

# FIRST DIVISION

[ G.R. No. 233300, September 03, 2020 ]

**COCA-COLA FEMSA PHILIPPINES, INC., PETITIONER, V.  
CENTRAL LUZON REGIONAL SALES EXECUTIVE UNION OF COCA-  
COLA SAN FERNANDO (FDO) PLANT, RESPONDENT.**

## DECISION

**REYES, A., JR., J.:**

The inclusion as union members of employees who are outside the bargaining unit shall not be a ground to cancel the union registration. The ineligible employees are automatically deemed removed from the list of membership of the union. - Section 6, Rule XIV of Department of Labor and Employment Order 40-F-03-08.

### The Case

This petition for review on *certiorari* under Rule 45 of the Rules of Court assails the March 16, 2017 Decision<sup>[1]</sup> and July 31, 2017 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 148045, which denied the petition for certiorari under Rule 65 filed by petitioner Coca-Cola FEMSA, Phils. Inc. (Coca-Cola) for failure to file a motion for reconsideration and to prove the existence of any of the grounds under Article 239 [now renumbered as Article 247] of the Labor Code of the Philippines (Labor Code).

The case started when Coca-Cola filed a petition for cancellation of the certificate of registration of respondent Central Luzon Regional Sales Executive Union of Coca-Cola San Fernando Plant (Union) on the ground that the union members comprised of managers who are ineligible to join, assist, or form any labor organization. On May 25, 2016, Department of Labor and Employment Regional Office (DOLE Regional Office) No. III denied the petition, docketed as RO3-RO-C-01-01-21-16.<sup>[3]</sup> On August 10, 2016, the Bureau of Labor Relations (BLR) affirmed the denial in its Resolution docketed as BLR- A-C-20-22-07-16.<sup>[4]</sup>

### The Facts

Coca-Cola is a domestic corporation engaged in the business of manufacturing carbonated drinks and other beverages. The Union is a legitimate labor organization established to represent the sales executives of Coca-Cola in Central Luzon (Pampanga, Bataan, Zambales, and Tarlac).<sup>[5]</sup>

On October 28, 2015, Coca-Cola received a letter from the Union seeking recognition as the certified bargaining agent of the company's sales executives in Central Luzon.<sup>[6]</sup>

On January 21, 2016, Coca-Cola filed a petition for cancellation of the union's registration with the DOLE Regional Office in San Fernando, Pampanga. Coca-Cola alleged that the union members comprised of managers who are ineligible to join, assist, or form any labor organization.<sup>[7]</sup>

Coca-Cola averred that the position of sales executives, which were previously classified as supervisory, is now imbued with managerial and executive functions. This change of function started when Coca-Cola FEMSA, an entity based in Mexico and the mother company of most Coca-Cola companies, bought and acquired Coca-Cola Philippines. The acquisition resulted to reorganization, abolishment, and creation of some positions. The sales executives' function now includes business planning, performance management, project implementation, cost management, hiring, managing, training, and layoff of personnel. The sales executives manage the company's regional departments. They customarily and regularly direct the work of two to 15 employees as they oversee the day-to-day functions of their subordinates. They recommend potential hires for employment, initiate administrative investigations, and execute decisions such as reprimand, suspension, or termination of erring employees. These functions require discretion and exercise of judgement.<sup>[8]</sup>

For its part, the Union claimed that its members are neither occupying managerial positions nor performing managerial functions. Their job description does not entail the exercise of discretion and independent judgment since their recommendations are subject to evaluation, review, and final action of the department heads or other executives. Their role in the hiring and firing of employees is merely recommendatory. It is the Human Resource Department that has the final say on the eligibility of an applicant. Their decision in the termination of employees needs the concurrence of two other employees. These circumstances show that the union members cannot be classified as managers but are merely supervisors who have the right to form a separate union.<sup>[9]</sup>

### **The DOLE Regional Office Order**

On May 25, 2016, the DOLE Regional Office ruled in the Union's favor and held that none of the grounds for cancellation under Section 3, Rule XIV of the DOLE Department Order No. 40-03 (DO 40-03), as amended, exists. It found that there is no substantial proof of misrepresentation, false statement, or fraud during the course of its union registration.<sup>[10]</sup>

Coca-Cola's claim that the union's entire membership is composed of managerial employees was not considered because of its failure to show that any of the grounds exists. The DOLE Regional Office clarified that the inclusion of union members outside the bargaining unit is not a ground for cancellation of registration under Section 6, Rule XIV, DOLE DO 40-03 as ineligible employees are automatically removed from the list of union members.<sup>[11]</sup>

### **The BLR Resolution**

Coca-Cola moved for reconsideration, which the BLR treated as an appeal. The BLR denied the motion and affirmed the findings and conclusion of the DOLE Regional

Office.<sup>[12]</sup>

## **The CA Decision**

Undeterred, Coca-Cola filed a petition for certiorari under Rule 65 of the Rules of Court before the CA, raising the sole issue of whether or not the BLR committed grave abuse of discretion amounting to lack of or in excess of jurisdiction in affirming the dismissal of the petition for cancellation of registration.<sup>[13]</sup>

The CA ruled that Coca-Cola's petition failed on both procedural and substantial ground.<sup>[14]</sup>

Coca-Cola's petition is procedurally defective because of its failure to file a motion for reconsideration from the BLR Resolution. It is a well-settled rule that the filing of a motion for reconsideration is an indispensable condition before the filing of a special civil action for certiorari. The rationale for this requirement is to afford the tribunal, board, or office an opportunity to rectify its errors and mistake before resort to courts of justice can be had. This is also implied from the nature of certiorari, as an extraordinary remedy, which can only be resorted to when there is no other plain, speedy, adequate remedies in the course of law. A tribunal will not be given an opportunity to correct itself if there is no motion for reconsideration. Coca-Cola also failed to establish that its case falls under one of the exceptions<sup>[15]</sup> that would warrant the non-filing of motion of reconsideration.<sup>[16]</sup>

Aside from procedural defects, Coca-Cola's petition lacks merit. Article 238<sup>[17]</sup> and 239<sup>[18]</sup> of the Labor Code provide for the manner and grounds for cancellation of a union's certificate of registration. Here, Coca-Cola neither claimed nor proved that any of the grounds under Article 239 of the Labor Code exists that would warrant the cancellation of the Union's certificate of registration. Coca-Cola insists that the Union's certificate of registration should be revoked because its members are composed of employees performing managerial function. However, the Labor Code does not include such circumstance as a ground for cancellation of registration.<sup>[19]</sup>

On July 31, 2017, CA denied Coca-Cola's motion for reconsideration<sup>[20]</sup> Unconvinced, Coca-Cola filed this petition under Rule 45 before the Court.

## **The Issue Presented**

The sole issue presented before the Court is whether or not the CA erred in dismissing the petition and thereby affirming the BLR and DOLE Regional Office rulings.

## **The Court's Ruling**

### **The petition is denied.**

The CA dismissed Coca-Cola's petition for *certiorari* on two grounds, one procedural and substantial.

On the procedural ground, the Court reiterates its ruling in *Novateknika Land Corp.*

*v. Philippine National Bank*,<sup>[21]</sup> where the Court laid down the general rule and exceptions in filing a motion for reconsideration before resorting to a petition for *certiorari*.

Well established is the rule that the filing of a motion for reconsideration is a prerequisite to the filing of a special civil action for *certiorari*, subject to certain exceptions, to wit:

(a) where the order is a patent nullity, as where the court a quo has no jurisdiction;

**(b) where the questions raised in the certiorari proceeding have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;**

(c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the government or the petitioner or the subject matter of the action is perishable;

(d) where, under the circumstances, a motion for reconsideration would be useless;

(e) where petitioner was deprived of due process and there is extreme urgency for relief;

(f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;

(g) where the proceedings in the lower court are a nullity for lack of due process;

(h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and

(i) where the issue raised is one purely of law or where public interest is involved. (Emphasis supplied)

Here, the basic issue to be resolved by the CA is whether or not there is a ground to cancel the Union's certificate of registration. This is the same issue decided by both the DOLE Regional Office and the BLR. They determined that there is no basis for cancellation as none of the grounds in Article 247, formerly Article 239, of the Labor Code is present. Due to a repetition of issue from the DOLE Regional Office to the BLR up to the CA, this case falls under the second enumeration of exceptions for filing a motion for reconsideration. Thus, the petition for certiorari before the CA may be entertained without a prior motion for reconsideration.

However, the present petition before the Court still fails on substantial grounds. Article 247 (formerly Article 239) of the Labor Code, as amended and renumbered on July 21, 2015, provides the grounds for cancellation of a labor union's registration: