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SUPREME COURT
FIRST DIVISION

UNIVERSITY OF THE IMMACULATE CONCEPCION, INC.,
***Petitioner*,**

-versus-

G.R. No. 146291
January 23, 2002

THE HON. SECRETARY OF LABOR AND EMPLOYMENT, UNIVERSITY OF THE IMMACULATE CONCEPCION TEACHING AND NON-TEACHING EMPLOYEES UNION-FFW,
***Respondents*.**

x---x

D E C I S I O N

PARDO, *J*.:

The Case

In this Appeal via Certiorari, petitioner seeks to set aside the decision of the Court of Appeals,[1] which dismissed the University's petition and affirmed the orders of the Secretary of Labor and Employment[2] directing the parties to execute a collective bargaining agreement embodying the dispositions therein and all items agreed upon by the

parties, and ruling that the strike declared by the union on 20 January 1995 was valid.

The Facts

The facts, as found by the Court of Appeals, are as follows:

> "Petitioner (University of the Immaculate Concepcion, Inc.) is a non-stock, non-profit educational institution with campuses at Fr. Selga St., and Bonifacio St., Davao City. On two (2) occasions, specifically on May 14, 1994 and May 28, 1994, petitioner and the Union, through the auspices of the National Conciliation and Mediation Board (NCMB), met to negotiate a CBA.
>
> "On June 20, 1994, the Union filed with the NCMB a Notice of Strike, the first in a series of three (3) notices of strike, alleging deadlock in the CBA negotiations and unfair labor practices on the part of the petition in the form of "mass termination of teaching and non-teaching employees, interference with union activities, discrimination, and harassments." (Annex "8" of Annex "A", Petition). Petitioner denied the allegations in its Motion to Strike Out Notice of Strike (Annex "9" of Annex "A", Petition).
>
> "During the parties' conciliation conference before the NCMB on July 20, 1994, petitioner and the Union reached an agreement on some issues. The salient portion of the minutes of the proceedings reads:
>
> > 'I. ECONOMIC ISSUE
> >
> > 'The parties agree to the economic package to be granted to the workers as increase in the amount equivalent to.
> >
> > > '1st year. 75% of increment increase of Tuition Fees
> > >
> > > '2nd year: 80% ---do----
> > >
> > > '3rd year: 80% ---do----

‘This settles the economic issue of this notice of strike.

‘II. NON-ECONOMIC ISSUES.

‘A. UNION RECOGNITION and SECURITY

‘Agreement: Both Parties agreed on the following.

‘1. That future employees hired after the signing of this CBA shall become members of the Union after having become regular employees.

‘2. That provisions providing sanction will be removed.

‘B. WORKING SCHEDULE

‘Agreement: Both parties agree as follows:

‘1. Item (b) is removed.

‘2. Item (c) is adopted/agreed by the parties.

‘C. SALARIES and WAGES:

‘Agreement: Both parties agree as follows:

‘1. There will be Rank and Tenure Committee which management will establish by department. In every committee, the union will be represented by 2-members who will be chosen by the union.

‘On the coverage of the bargaining unit, further consultations will be made on the proposed exclusion of secretaries, registrar, accounting employees, guidance counselor.

> 'The parties agree to set another conference on July 26, 1994 at 9:00 A.M.' (Annex "16" of Annex "A", petition).

"In a subsequent conciliation conference of July 26, 1994, petitioner and the Union agreed to submit to voluntary arbitration the issue concerning the exclusion of confidential employees from the collective bargaining unit. The minutes of that conference state:

> 'As a resolution to the issue left of the case, the parties agree that the positions which management sought to be excluded from the bargaining unit be submitted to Voluntary Arbitration.
>
> 'This case is deemed settled and closed' (Annex "17" of Annex "A", Petition).

"On November 8, 1994, the panel of voluntary arbitrators rendered a decision excluding the secretaries, registrars, cashiers, guidance counselors and the chief of the accounting department of the petitioner from the coverage of the bargaining unit (Annex "41" of Annex "A", Petition).

"Twenty (20) days later, or on November 28, 1994, petitioner presented to the Union a draft of the CBA. After a study thereof, the Union rejected the draft on the ground that the manner of computing the net incremental proceeds has yet to be agreed upon by the parties (Annexes "23", "23-A" and "24" of Annex "A", Petition).

"In its letter to the Union dated December 12, 1994, petitioner insists that the Union was bound to comply with the terms contained in the draft-CBA since said draft allegedly embodies all the items agreed upon by the parties during the conciliation sessions held by the NCMB (Annex "25" of Annex "A", Petition).

"On December 9, 1994, the Union filed its Second Notice of Strike with the NCMB, therein alleging bargaining deadlock on "allocation of 5% (CBA) and distribution/computation of 70%

incremental proceeds (RA 6728)", and unfair labor practice by the petitioner in the form of "harassments, union busting and correct implementation of COLA," (Annex "26-A" of Annex "A", Petition).

"On December 12, 1994, or barely three (3) days after the Union's filing of its Second Notice of Strike, petitioner terminated the employment of union member Gloria Bautista. Later, or on December 27, 1994, petitioner likewise terminated the employment of union board member Corazon Fernandez. (Comment, p. 8). As a consequence, Bautista and Fernandez filed their complaints for illegal dismissal before the Regional Arbitration Branch No. XI of the National Labor Relations Commission based in Davao City (Annex "28" of Annex "A", Petition; p. 5 of Annex "B", Petition).

"On January 4, 1995, petitioner filed with the NLRC Regional Arbitration Branch No. XI in Davao City a complaint against the Union and its officers for unfair labor practices based on the following grounds:

> '(a) refusing to answer in writing, and within ten days required by law, [petitioner's] cba proposals;
>
> '(b) refusing to bargain in good faith, by declaring a deadlock in the cba negotiations after just two days of negotiations, even if there were so many issues unresolved and still to be discussed at the bargaining table;
>
> '(c) refusing to comply with its promise to submit the final draft of the CBA agreed upon in the NCMB, and when presented by the draft prepared by the [petitioner], refusing to sign the same, on the ground that there was still a deadlock in the CBA negotiations, even if its notice of strike by reason of the CBA deadlock had already been 'settled and closed;
>
> '(d) blatantly violating the aforesaid CBA, by resorting to another notice of strike, even if the aforesaid CBA includes a no strike, no lockout clause, a grievance

procedure and voluntary arbitration of any grievance the union may have, thus directly circumventing the aforesaid procedures as regards the interpretation of the CBA and RA 6728 provisions on the net incremental proceeds of a tuition fee increase; and

'(e) blatantly violating the aforesaid CBA, by filing a complaint for illegal dismissal of Ms. Gloria Bautista in the Regional Arbitration Branch without resorting to the grievance procedure and voluntary arbitration in the CBA.' (Annex 29 of Annex "A" of Petition).

"The complaint, docketed as NLRC Case No. RAB-XI-01, was elevated by the NLRC Regional Arbitration Branch to the Secretary of Labor (Annex "29" of Annex "A", Petition).

"The conciliation conference called by the NCMB on January 4, 1995 failed to bridge the differences between the parties. Thereafter, the NCMB in Region XI conducted a strike-vote balloting, the outcome of which reveals that majority of the union members voted in favor of the holding of a strike. True enough, on January 20, 1995, the Union went on strike.

"Three days later, or on January 23, 1995, the Secretary of Labor issued an order assuming jurisdiction over the labor dispute which was docketed as OS-AJ-003-95. Dispositively, the order reads:

'WHEREFORE, ABOVE PREMISES CONSIDERED, and pursuant to Article 263 (g) of the Labor Code, as amended, this Office hereby assumes jurisdiction over the entire labor dispute at University of the Immaculate Concepcion College.

'Accordingly, all workers are directed to return to work within twenty-four (24) hours upon receipt of this Order and for management to accept them back under the same terms and conditions prior to the strike.

'Parties are further directed to cease and desist from committing any or all acts that might exacerbate the situation.

'Finally, the parties are hereby directed to submit their respective position papers within ten (10) days from receipt hereof.

'SO ORDERED.' (Annex "G" to private respondent's COMMENT.)

"In time, the Union filed a Motion for Reconsideration of the aforementioned order to seek a categorical declaration from the Secretary that the return-to-work order also covered Bautista and Fernandez inasmuch as the two (2) were dismissed during the pendency of the notice of strike.

"Before the Labor Secretary could act on the motion, petitioner suspended five (5) union members for failing to report to work within the period specified by the Secretary of Labor. Petitioner, invoking the ruling of the voluntary arbitrators that certain classes of employees cannot be a part of the bargaining unit, also terminated the employment of twelve union members — supposedly holders of confidential positions — for refusing to resign from the Union.

"On March 10, 1995, the Union filed its Third Notice of Strike, therein alleging mass termination of employees, continuous intimidation of union members and defiance by the petitioner of the January 23, 1995 Order of the Secretary of Labor.

"On March 28, 1995, the respondent Secretary of Labor issued an order resolving the issues raised by the Union in its Motion for Reconsideration and Notice of Strike. Dispositively, the order reads:

'WHEREFORE, THE ABOVE-PREMISES CONSIDERED, the directives contained in the order dated 23 January 1995 is hereby reiterated.

'The notice of strike filed on 10 March 1995, is hereby consolidated with the dispute subject of the above Order.

'The effects of the suspension and termination of the following union members.

1.	Agapito Renomeron	8.	Jovita Mamburan
2.	Rodolfo Andon	9.	Alma Villacarlos
3.	Delfa Diapuez	10.	Josie Boston
4.	Melanie de la Rosa	11.	Paulina Palma Gil
5.	Angelina Abadilla	12.	Gemma Galope
6.	Leilan Concon	13.	Leah Cruza
7.	Mary Ann de Ramos	14.	Zenaida Canoy

are hereby suspended pending determination of the legality thereof by this Office. Accordingly, they should likewise be accepted back to work under the same terms and conditions prevailing prior to the work stoppage.

'SO ORDERED.' (see pp. 5-6 of Annex "B", Petition)

"Petitioner filed three (3) successive Motions for Partial Reconsideration, all of which were denied by the same public respondent. Dissatisfied, petitioner went to the Supreme Court on a petition for certiorari, which was referred to another Division of this Court.

"The assailed order of October 8, 1998 of the Secretary of Labor narrated the succeeding events, thus:

'On 27 February 1997, Conciliator-Mediators Mario F. Santos and Leodegario M. Teodoro went to Davao City to help the parties to come up with a settlement regarding their labor dispute. During the conciliation held in the afternoon of the same day, the Union stated that there was no CBA to speak of because what were agreed upon during the conciliation conference on 26 July 1994, did not reflect the true intention of the parties and there was misunderstanding on the economic package. The Union manifested to reopen the negotiation of all the proposals

including those that were previously agreed upon. The Union proposed to negotiate for the following items.

'Economic Issues

'1. Salary;
SY 94-95 — P 800.00
SY 95-96 — 900.00
SY 96-97 — 1,000.00

'2. Substitution pay;

'3. Honorarium pay;

'4. Retirement pay;

'5. Promotion and lay-off;

'6. Staff development;

'7. Health and insurance coverage, and

'8. Hospital assistance

'Non-Economic Issues

'1. Dismissal of Gloria Bautista and Corazon Fernandez;

'2. Dismissal of Helen Jinon and Roselier Saga;

'3. Suspension of seven (7) union members for 7 days, and

'4. Union security

'During the conciliation held in the morning of 28 February 1997, the University contended that an agreement was reached during the conciliation conferences on 20 and 26 July 1994. Nevertheless, the

University presented two (2) options for negotiation namely.

> ‘1. Negotiate a new five (5) year CBA effective SY 97-98; or
>
> ‘2. Sign and implement the CBA for three (3) years and re-open for the last two (2) years the economic provisions.

‘The parties failed to reach an agreement in any of their respective proposals. They therefore requested this Office to resolve the instant labor dispute. On 26 February 1998, the Union filed an Urgent Motion to Resolve the Above-Entitled Case. This Office received the said Motion on 09 March 1998.’ (Annex “B”, Petition).

“Finding the strike staged by the Union to be legal, the Secretary of Labor resolved the labor dispute between the petitioner and the Union by directing the parties to execute a collective bargaining agreement. The pertinent portion of the challenged order reads:

‘We cannot grant the Union’s proposal to re-open the negotiation. Guided by the agreements reached by the parties, this Office finds the following dispositions just and equitable.

‘COLLECTIVE BARGAINING DEADLOCK

‘Salary Increases

‘1st year — 75% of increment increase of tuition fee

‘2nd year — 80% of increment increase of tuition fee

‘3rd year — 80% of increment increase of tuition fee

‘To avoid differences of opinion in the distribution of these salary increases to the covered employees, the same

shall be distributed in accordance with DECS Order No. 15, Series of 1992.

'LEGALITY/ILLEGALITY OF THE STRIKE

'The strike undertaken by the Union on January 1995, was a valid exercise of the workers' rights under the Labor Code. The Union observed the mandatory requirements/procedures for a valid strike and the issues raised in the Notice of Strike i.e., bargaining deadlock and ULP are strikeable issues specifically provided under Article 263 (c) of the Labor Code:

> 'WHEREFORE, premises considered, the University and the Union are directed to execute a collective bargaining agreement (CBA) embodying the dispositions contained herein as well as all items agreed upon by the parties. The CBA shall be effective for five (5) years starting SY 1995-96, subject to renegotiation of the economic provisions for the last two (2) years. Further, we rule that the strike declared by the Union on 20 January 1995, is in accordance with the mandatory requirements of the law, hence, valid.
>
> 'SO ORDERED.' (Annex "B", Petition).

"Petitioner filed a Manifestation and Motion for Partial Reconsideration (Annex "C", Petition). The Union also filed its motion for partial reconsideration, arguing that the issue of the legality of the termination of employment of two (2) employees, namely, Roseller Saga and Helen Jinon, was not resolved in the order sought to be reconsidered. Both motions for reconsideration were denied by the Secretary of Labor in his Resolution of September 10, 1999 (Annex "D", Petition)."[3]

Subsequently, petitioner filed with the Court of Appeals a petition for review assailing the ruling of the Secretary of Labor and Employment.

On October 11, 2000, the Court of Appeals promulgated a decision affirming the orders of the Secretary of Labor and Employment.[4]

Hence, this appeal.[5]

The Issue

The issue raised is whether the Court of Appeals erred in affirming the orders of the Secretary of Labor and Employment.

The Court's Ruling

We deny the petition.

The issue raised involves a re-examination of the factual findings of the Court of Appeals. In an appeal via certiorari, we may not review the findings of fact of the Court of Appeals.[6] When supported by substantial evidence, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court,[7] unless the case falls under any of the exceptions to the rule.[8]

Petitioner failed to prove that the case falls within the exceptions.[9] It is not our function to review, examine and evaluate or weigh the probative value of the evidence presented.[10] A question of fact would arise in such event.[11] Questions of fact cannot be raised in an appeal via certiorari before the Supreme Court and are not proper for its consideration.[12]

Nevertheless, we find that the Court of Appeals did not err in finding that there was still no new collective bargaining agreement because the parties had not reached a meeting of the minds.

A collective bargaining agreement (CBA) refers to the negotiated contract between a legitimate labor organization and the employer concerning wages, hours of work and all other terms and conditions of employment in a bargaining unit, including mandatory provisions for grievances and arbitration machineries.[13] As in all other contracts, there must be clear indications that the parties reached a meeting of the minds.

In this case, no CBA could be concluded because of what the union perceived as illegal deductions from the 70% employees' share in the tuition fee increase from which the salary increases shall be charged.

Also, the manner of computing the net incremental proceeds was yet to be agreed upon by the parties.

Petitioner insisted that a new collective bargaining agreement was concluded through the conciliation proceeding before the NCMB on all issues specified in the notice of strike. Although it is true that the university and the union may have reached an agreement on the issues raised during the collective bargaining negotiations, still no agreement was concluded by them because, among other reasons, the DOLE Secretary, who assumed jurisdiction on January 23, 1995 only was set to resolve the distribution of the salary increase of the covered employees. The Court of Appeals found that "there are many items in the draft-CBA that were not even mentioned in the minutes of the July 20, 1994 conference."[14]

Considering the parties failed to reach an agreement regarding certain items of the CBA, they still have the duty to negotiate a new collective bargaining agreement in good faith, pursuant to the applicable provisions of the Labor Code.

The Fallo

WHEREFORE, the Court **DISMISSES** the petition and enjoins the parties to comply with the directive of the Secretary of Labor and Employment to negotiate a collective bargaining agreement in good faith.

No costs.

SO ORDERED.

Davide, Jr., *C.J.*, Puno, Kapunan and Ynares-Santiago, *JJ.*, concur.

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[1] In CA-G.R. SP No. 55670, promulgated on October 11, 2000, Garcia, J., ponente, Brawner, and Reyes, Jr., JJ., concurring.

[2] Dated October 8, 1998 and September 10, 1999, respectively, OS-AJ-003-95 (NCMB-RBXI-NS-12-028-94; NCMB-RBXI-NS-03-004-95).

[3] Petition, Annex "E", Rollo, pp. 484-499, at pp. 485-494.

[4] Petition, Annex "E", Rollo, pp. 484-499.

[5] Petition filed on February 1, 2001. On June 27, 2001, we gave due course to the petition (Rollo, pp. 560-561).

[6] Cristobal vs. Court of Appeals, 353 Phil. 320, 326 [1998]; Sarmiento vs. Court of Appeals, 353 Phil. 834, 845-846 [1998]; Concepcion vs. Court of Appeals, 324 SCRA 85 [2000], citing Congregation of the Virgin Mary vs. Court of Appeals, 353 Phil. 591, 597 [1998] and Sarmiento vs. Court of Appeals, supra; Arriola vs. Mahilum, 337 SCRA 464, 469 [2000]; Bolanos vs. Court of Appeals, G.R. No. 122950, November 20, 2000.

[7] Atillo vs. Court of Appeals, 334 Phil. 546, 555 [1997].

[8] Cebu Shipyard and Engineering Works, Inc. vs. William Lines, Inc., 366 Phil. 439, 452 [1999].

[9] Rivera vs. Court of Appeals, 348 Phil. 734, 743 [1998].

[10] Trade Unions of the Philippines vs. Laguesma, 236 SCRA 586, 591 [1994].

[11] Trade Union of the Philippines vs. Laguesma, supra, Note 10; Cheesman vs. Intermediate Appellate Court, 193 SCRA 93 [1991]; Ramos vs. Pepsi Cola Bottling Co., 125 Phil. 701 [1967]; Pilar Dev. Corp. vs. Intermediate Appellate Court, 146 SCRA 215 [1986]; Arroyo vs. Beaterio del Santissimo Rosario de Molo, 132 Phil. 9 [1968]; Bernardo vs. Court of Appeals, 216 SCRA 224 [1992].

[12] Hi-Precision Steel Center, Inc. vs. Lim Kim Steel Builders, Inc. 228 SCRA 397 [1993]; Navarro vs. Commission on Elections, 228 SCRA 596 [1993].

[13] Manila Fashions vs. National Labor Relations Commission, 332 Phil. 121 [1996].

[14] Rollo, p. 497.

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