600 Phil. 256

FIRST DIVISION

[G.R. No. 167141, March 13, 2009]

SAMAHAN NG MGA MANGGAGAWA SA SAMMA-LAKAS SA INDUSTRIYA NG KAPATIRANG HALIGI NG ALYANSA (SAMMA LIKHA), PETITIONER, VS. SAMMA CORPORATION, RESPONDENT.

D E C I S I O N

CORONA, J.:

This is a petition for review on certiorari[1] of the August 31, 2004 decision[2] and February 15, 2005 resolution[3] of the Court of Appeals (CA) in CA-G.R. SP No. 77156.

Petitioner Samahan ng mga Manggagawa sa Samma- Lakas sa Industriya ng Kapatirang Haligi ng Alyansa (SAMMA-LIKHA) filed a petition for certification election on July 24, 2001 in the Department of Labor and Employment (DOLE), Regional Office IV.[4] It claimed that: (1) it was a local chapter of the LIKHA Federation, a legitimate labor organization registered with the DOLE; (2) it sought to represent all the rank-and-file employees of respondent Samma Corporation; (3) there was no other legitimate labor organization representing these rank-and-file employees; (4) respondent was not a party to any collective bargaining agreement and (5) no certification or consent election had been conducted within the employer unit for the last 12 months prior to the filing of the petition.

Respondent moved for the dismissal of the petition arguing that (1) LIKHA Federation failed to establish its legal personality; (2) petitioner failed to prove its existence as a local chapter; (3) it failed to attach the certificate of non-forum shopping and (4) it had a prohibited mixture of supervisory and rank-and-file employees.[5]

In an order dated November 12, 2002, med-arbiter Arturo V. Cosuco ordered the dismissal of the petition on the following grounds: (1) lack of legal personality for failure to attach the certificate of registration purporting to show its legal personality; (2) prohibited mixture of rank-and-file and supervisory employees and (3) failure to submit a certificate of non-forum shopping.[6]

Petitioner moved for reconsideration on November 29, 2001. The Regional Director of DOLE Regional Office IV forwarded the case to the Secretary of Labor. Meanwhile, on December 14, 2002, respondent filed a petition for cancellation of petitioner's union registration in the DOLE Regional Office IV.[7]

On January 17, 2003, Acting Secretary Manuel G. Imson, treating the motion for reconsideration as an appeal, rendered a decision reversing the order of the med-arbiter. He ruled that the legal personality of a union cannot be collaterally attacked

but may only be questioned in an independent petition for cancellation of registration. Thus, he directed the holding of a certification election among the rank-and-file employees of respondent, subject to the usual pre-election conference and inclusion-exclusion proceedings.[8]

On January 23, 2003 or six days after the issuance of said decision, respondent filed its comment on the motion for reconsideration of petitioner, asserting that the order of the med-arbiter could only be reviewed by way of appeal and not by a motion for reconsideration pursuant to Department Order (D.O.) No. 9, series of 1997.[9]

On February 6, 2003, respondent filed its motion for reconsideration of the January 17, 2003 decision. In a resolution dated April 3, 2003, Secretary Patricia A. Sto. Tomas denied the motion.[10]

Meanwhile, on April 14, 2003, Crispin D. Dannug, Jr., Officer-in-Charge/Regional Director of DOLE Regional Office IV, issued a resolution revoking the charter certificate of petitioner as local chapter of LIKHA Federation on the ground of prohibited mixture of supervisory and rank-and-file employees and non-compliance with the attestation clause under paragraph 2 of Article 235 of the Labor Code.[11] On May 6, 2003, petitioner moved for the reconsideration of this resolution.[12]

Respondent filed a petition for certiorari[13] in the CA assailing the January 17, 2003 decision and April 3, 2003 resolution of the Secretary of Labor. In a decision dated August 31, 2004, the CA reversed the same.[14] It denied reconsideration in a resolution dated February 15, 2005. It held that Administrative Circular No. 04-94 which required the filing of a certificate of non-forum shopping applied to petitions for certification election. It also ruled that the Secretary of Labor erred in granting the appeal despite the lack of proof of service on respondent. Lastly, it found that petitioner had no legal standing to file the petition for certification election because its members were a mixture of supervisory and rank-and-file employees.[15]

Hence, this petition.

The issues for our resolution are the following: (1) whether a certificate for non-forum shopping is required in a petition for certification election; (2) whether petitioner's motion for reconsideration which was treated as an appeal by the Secretary of Labor should not have been given due course for failure to attach proof of service on respondent and (3) whether petitioner had the legal personality to file the petition for certification election.

Requirement of Certificate Of Non-Forum Shopping Is Not Required in a Petition For Certification Election

In ruling against petitioner, the CA declared that under Administrative Circular No. 04-94,[16] a certificate of non-forum shopping was required in a petition for certification election. The circular states:

> The complaint and other initiatory pleadings referred to and subject of this Circular are the original civil complaint, counterclaim, cross-claim, third (fourth, etc.) party complaint, or complaint-in-intervention, petition,

> or application **wherein a party asserts his claim for relief**. (Emphasis supplied)
>
> According to the CA, a petition for certification election asserts a claim, *i.e.*, the conduct of a certification election. As a result, it is covered by the circular.[17]

We disagree.

The requirement for a certificate of non-forum shopping refers to complaints, counter-claims, cross-claims, petitions or applications where contending parties litigate their respective positions regarding the claim for relief of the complainant, claimant, petitioner or applicant. A certification proceeding, even though initiated by a "petition," is not a litigation but an investigation of a non-adversarial and fact-finding character.[18]

> Such proceedings are **not predicated upon an allegation of misconduct requiring relief, but, rather, are merely of an inquisitorial nature**. The Board's functions are not judicial in nature, but are merely of an investigative character. The object of the proceedings is not the decision of any alleged commission of wrongs nor asserted deprivation of rights but is merely the determination of proper bargaining units and the ascertainment of the will and choice of the employees in respect of the selection of a bargaining representative. The determination of the proceedings does not entail the entry of remedial orders to redress rights, but culminates solely in an official designation of bargaining units and an affirmation of the employees' expressed choice of bargaining agent.[19] (Emphasis supplied)

In *Pena v. Aparicio*,[20] we ruled against the necessity of attaching a certification against forum shopping to a disbarment complaint. We looked into the rationale of the requirement and concluded that the evil sought to be avoided is not present in disbarment proceedings.

> ... [The] rationale for the requirement of a certification against forum shopping is to apprise the Court of the pendency of another action or claim involving the same issues in another court, tribunal or quasi-judicial agency, and thereby precisely avoid the forum shopping situation. Filing multiple petitions or complaints constitutes abuse of court processes, which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts. Furthermore, the rule proscribing forum shopping seeks to promote candor and transparency among lawyers and their clients in the pursuit of their cases before the courts to promote the orderly administration of justice, prevent undue inconvenience upon the other party, and save the precious time of the courts. It also aims to prevent the embarrassing situation of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue.
>
> It is in this light that we take a further look at the necessity of attaching a certification against forum shopping to a disbarment complaint. **It**

> **would seem that the scenario sought to be avoided, *i.e.*, the filing of multiple suits and the possibility of conflicting decisions, rarely happens in disbarment complaints** considering that said proceedings are either "taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person." Thus, if the complainant in a disbarment case fails to attach a certification against forum shopping, the pendency of another disciplinary action against the same respondent may still be ascertained with ease.[21] (Emphasis supplied)

The same situation holds true for a petition for certification election. Under the omnibus rules implementing the Labor Code as amended by D.O. No. 9,[22] it is supposed to be filed in the Regional Office which has jurisdiction over the principal office of the employer or where the bargaining unit is principally situated.[23] The rules further provide that where two or more petitions involving the same bargaining unit are filed in one Regional Office, the same shall be automatically consolidated.[24] Hence, the filing of multiple suits and the possibility of conflicting decisions will rarely happen in this proceeding and, if it does, will be easy to discover.

Notably, under the Labor Code and the rules pertaining to the form of the petition for certification election, there is no requirement for a certificate of non-forum shopping either in D.O. No. 9, series of 1997 or in D.O. No. 40-03, series of 2003 which replaced the former.[25]

Considering the nature of a petition for certification election and the rules governing it, we therefore hold that the requirement for a certificate of non-forum shopping is inapplicable to such a petition.

TREATMENT OF MOTION FOR RECONSIDERATION AS AN APPEAL

The CA ruled that petitioner's motion for reconsideration, which was treated as an appeal by the Secretary of Labor, should not have been given due course for lack of proof of service in accordance with the implementing rules as amended by D.O. No. 9:

> Section 12. Appeal; finality of decision. - The decision of the Med-Arbiter may be appealed to the Secretary for any violation of these Rules. Interloculory orders issued by the Med-Arbiter prior to the grant or denial of the petition, including order granting motions for intervention issued after an order calling for a certification election, shall not be appealable. However, any issue arising therefrom may be raised in the appeal on the decision granting or denying the petition.
>
> The appeal shall be under oath and shall consist of a memorandum of appeal specifically stating the grounds relied upon by the appellant with the supporting arguments and evidence. **The appeal shall be deemed not filed unless accompanied by proof of service thereof to appellee**.[26] (Emphasis supplied)

In accepting the appeal, the Secretary of Labor stated:

> [Petitioner's] motion for reconsideration of the Med-Arbiter's Order dated November 12, 2002 was **verified under oath** by [petitioner's] president Gil Dispabiladeras before Notary Public Wilfredo A. Ruiz on 29 November 2002, and recorded in the Notarial Register under Document No. 186, Page No. 38, Book V, series of 2002. On page 7 of the said motion also appears the notation "copy of respondent to be delivered personally with the name and signature of one Rosita Simon, 11/29/02." The motion **contained the grounds and arguments** relied upon by [petitioner] for the reversal of the assailed Order. Hence, the motion for reconsideration has **complied with the formal requisites of an appeal**.
>
> The signature of Rosita Simon appearing on the last page of the motion can be considered as **compliance with the required proof of service upon respondent**. Rosita Simon's employment status was a matter that should have been raised earlier by [respondent]. But [respondent] did not question the same and slept on its right to oppose or comment on [petitioner's] motion for reconsideration. **It cannot claim that it was unaware of the filing of the appeal** by [petitioner], because a copy of the indorsement of the entire records of the petition to the Office of the Secretary "in view of the memorandum of appeal filed by Mr. Jesus B. Villamor" was served upon the employer and legal counsels Atty. Ismael De Guzman and Atty. Anatolio Sabillo at the Samma Corporation Office, Main Avenue, PEZA, Rosario, Cavite on December 5, 2002.[27] (Emphasis supplied)

The motion for reconsideration was properly treated as an appeal because it substantially complied with the formal requisites of the latter. The lack of proof of service was not fatal as respondent had actually received a copy of the motion. Consequently, it had the opportunity to oppose the same. Under these circumstances, we find that the demands of substantial justice and due process were satisfied.

We stress that rules of procedure are interpreted liberally to secure a just, speedy and inexpensive disposition of every action. They should not be applied if their application serves no useful purpose or hinders the just and speedy disposition of cases. Specifically, technical rules and objections should not hamper the holding of a certification election wherein employees are to select their bargaining representative. A contrary rule will defeat the declared policy of the State

> to promote the free and responsible exercise of the right to self-organization through the establishment of a **simplified mechanism** for the speedy registration of labor organizations and workers' associations, **determination of representation status**, and resolution of intra and inter-union disputes.[28] xxx (Emphasis supplied)

LEGAL PERSONALITY OF PETITIONER

Petitioner argues that the erroneous inclusion of one supervisory employee in the union of rank-and-file employees was not a ground to impugn its legitimacy as a legitimate labor organization which had the right to file a petition for certification election.