SUPREME COURT
SECOND DIVISION

UNITED EMPLOYEES UNION OF GELMART INDUSTRIES PHILIPPINES (UEUGIP),
***Petitioner*,**

-versus-

G.R. No. L-40810
October 3, 1975

HON. CARMELO NORIEL, DIRECTOR, BUREAU OF LABOR RELATIONS; GEORGE A. EDUVALA, REPRESENTATION OFFICER, BUREAU OF LABOR RELATIONS; and NATIONAL UNION OF GARMENTS, TEXTILE, CORDAGE AND ALLIED WORKERS OF THE PHILIPPINES (GATCORD),
***Respondents*.**
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D E C I S I O N

FERNANDO, *J.*:

The plea for setting aside a certification election earnestly and vigorously pressed by petitioner in this *certiorari* and prohibition proceeding is predicated on the proposition that it was held under

circumstances that manifested lack of fairness, thus raising a procedural due process question. There was an equally firm and vehement denial in a comprehensive comment filed on behalf of private respondent, National Union of Garments, Textile, Cordage and Allied Workers of the Philippines. The stress in the comment of respondent Director Carmelo Noriel[1] was on the absence of a grave abuse of discretion. As will be more fully discussed, a careful scrutiny of what transpired as revealed not only in the pleadings but in the oral argument will disclose that the attack on the certification election cannot succeed. The petition lacks merit.

The petition sought to have the certification election declared null and void *ab initio* and thus unenforceable, alleging that the contending parties in a pre-election conference conducted by the Bureau of Labor Relations agreed that petitioner would be listed in the ballot as United Employees Union of Gelmart Industries Philippines (UEUGIP).[2] In the notice of the certification election, however, it was wilfully deleted and replaced by "a non-contending party, namely, Philippine Social Security Labor Union (PSSLU), which, although an existing labor federation has nothing to do and has no interest or right of participation [therein]."[3] So it did appear likewise in the sample ballot.[4] As a result, there was confusion in the minds of independent voters and demoralization in the ranks of those inclined to favor petitioner.[5] There was a protest but it was not based on this ground; instead, the grievance complained of referred to the alleged electioneering of nuns and a priest as observers or inspectors on behalf of private respondent.[6] The above notwithstanding, the certification election took place, "on the scheduled date, May 24, 1975 and respondent GATCORD garnered the highest number of votes."[7] It was then set forth that despite such defect in the mode of conducting the election which for petitioner sufficed to cause "the nullity of the election in question," respondent Director Carmelo Noriel of the Bureau of Labor Relations "[was] about to certify respondent GATCORD as the sole and exclusive collective bargaining representative of the rank and file employees [and] workers of Gelmart Industries Philippines, Inc."[8] Hence this petition with its overtones as indicated of an alleged violation of procedural due process.

The comment to the petition filed on behalf of private respondent National Union of Garments, Textile, Cordage and Allied Workers of the Philippines (GATCORD) denied the imputation of irregularity and sought to clarify matters by a factual presentation of what did transpire. At the outset, however, it made clear that the petitioner, which garnered only 291 votes or 4.5%, of the total number of votes cast as against the 3,970 or 63% of the votes in its favor, certainly could not be heard to challenge the validity of the certification election. Thus: "1. Pursuant to an order of the Bureau of Labor Relations of the Department of Labor, a certification election was conducted on 24 May 1975 in Gelmart Industries Philippines, Inc., South Superhighway, Parañaque, Rizal, to choose, the collective bargaining agent of the company's rank and file employees; 2. The certification election was conducted and supervised by the Bureau of Labor Relations; it took almost the entire personnel of the Bureau, including the Director himself, to man the election; there were 11 precincts, each of which was presided over by a med-arbiter of the Bureau, as chairman, and another representation officer of the Bureau; there was also created a central election committee composed of four top personnel of the Bureau for optimum supervision; 3. There were some 8,900 eligible voters out of about 10,000 employees of the company; out of the 8,900 eligible voters, duly agreed upon by all the parties and approved by the Bureau, 6,309 or 79.7% voted; out of the 6,309 votes cast, 3970 or (63% went to GATCORD, [with UEUGIP placing] only fifth with a measly 291 votes or barely 4.5% of the total number of votes cast. It may be noted that even if the votes of all seven losing unions [were added], their total would only be 2,057, which is still 1,823 votes short of GATCORD's 2,970 votes. It is thus clear that GATCORD won by an overwhelming majority."[9] It characterized such votes as an "unassailable majority."[10] On the question of the alleged irregularity, the comment set forth the following: "Petitioner UEUGIP did not lodge any protest concerning the alleged misprinting or omission of its name in the Notice of Certification Election in the Sample Ballot before the election, during the election or shortly after the election, [but merely questioned] the presence of the priests and nuns, over which it filed a protest with the BLR, [not the alleged misprinting] or omission of its name in the election notice and the sample ballot; 10. The fact is, when GATCORD petitioned for the certification election (NLRC Case No. LR-4891, later numbered as BLR Case No. 256) in

July, 1974, the United Employees Union of Gelmart Industries Philippines (UEUGIP) intervened, as represented by Ruben Escreza, the union's duly elected president, [with] Antonio Diaz, herein alleged representative of UEUGIP, [intervening] then not for UEUGIP but for UEUGIP-Workers' Faction; 11. Since Mr. Diaz was representing only a faction of UEUGIP, which faction had no legal personality separate from UEUGIP which was duly represented by Mr. Escreza, the order of the Bureau dated 15 January 1975 included only UEUGIP as one of the contending unions, without including UEUGIP-Workers' Faction; 12. Subsequently, the Philippine Transport and General Workers Organization (PTGWO) intervened and, claiming that UEUGIP had affiliated with PTGWO, moved for a correction of the name UEUGIP in the order, making it UEUGIP-PTGWO; 13. During the first two pre-election conferences in connection with the certification election held on February 14 and 17, 1975 Mr. Diaz appeared, but he was no longer representing UEUGIP-Workers' Faction; he entered a new union - the Philippine Social Security Labor Union (PSSLU); 14. In the succeeding pre-election conferences, however, Mr. Diaz, apparently out to create trouble, began claiming to represent UEUGIP and abandoned representation of PSSLU [with the result that] UEUGIP had two representatives often clashing with each other; Mr. Escreza and Mr. Diaz; 15. On 19 May 1975 the Bureau of Labor Relations caused the posting of 'Notice of Certification Election' with a 'Sample Ballot', [with said posting being made at a time when] the parties had not yet agreed as to how their names should appear in the ballot; 16. It was only on 20 May 1974, after the election notice was already posted with the original sample ballot, that the parties came to discuss how their respective names should appear in the ballot, [at which time] the parties had agreed that the names of the contending unions should be printed in the ballots as they were printed, that is, with UNITED EMPLOYEES UNION OF GELMART INDUSTRIES PHILIPPINES (UEUGIP) there and without PSSLU."[11] Private respondent then considered the following as the pertinent questions: "If Mr. Diaz felt that the posting of the election notice and the original sample ballot was erroneous and it was prejudicial to his group, why did he not raise this question early enough? He could have raised it soon after the posting was made, especially considering that two more pre-election conferences, on May 20, 22 and 23 were held. Or he could have raised the question during the election day. But he did not. Is it because he did not really care then, is it because his people inside

the company did not really care, or is it because he had really no people inside to bother at all about said 'error?' If they were that disinterested in correcting the 'error' at least during the last four days before the election, how could Mr. Diaz claim now that his group was adversely affected by the alleged 'error' and that if said 'error' was not made, his group could have won the election?"[12] The comment ended on a statement rather rhetorical in character: "The truth is, Mr. Diaz had but a droplet of support, which, dream as he would, could never match, much less overcome, the raging torrents of GATCORD."[13] The comment on behalf of respondent Director Noriel and the respondent Representation Officer Eduvala stressed a grave abuse of discretion to certify an action for *certiorari*. Petitioner sought permission to reply and was granted. There was, as could be expected, a stout denial of the recital of facts of private respondent, but it cannot be said that it is impressed with a high degree of persuasiveness.

At any rate, after the Court considered the comments as answers and set the case for hearing, with arguments coming from both counsel Benito Fabie for petitioner and Jose Diokno for private respondent, and with the labor leader Antonio Diaz referred to in the comment of private respondent being questioned and presenting petitioner's side of the controversy, a much clearer picture emerged. It was none too favorable for petitioner.

As noted at the outset, we find for respondents. The petition lacks merit.

1. The institution of collective bargaining is, to recall Cox, a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management, make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be represented by a labor organization of their choice. Thus may be discerned how crucial is a certification election. So our decisions from the earliest case of PLDT Employees Union vs. PLDT Co. Free Telephone Workers Union[14] to the latest, Philippine Communications, Electronics & Electricity Workers' Federation (PCWF) vs. Court of Industrial

Relations,[15] have made clear. Thus is one of the earliest cases, The Standard Cigarette Workers' Union vs. Court of Industrial Relations,[16] it was made clear in the opinion of Justice J. B. L. Reyes that "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."[17] For it is easily understandable how essential it is, in the language of former Chief Justice Concepcion, in the leading case of LVN Pictures vs. Philippine Musicians Guild[18] "to insure the fair and free choice of bargaining representatives by employees."[19] There must be such an opportunity to determine which labor organization shall act on their behalf.[20] It is precisely because respect must be accorded to the will of labor thus ascertained that a general allegation of duress is not sufficient to invalidate a certification election; it must be shown by competent and credible proof.[21] That is to give substance to the principle of majority rule, one of the basic concepts of a democratic polity.[22] The matter is summarized thus in one of the latest decisions of this Court, Federation of the United Workers Organization vs. Court of Industrial Relations:[23] "The slightest doubt cannot therefore be entertained that what possesses significance in a petition for certification is that through such a device the employees are given the opportunity to make known who shall have the right to represent them. What is equally important is that not only some but all of them should have the right to do so."[24] If heed be paid to the above well-settled principle and applied to the facts disclosed in the present petition, it would be apparent that the grievance spoken of is more fancied than real, the assertion of confusion and demoralization based on conjecture rather than reality. The mode and

manner in which Antonio Diaz demonstrated how militant and articulate he could be in presenting his side of the controversy could hardly argue for the accuracy of his claim that his men did lose heart by what appeared at the most to be an honest mistake, if it could be characterized as one. Certainly then, the accusation that there was abuse of discretion, much less a grave one, falls to the ground.

2. Nor need this Court pass upon the ground of protest based on the alleged participation by nuns and a priest who presumably aided the cause of private respondent. Petitioner did not choose to press this point. It is understandable why. In the leading case of Victoriano vs. Elizalde Rope Workers' Union,[25] this Court, through Justice Zaldivar, left no doubt as to the privacy of religious freedom, to which contractual rights, even on labor matters, must yield, thus removing any taint of nullity from the amendment to the Industrial Peace Act,[26] which would allow exemption from a closed shop on the part of employees, members of a given religious sect prohibiting its devotees from affiliating with any labor organization. Subsequently, in Basa vs. Federacion Obrera de la Industria Tabaquera,[27] such doctrine was reaffirmed, thus emphasizing that one's religious convictions may be the basis for a employee joining or refusing to join a labor union. Certainly, the wide latitude accorded religious groups in the exercise of their, constitutional freedom would caution against reliance on such a ground to invalidate a certification election. It thus appears that such an approach is reflected in the attitude adopted by petitioner, which in effect amounts to an abandonment of such a possible ground of protest, not at all lodged with this Court but merely mentioned in its recital of background facts.

3. During the hearing of this case, reference was made to the registration of private respondent allegedly having been revoked. As the pleadings do not touch upon the matter at all, this Court is not in a position to rule on such a question. The decision therefore leaves that particular aspect of the litigation open.

WHEREFORE, the Petition for *Certiorari* and prohibition is dismissed for lack of merit. The restraining order issued by this Court is lifted. This decision is immediately executory. No costs.

Barredo, Antonio, Aquino and Martin, *JJ.*, concur.
Concepcion Jr., *J.*, is on official leave.

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[1] He is the Director of the Bureau of Labor Relations. The representation officer of such Bureau, George A. Eduvala, was likewise named respondent.
[2] Petition, par. 5.
[3] Ibid, par. 7.
[4] Ibid, par. 8.
[5] Ibid, par. 10.
[6] Ibid, par. 12.
[7] Ibid, par. 13.
[8] Ibid, par. 15.
[9] Comment of Private Respondent, pars. 1-5.
[10] Ibid, par. 6.
[11] Ibid, pars. 9-16.
[12] Ibid, par. 18.
[13] Ibid, par. 19.
[14] 97 Phil. 424 (1955). Cf. Bacolod-Murcia Milling Co., Inc. vs. National Employees-Workers Security Union, 100 Phil. 516 (1956).
[15] L-34531, March 29, 1974, 56 SCRA 480. Cf. Compania Maritima vs. Compania Maritima Labor Union, L-29504, Feb. 29, 1972, 43 SCRA 464; Philippine Association of Free Labor Unions vs. Court of Industrial Relations, L-33781, Oct. 31, 1972, 47 SCRA 390; Lakas ng Manggagawang Pilipino vs. Benguet Consolidated, Inc., L-35075, Nov. 24, 1972, 48 SCRA 169; B.F. Goodrich Philippines, Inc. vs. B.F. Goodrich Confidential and Salaried Employees Union, L-34069, Feb. 28, 1973, 49 SCRA 532.
[16] 101 Phil. 126 (1957).
[17] Ibid, 128. Cf. Acoje Mines Employees and Acoje United Workers Union vs. Acoje Labor Union and Acoje Mining Co., 104 Phil. 814 (1958).
[18] 110 Phil. 725 (1961).
[19] Ibid, 728-729. Cf. Philex Miners Union vs. National Mines and Allied Workers Union, L-18019, Dec. 29, 1962, 6 SCRA 992.
[20] Cf. B. F. Goodrich Philippines, Inc. vs. B. F. Goodrich Confidential and Salaried Employees Union, L-34069-70, Feb. 28, 1973, 49 SCRA 532.
[21] Cf. Acoje Workers' Union vs. National Mines and Allied Workers' Union, L-18848, April 23, 1963, 7 SCRA 730.
[22] Cf. Allied Workers' Association vs. Court of Industrial Relations, L-22580, June 6, 1967, 20 SCRA 364.
[23] L-37392, December 19, 1973, 54 SCRA 305.

[24] Ibid, 310. Cf. Federation of Free Workers vs. Paredes, L-36466, Nov. 26, 1973, 54 SCRA 75.
[25] L-25246, September 12, 1974, 59 SCRA 54.
[26] Republic Act No. 3350 (1961).
[27] L-27113, November 19, 1974, 61 SCRA 93.