

## SECOND DIVISION

[ G.R. No. 163532, March 12, 2010 ]

**YOKOHAMA TIRE PHILIPPINES, INC., PETITIONER, VS.  
YOKOHAMA EMPLOYEES UNION, RESPONDENT.**

### R E S O L U T I O N

**CARPIO, J.:**

This is a petition<sup>[1]</sup> for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 16 January 2004 Decision<sup>[2]</sup> and 12 May 2004 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 65460. The Court of Appeals affirmed the 12 March<sup>[4]</sup> and 3 May<sup>[5]</sup> 2001 Resolutions of the Bureau of Labor Relations (BLR) in BLR-A-C-7-2-05-01, reversing the 18 December 2000 Decision<sup>[6]</sup> of the Department of Labor and Employment (DOLE) Regional Office No. 3, San Fernando, Pampanga (Regional Office), in Case No. RO300-0001-CP-002.

Yokohama Employees Union (YEU) is the labor organization of the rank-and-file employees of Yokohama Tire Philippines, Inc. (YTPI). YEU was registered as a legitimate labor union on 10 September 1999.

YEU filed before the Regional Office a petition for certification election. YTPI filed before the Regional Office a petition<sup>[7]</sup> dated 24 January 2000 for the revocation of YEU's registration. YTPI alleged that YEU violated Article 239(a)<sup>[8]</sup> of the Labor Code: (1) YEU fraudulently included the signature of a certain Ronald O. Pineda (Pineda) in the organizational documents; (2) Pineda was not aware of any election of union officers; (3) YEU fraudulently obtained the employees' signatures by making them believe that they were signing a petition for a 125% increase in the minimum wage, not a petition for registration; (4) the employees did not belong to a single bargaining unit; and (5) YEU fraudulently stated in its organizational meeting minutes that its second vice president was Bernard David, not Bernardo David.

In its 18 December 2000 Decision, the Regional Office granted the 24 January 2000 petition. The Regional Office held that YEU committed misrepresentation: (1) YEU failed to remove Pineda's signature from the organizational documents despite instructions to do so; and (2) YEU declared that it conducted an election of union officers when, in truth, it did not.

YEU appealed the 18 December 2000 Decision to the BLR. In its 12 March 2001 Resolution, the BLR reversed the 18 December 2000 Decision. The BLR found that (1) Pineda did not approach any officer of YEU to have his signature removed from the organizational documents; (2) Pineda's affidavit that no election of officers took place was unreliable and inconsistent with his earlier written statement; (3) the affidavit of a certain Rachelle Gonzales (Gonzales) that no election of officers took

place was unreliable and inconsistent with her earlier resignation letter; (4) the affidavit of a certain Arthur Calma (Calma) did not state that no election of officers took place; (5) at least 82 other members of YEU did not question the legality of YEU's organization; and (6) 50 YEU members executed a *Sama-Samang Pahayag*<sup>[9]</sup> stating that:

3. *Noong ika-25 ng Hulyo 1999, kami ay dumalo sa isang pulong para sa pag-oorganisa ng aming Unyon at pagraratipika ng Saligang Batas at Alituntunin nito. x x x*

x x x x

5. *Walang katotohanan ang alegasyon ng Yokohama na walang naganap na pagpupulong kaugnay ng pag-oorganisa o pagtatayo namin ng Unyon. Nakakatuwa ring isipin ang alegasyon ng kompanya na hindi namin lubos na naiintindihan ang aming kapasyahang magtayo at sumapi sa aming Unyon.*

6. *Malinaw na ginagawa ng kompanya ang lahat ng paraan upang hadlangan ang aming karapatan sa pag-oorganisa at kilalanin bilang kinatawan ng lahat ng mga regular na manggagawa para sa sama-samang pakikipagtawaran.*

7. *Sa kabila ng lahat ng ito, kami ay lubos pa ring naninindigan sa aming Unyon at patuloy na ipaglalaman ang aming karapatan sa pag-oorganisa at sa sama-samang pakikipagtawaran;*<sup>[10]</sup>

The BLR also held that (1) YTPi was estopped from questioning the fact that the *Sama-Samang Pahayag* was an unsworn document since it filed the 24 January 2000 petition for the revocation of YEU's registration based on unsworn documents; (2) the fact that there was no express mention of an election of union officers in the *Sama-Samang Pahayag* did not necessarily mean that no election occurred; (3) there was an organizational meeting and an organizational meeting may include an election of union officers; (4) any infirmity in the election of union officers may be remedied under the last paragraph<sup>[11]</sup> of Article 241 of the Labor Code and under Rule XIV of DOLE Department Order No. 9; and (5) cancellation of union registration must be done with great caution.

YTPi filed before the BLR a motion<sup>[12]</sup> for reconsideration. In its 3 May 2001 Resolution, the BLR denied the motion for lack of merit.

YTPi filed before the Court of Appeals a petition<sup>[13]</sup> for certiorari under Rule 65 of the Rules of Court. In its 16 January 2004 Decision, the Court of Appeals denied the petition and held that the BLR did not commit grave abuse of discretion: (1) Pineda's affidavit that no election of officers took place was unreliable and inconsistent with his earlier written statement; (2) Gonzales' affidavit that no election of officers took place was unreliable and inconsistent with her earlier resignation letter; (3) Calma's affidavit was unreliable because he admitted that he stayed at the organizational meeting for only 20 minutes; (4) the affidavit of a certain Bernardino David (David) that no election of officers took place was

unreliable and inconsistent with his earlier *sinumpaang salaysay*; (5) David's affidavit was only filed before the BLR when YTPI filed its motion for reconsideration of the BLR's 12 March 2001 Resolution; (6) Pineda did not approach any officer of YEU to have his signature removed from the organizational documents; (7) the *Sama-Samang Pahayag* was entitled to credit even if it was an unsworn document; (8) the allegation that the signatures of a certain Denry Villanueva (Villanueva) and a certain Apolinar Bognot (Bognot) in the *Sama-Samang Pahayag* were forged was only raised for the first time before the BLR when YTPI filed its motion for reconsideration of the BLR's 12 March 2001 Resolution; (9) Villanueva and Bognot were not signatories to YEU's organizational documents; (10) cancellation of union registration must be done with great caution; (11) YTPI, in filing the petition for revocation of YEU's registration, had the burden of proving that YEU committed fraud and misrepresentation; and (12) YTPI failed to prove that YEU committed fraud and misrepresentation.

YTPI filed before the Court of Appeals a motion<sup>[14]</sup> for reconsideration. In its 12 May 2004 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the present petition. YTPI raises as issues that (1) the Court of Appeals erred in finding that YEU did not commit fraud or misrepresentation, and (2) the Court of Appeals erred in holding that YTPI had the burden of proving that YEU committed fraud and misrepresentation.

The petition is unmeritorious.

The Court of Appeals found that YEU did not commit fraud or misrepresentation:

Anent whether an election of officers was conducted or not, the petitioner relied largely on the *affidavit* of Pineda to substantiate its claim that no election of officers was held by the union. However, respondent BLR Director accorded greater credence to Pineda's handwritten statement, wherein he made references to at least 2 meetings he had attended during which he had signed the organizational documents, than to Pineda's later *affidavit*, whereby he denied any knowledge of the holding of an election. A perusal of the affirmative handwritten statement easily explains why the public respondent preferred it to the negating *affidavit*, to wit:

*Noong unang araw na pumirma ako galing ako sa graveyard.  
Pagkatapos yung pangalawang meeting graveyard din ako,  
pinapirma ako doon sa siyam (9) na pirasong papel noong  
umagang pag-uwi namin. x x x*

July 25, 99 - *Unang Pirmahan*  
July 26, 99 - *Pinirmahan ko ang siyam na piraso*  
July 27, 99 - *Pinatatanggal ko ang aking pangalan  
sa listahan*

The petitioner also relied on the *affidavit* of Ma. Rachele Gonzales

attesting that there was no election of officers, but respondent BLR Director dismissed the *affidavit* as nothing but the petitioner's belated attempt to establish its claim about the election being held considering that Gonzales did not even intimate such matter in her handwritten resignation letter to YEU.

Another *affidavit*, that of Arthur Calma, stated that no election was held, but, again, respondent BLR Director gave Calma's *affidavit* scant consideration because the affiant admittedly remained in the YEU office for only 20 minutes. In contrast, the public respondent accorded more weight to the *sama-samang pahayag* executed by 50 YEU members who averred about the holding of an organizational meeting. The public respondent justifiably favored the latter, deeming the meeting to include the holding of an election of officers, for, after all, Art. 234, (b), *Labor Code*, does not itself distinguish between the two.

Respondent BLR Director is further assailed for not taking into consideration the *affidavit* asserting that no election of officers was ever conducted, which Bernardino David, YEU's second vice president, executed. The omission is not serious enough, however, because the *affidavit* was submitted only when the petitioner moved for the reconsideration of the questioned decision, and because the *affidavit* was even inconsistent with David's earlier *sinumpaang salaysay*, whereby he attested to his attendance at the organizational meeting and to his election thereat as vice president.

As to the inclusion of Pineda's signature in the organizational documents, the BLR Director correctly ruled that evidence to prove the participation of YEU in the failure to delete Pineda's signature from the organizational documents was wanting. It is not deniable that Pineda never approached any officer of YEU; and that Pineda approached a certain *Tonton* whom he knew to be a *union organizer* but who was not an officer of the union nor an employee of the company.

If the petitioner was [sic] sincere and intent on this imputed error, its effort to show so does not [sic] appear in the record. What appears is its abject failure to establish *Tonton's* actual identity. The petitioner seemed content in making the insinuation in the petition for *certiorari* that *Tonton* was widely recognized as the organizer behind the creation of YEU. That was not enough.

In sum, the BLR Director was neither capricious nor whimsical in his exercise of judgment, and, therefore, did not commit grave abuse of discretion. For *certiorari* to lie, more than mere abuse of discretion is required to be established by the petitioner. Herein, no degree of abuse of discretion was attendant.<sup>[15]</sup>

YTPI claims that the Court of Appeals erred in finding that YEU did not commit fraud or misrepresentation. YTPI stated that: