, because it is the entity that stands to lose and suffer prejudice by the certification election, the reason being that its members might be overwhelmed in the voting by the other members controlled and dominated by the Company,' (Ibid., 15). It is easily understandable why it should be thus. There would be an impairment of the integrity of the collective bargaining process if a company-dominated union were allowed to participate in a certification election. The timid, the timorous, and the faint-hearted in the ranks of labor could easily be tempted to cast their votes in favor of the choice of management. Should it emerge victorious, and it becomes the exclusive representative of labor at the conference table, there is a frustration of the statutory scheme. It takes two to bargain. There would be instead a unilateral imposition by the employer. There is need therefore to inquire as to whether a labor organization that aspires to be the exclusive bargaining representative is company-dominated before the certification election."[13]

With the suspension of the certification proceedings clearly called for by reason of a prejudicial question, the necessity of passing upon the remaining issues is obviated.

WHEREFORE, the Resolution of August 20, 1979 issued by public respondent affirming the Order of the Med-Arbiter, dated January 23, 1979, calling for a certification election is hereby **REVERSED** and **SET ASIDE**. The Temporary Restraining Order heretofore issued by this Court shall continue to be in force and effect until the

status is cleared of respondent Philippine Association of Free Labor Unions (July Convention) in Case No. R4-LRD-M-9-432-78 entitled "In the Matter of Certification Election Among Rank and File Workers of Central Textile Mills, Inc., Philippine Association of Free Labor Unions, Petitioner, United CMC Textile Workers Union, Intervenor."

No costs.

SO ORDERED.

Plana, Relova, Gutierrez, Jr. and De la Fuente, *JJ.*, concur. Teehankee, *J.*, is on leave.

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[1] p. 22, Rollo.
[2] pp. 11-12, ibid.
[3] pp. 15-21, ibid.
[4] p. 32, ibid.
[5] p. 130, ibid.
[6] pp. 32-34, ibid.
[7] pp. 35-37, ibid.
[8] pp. 47-48, ibid.
[9] pp. 49-55, ibid.
[10] Standard Cigarette Workers Union vs. Court of Industrial Relations, 101 Phil. 126 (1.957).
[11] Manila Paper Mills Employees vs. Court of Industrial Relations, 104 Phil. 10 (1958).
[12] Acoje Mines Employees and Acoje United Workers Union vs. Acoje Labor Union and Acoje Mining Co., 104 Phil. 814 at 816 & 817 (1958).
[13] B. F. Goodrich Philippines, Inc. vs. B. F. Goodrich (Marikina Factory) Confidential & Salaried Employees Union-NATU, 49 SCRA 532 at 538-540 (1973).