

FIRST DIVISION

[G.R. No. 168583, July 26, 2010]

ATTY. ALLAN S. MONTAÑO, PETITIONER, VS. ATTY. ERNESTO C. VERCELES, RESPONDENT.

DECISION

DEL CASTILLO, J.:

The Federation/Union's Constitution and By-Laws govern the relationship between and among its members. They are akin to ordinary contracts in that their provisions have obligatory force upon the federation/ union and its member. What has been expressly stipulated therein shall be strictly binding on both.

By this Petition for Review on *Certiorari*,^[1] petitioner Atty. Allan S. Montaña (Atty. Montaña) assails the Decision^[2] dated May 28, 2004 and Resolution^[3] dated June 28, 2005 of the Court of Appeals (CA) in CA-G.R. SP No. 71731, which declared as null and void his election as the National Vice-President of Federation of Free Workers (FFW), thereby reversing the May 8, 2002 Decision^[4] of the Bureau of Labor Relations (BLR) in BLR-O-TR-66-7-13-01.

Factual Antecedents

Atty. Montaña worked as legal assistant of FFW Legal Center on October 1, 1994.^[5] Subsequently, he joined the union of rank-and-file employees, the FFW Staff Association, and eventually became the employees' union president in July 1997. In November 1998, he was likewise designated officer-in-charge of FFW Legal Center.^[6]

During the 21st National Convention and Election of National Officers of FFW, Atty. Montaña was nominated for the position of National Vice-President. In a letter dated May 25, 2001,^[7] however, the Commission on Election (FFW COMELEC), informed him that he is not qualified for the position as his candidacy violates the 1998 FFW Constitution and By-Laws, particularly Section 76 of Article XIX^[8] and Section 25 (a) of Article VIII,^[9] both in Chapter II thereof. Atty. Montaña thus filed an Urgent Motion for Reconsideration^[10] praying that his name be included in the official list of candidates.

Election ensued on May 26-27, 2001 in the National Convention held at Subic International Hotel, Olongapo City. Despite the pending motion for reconsideration with the FFW COMELEC, and strong opposition and protest of respondent Atty. Ernesto C. Vercelles (Atty. Vercelles), a delegate to the convention and president of University of the East Employees' Association (UEEA-FFW) which is an affiliate union of FFW, the convention delegates allowed Atty. Montaña's candidacy. He emerged victorious and was proclaimed as the National Vice-President.

On May 28, 2001, through a letter^[11] to the Chairman of FFW COMELEC, Atty. Verceles reiterated his protest over Atty. Montaña's candidacy which he manifested during the plenary session before the holding of the election in the Convention. On June 18, 2001, Atty. Verceles sent a follow-up letter^[12] to the President of FFW requesting for immediate action on his protest.

Proceedings before the Bureau of Labor Relations

On July 13, 2001, Atty. Verceles, as President of UEEA-FFW and officer of the Governing Board of FFW, filed before the BLR a petition^[13] for the nullification of the election of Atty. Montaña as FFW National Vice-President. He alleged that, as already ruled by the FFW COMELEC, Atty. Montaña is not qualified to run for the position because Section 76 of Article XIX of the FFW Constitution and By-Laws prohibits federation employees from sitting in its Governing Board. Claiming that Atty. Montaña's premature assumption of duties and formal induction as vice-president will cause serious damage, Atty. Verceles likewise prayed for injunctive relief.^[14]

Atty. Montaña filed his Comment with Motion to Dismiss^[15] on the grounds that the Regional Director of the Department of Labor and Employment (DOLE) and not the BLR has jurisdiction over the case; that the filing of the petition was premature due to the pending and unresolved protest before the FFW COMELEC; and that, Atty. Verceles has no legal standing to initiate the petition not being the real party in interest.

Meanwhile, on July 16, 2001, the FFW COMELEC sent a letter to FFW National President, Bro. Ramon J. Jabar, in reference to the election protest filed before it by Atty. Verceles. In this correspondence, which was used by Atty. Verceles as an additional annex to his petition before the BLR, the FFW COMELEC intimated its firm stand that Atty. Montaña's candidacy contravenes the FFW's Constitution, by stating:

At the time Atty. Verceles lodged his opposition in the floor before the holding of the election, we, the Comelec unanimously made the decision that Atty. Montaña and others are disqualified and barred from running for any position in the election of the Federation, in view of pertinent provisions of the FFW Constitution.

Our decision which we repeated several times as final was however further deliberated upon by the body, which then gave the go signal for Atty. Montaña's candidacy notwithstanding our decision barring him from running and despite the fact that several delegates took the floor [stating] that the convention body is not a constitutional convention body and as such could not qualify to amend the FFW's present constitution to allow Atty. Montaña to run.

We would like to reiterate what we stated during the plenary session that our decision was final in view of the cited pertinent provisions of the FFW Constitution and we submit that the decision of the convention body in

allowing Atty. Montañó's candidacy is not valid in view of the fact that it runs counter to the FFW Constitution and the body at that time was not acting as a Constitutional Convention body empowered to amend the FFW Constitution on the spot.

Our having conducted the election does not depart from the fact that we did not change our decision disqualifying candidates such as Atty. Allan S. Montañó, and others from running. The National Convention as a co-equal constitutional body of the Comelec was not given the license nor the authority to violate the Constitution. It therefore, cannot reverse the final decision of the Comelec with regard to the candidacy of Atty. Allan Montañó and other disqualified candidates.^[16]

The BLR, in its Order dated August 20, 2001,^[17] did not give due course to Atty. Montañó's Motion to Dismiss but ordered the latter to submit his answer to the petition pursuant to the rules. The parties thereafter submitted their respective pleadings and position papers.

On May 8, 2002, the BLR rendered a Decision^[18] dismissing the petition for lack of merit. While it upheld its jurisdiction over the intra-union dispute case and affirmed, as well, Atty. Verceles' legal personality to institute the action as president of an affiliate union of FFW, the BLR ruled that there were no grounds to hold Atty. Montañó unqualified to run for National Vice-President of FFW. It held that the applicable provision in the FFW Constitution and By-Laws to determine whether one is qualified to run for office is not Section 76 of Article XIX^[19] but Section 26 of Article VIII^[20] thereof. The BLR opined that there was sufficient compliance with the requirements laid down by this applicable provision and, besides, the convention delegates unanimously decided that Atty. Montañó was qualified to run for the position of National Vice-President.

Atty. Verceles filed a Motion for Reconsideration but it was denied by the BLR.

Proceedings before the Court of Appeals

Atty. Verceles thus elevated the matter to the CA *via* a petition for *certiorari*,^[21] arguing that the Convention had no authority under the FFW Constitution and By-Laws to overrule and set aside the FFW COMELEC's Decision rendered pursuant to the latter's power to screen candidates.

On May 28, 2004, the CA set aside the BLR's Decision. While it agreed that jurisdiction was properly lodged with the BLR, that Atty. Verceles has legal standing to institute the petition, and that the applicable provision of FFW Constitution and By-Laws is Section 26 of Article VIII and not Section 76 of Article XIX, the CA however ruled that Atty. Montañó did not possess the qualification requirement under paragraph (d) of Section 26 that candidates must be an officer or member of a legitimate labor organization. According to the CA, since Atty. Montañó, as legal assistant employed by FFW, is considered as confidential employee, consequently, he is ineligible to join FFW Staff Association, the rank-and-file union of FFW. The CA, thus, granted the petition and nullified the election of Atty. Montañó as FFW National Vice-President.

Atty. Montaña moved for reconsideration claiming that the CA seriously erred in granting Atty. Verceles' petition on the ground that FFW Staff Association, of which he is an officer and member, is not a legitimate labor organization. He asserted that the legitimacy of the union was never raised as an issue. Besides, the declaration of the CA that FFW Staff Association is not a legitimate labor organization amounts to a collateral attack upon its legal personality, which is proscribed by law. Atty. Montaña also reiterated his allegations of lack of jurisdiction and lack of cause of action due to a pending protest. In addition, he claimed violation of the mandatory requirement on certification against forum shopping and mootness of the case due to the appointment of Atty. Verceles as Commissioner of the National Labor Relations Commission (NLRC), thereby divesting himself of interest in any matters relating to his affiliation with FFW.

Believing that it will be prejudiced by the CA Decision since its legal existence was put at stake, the FFW Staff Association, through its president, Danilo A. Laserna, sought intervention.

On June 28, 2005, the CA issued a Resolution^[22] denying both Atty. Montaña's motion for reconsideration^[23] and FFW Staff Association's motion for intervention/clarification.^[24]

Issues

Hence, this petition anchored on the following grounds:

I.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION, IN RENDERING THE ASSAILED DECISION, IN THAT:

A.) THE SOLE GROUND USED AND/OR INVOKED IN GRANTING THE PETITION A QUO WAS NOT EVEN RAISED AND/OR INVOKED BY PETITIONER;

B.) THE DECLARATION THAT "FFW STAFF ASSOCIATION IS NOT A LEGITIMATE LABOR ORGANIZATION", WITHOUT GIVING SAID ORGANIZATION A 'DAY IN COURT' AMOUNTS TO A COLLATERAL ATTACK PROSCRIBED UNDER THE LAW; AND

C.) THE COURT OF APPEALS FAILED AND/OR REFUSED TO PASS UPON OTHER LEGAL ISSUES WHICH HAD BEEN TIMELY RAISED, SPECIFICALLY ON THE PREMATURETY OF THE COMPLAINT AND THE LACK OF CERTIFICATION AGAINST FORUM SHOPPING OF THE PETITION A QUO.

II.

THE COURT OF APPEALS ERRED IN UPHOLDING THE EXERCISE OF JURISDICTION BY HEREIN RESPONDENT BUREAU AND IN NOT

ORDERING THE DISMISSAL OF THE CASE, DESPITE EXPRESS PROVISION OF LAW GRANTING SAID JURISDICTION OVER CASES INVOLVING *PROTESTS AND PETITIONS FOR ANNULMENT OF RESULTS OF ELECTIONS* TO THE REGIONAL DIRECTORS OF THE DEPARTMENT OF LABOR AND EMPLOYMENT.

III.

IN THE ALTERNATIVE, THE COURT OF APPEALS LIKEWISE ERRED IN NOT ORDERING THE DISMISSAL OF THE PETITION A QUO, IN THAT:

A.) THE FILING OF THE PETITION FOR NULLIFICATION OF THE RESULT OF ELECTION IS PREMATURE, IN VIEW OF PENDENCY OF HEREIN RESPONDENT ATTY. VERCELES' PROTEST BEFORE THE COMMISSION ON ELECTION OF THE FEDERATION OF FREE WORKERS (FFW COMELEC) AT THE TIME OF THE FILING OF THE SAID PETITION, HENCE, HE HAS NO CAUSE OF ACTION; AND

B.) HEREIN RESPONDENT ATTY. VERCELES HAS VIOLATED SECTION 5, RULE 7 OF THE 1997 RULES ON CIVIL PROCEDURE, AS HIS PETITION A QUO HAS NO CERTIFICATION AGAINST FORUM SHOPPING, WHICH IS A MANDATORY REQUIREMENT. IT IS ALSO IN UTTER DISREGARD AND IN GROSS VIOLATION OF SUPREME COURT CIRCULAR NO. 04-94.

IV.

FINALLY, *ASSUMING ARGUENDO* THAT HEREIN RESPONDENT BUREAU ACTED WITH JURISDICTION OVER THE CASE; AND *ASSUMING FURTHER* THAT HEREIN RESPONDENT ATTY. VERCELES HAS A CAUSE OF ACTION, DESPITE THE PENDENCY OF HIS PROTEST BEFORE FFW'S COMELEC AT THE TIME HE FILED HIS PETITION A QUO; AND *ASSUMING FINALLY*, THAT HEREIN RESPONDENT ATTY. VERCELES BE EXCUSED IN DISREGARDING THE MANDATORY REQUIREMENT ON CERTIFICATION AGAINST FORUM SHOPPING WHICH WAS TIMELY OBJECTED TO, THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION, AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION, IN NOT ORDERING THE DISMISSAL OF THE CASE FOR HAVING BEEN RENDERED MOOT AND ACADEMIC BY A SUPERVENING EVENT -THAT WAS, WHEN HEREIN RESPONDENT ATTY. VERCELES SOUGHT APPOINTMENT AND WAS APPOINTED AS COMMISSIONER OF THE NATIONAL LABOR RELATIONS COMMISSION (NLRC), THUS, DIVESTING HIMSELF WITH ANY INTEREST WITH MATTERS RELATING TO HIS FORMER MEMBERSHIP AND AFFILIATION WITH THE FEDERATION OF FREE WORKERS (FFW), HENCE, HE IS NO LONGER A REAL PARTY IN INTEREST, AS HE DOES NOT STAND TO BE INJURED OR BENEFITED BY THE JUDGMENT IN THE INSTANT CASE.^[25]

Atty. Montaña contends that the CA gravely erred in upholding the jurisdiction of the BLR; in not declaring as premature the petition in view of the pending protest before FFW COMELEC; in not finding that the petition violated the rule on non-forum shopping; in not dismissing the case for being moot in view of the appointment of