

SECOND DIVISION

[G.R. No. 177283, April 07, 2009]

**DE LA SALLE UNIVERSITY AND DR. CARMELITA I. QUEBENGCO
PETITIONERS, VS. DE LA SALLE UNIVERSITY EMPLOYEES
ASSOCIATION (DLSUEA-NAFTEU), RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

On challenge by the De La Salle University and its Executive Vice President Dr. Carmelita I. Quebengco (petitioners) via the present petition for review on certiorari is the Court of Appeals *First Division* Decision of September 16, 2005^[1] in CA-G.R. No. SP No. 81220 which **SET ASIDE** the National Labor Relations Commission (NLRC) Second Division Orders of June 26, 2003 and September 30, 2003 affirming the dismissal of the complaint for Unfair Labor Practices (ULP) filed by De La Salle University Employees Association (respondent), and directed the NLRC Second Division to transmit the records of the said complaint to the NLRC Third Division.

The antecedent facts of the case are as follows:

In 2001, a splinter group of respondent led by one Belen Aliazas (Aliazas group) filed a petition for conduct of elections with the Department of Labor and Employment (DOLE), alleging that the then incumbent officers of respondent had failed to call for a regular election since 1985.

Disputing the Aliazas group's allegation, respondent claimed that an election was conducted in 1987 but by virtue of the enactment of Republic Act 6715,^[2] which amended the Labor Code, the term of office of its officers was extended to five years or until 1992 during which a general assembly was held affirming their hold-over tenure until the termination of collective bargaining negotiations; and that a collective bargaining agreement (CBA) was executed only on March 30, 2000.

Acting on the petition for the conduct of election filed by the Aliazas group, the DOLE-NCR held, by Decision of March 19, 2001, that the holdover authority of respondent's incumbent set of officers had been extinguished by virtue of the execution of the CBA. It accordingly ordered the conduct of elections to be placed under the control and supervision of its Labor Relations Division^[3] and subject to pre-election conferences.

The conditions for the conduct of election imposed by the DOLE-NCR notwithstanding, respondent called for a regular election on July 9, 2001, without prior notice to the DOLE and without the conduct of pre-election conference, prompting the Aliazas group to file an Urgent Motion for Intervention with the Bureau of Labor Relations (BLR) of the DOLE. The BLR granted the Aliaza's group's

motion for intervention three days before the intended date of election or on July 6, 2001 and thus disposed as follows:

WHEREFORE, without necessarily resolving the merits of the appeal and considering the urgency of the issues raised by appellees and the limited time involved, the motion is hereby GRANTED. Consequently, appellants and or the members of the DLSUEA-COMELEC headed by Mr. Dominador Almodovar or any of their authorized representatives are hereby directed to **cease and desist from holding the general election of DLSUEA officers** on 9 July 2001, until further ordered by this Office.

SO ORDERED.^[4] (Emphasis and underscoring supplied)

The Alias group thereupon, via letter of August 7, 2001 to Brother Rolando Dizon, FSC, President of petitioner DLSU, requested the University "to please **put on escrow** until such time that an election of union officials has been scheduled and subsequent elections has been held."^[5] (Underscoring in the original; emphasis supplied)

Responding to the Alias group's request, petitioners, citing the abovementioned DOLE and BLR Orders, advised respondent by letter of August 16, 2001 as follows:

x x x By virtue of the 19 March 2001 Decision and the 06 July 2001 Order of the Department of Labor and Employment (DOLE), the hold-over authority of your incumbent set of officers has been considered extinguished and an election of new union officers, to be conducted and supervised by the DOLE has been directed to be held. Until the result of this election comes out and a declaration by the DOLE of the validly elected officers is made, a void in the Union leadership exists.

In the light of these circumstances, the **University has no other alternative but to temporarily do the following:**

1. Establish a savings account for the Union where all collected union dues and agency fees will be deposited and held in trust; and
2. Discontinue normal relations with any group within the Union including the incumbent set of officers.

We are informing you of this decision of the University not only for your guidance but also for the apparent reason that the University does not want itself to be unnecessarily involved in your intra-union dispute. This is the only way that the University can maintain neutrality on this matter of grave concern. (Emphasis and underscoring supplied)

Petitioners' above-quoted move drew respondent to file a complaint against petitioners for Unfair Labor Practice (ULP complaint), claiming that petitioners unduly interfered with its internal affairs and discriminated against its members. The ULP complaint was docketed as NLRC-NCR Case No. S-30-08-03757-01.

During the pendency of its ULP complaint or on March 7, 2002, respondent filed its First Notice of Strike with the Office of the Secretary of Labor (OSL), charging petitioners for 1) gross violation of the CBA and 2) bargaining in bad faith which was certified for compulsory arbitration to the NLRC (certified case). The certified case,

docketed as NLRC-NCR CC000222-02, was raffled to the NLRC Third Division.

In the meantime, Labor Arbiter Felipe Pati, by Decision of July 12, 2002, dismissed respondent's ULP complaint. Respondent appealed to the NLRC. The appeal was docketed as NLRC-NCR CA No. 033173-02 and lodged at the NLRC Second Division.

While the dismissal of its ULP complaint was pending appeal before the NLRC Second Division, respondent, on behalf of some of its members, filed four other cases against petitioners which were lodged at the NLRC Second Division.

Respondent thereafter filed in the certified case which was lodged at the NLRC Third Division a motion to have its four other cases and its ULP complaint then pending appeal before the NLRC Second Division to have these cases "subsumed" in the certified case. The NLRC Third Division granted respondent's motion by Order of April 30, 2003. Petitioners moved to reconsider this Order but it was denied, prompting petitioners to elevate the matter *via* certiorari to the Court of Appeals. This petition, docketed as CA G.R. No. SP-79798, was raffled to the appellate court's *Tenth Division*.

The NLRC Second Division, in the meantime, affirmed by Decision of June 26, 2003, the dismissal by the Arbiter of respondent's ULP complaint. Respondent thus elevated the case to the Court of Appeals *via* certiorari, docketed as CA-G.R. No. 81220. This was raffled to the appellate court's *First Division*.

By Decision of June 17, 2004, the Court of Appeals *Tenth Division*, to which petitioners' certiorari petition in CA-G.R. No. SP-79798 challenging the April 30, 2003 NLRC Third Division Order "subsuming" respondent's complaints including the ULP Complaint under the certified case, REVERSED the said Order of the NLRC Third Division^[6] with respect to the "subsuming" of respondent's ULP complaint under the certified case, the ULP complaint having been, at the time the NLRC Third Division Order was issued, "already disposed of" (dismissed) by the Arbiter and was in fact pending appeal before the NLRC Second Division. Thus the *Tenth Division* of the appellate court held:

Anent ULP case with docket No. *NLRC-NCR Case No. S-30-08-03757-01* raffled to Labor Arbiter Pati for resolution, private respondent gravely erred in including it among the cases to be consolidated with *NLRC NCR CC No. 000222-02*. The case is obviously **no longer under arbitration**.

The records show that when complainant-appellee (respondent Union) filed its motion to consolidate the cases on January 28, 2003 and the resolution of the said motion by the Third Division of the NLRC on April 30, 2003 granting the desired consolidation, NLRC-NCR Case No. S-30-08-03757-01 had already been disposed of by Labor Arbiter Pati and was, in fact, already on appeal before the Second Division of the NLRC, docketed therein as *NLRC-NCR CA No. 033173-02*. According to the Union itself, on June 26, 2003, the NLRC affirmed the decision of Labor Arbiter Pati and on September 30, 2003, it denied the Union's motion for reconsideration. x x x (Citation omitted)

The NLRC had thus already exhausted its jurisdiction over *NLRC-NCR CA No. 033173-02*. Consequently, the same case is now removed from the ambit of

compulsory arbitration and may only be subject of judicial review via the special civil action of certiorari in this Court. But we are not informed if such a judicial action has been taken.^[7] (Emphasis and underscoring supplied)

The Court of Appeals *First Division* subsequently resolving respondent's petition for certiorari in CA-G.R. No. 81220 (which assailed the affirmance by the NLRC Second Division of the Arbiter's dismissal of its ULP complaint), upon the sole issue of "whether the NLRC [Second Division] committed grave abuse of discretion . . . in ignoring the order of the [NLRC] 3rd Division declaring subsumed or absorbed [herein respondent's ULP complaint] in the certified case," answered the same in the affirmative *via* the **herein challenged September 16, 2005 Decision**. It thus set aside the NLRC Second Division Order affirming the dismissal of respondent's ULP complaint and accordingly ordered said NLRC Second Division to transmit the entire records of the ULP complaint to the NLRC Third Division to which said ULP complaint had priorly been ordered consolidated by the latter Division with the certified case.

WHEREFORE, premises considered, the petition is granted. Accordingly, the Order dated June 26, 2003 of National Labor Relations Commission (NLRC) as well as the Order dated September 30, 2003 are hereby set aside. The 2nd Division of the NLRC is hereby directed to transmit the entire records of the case to the 3rd Division [of the NLRC] for its resolution.

SO ORDERED.^[8] (Underscoring supplied)

Hence, petitioner's petition for review on certiorari at bar.

Petitioners contend that the *First Division* of the Court of Appeals disregarded the ruling of the appellate court's *Tenth Division* setting aside the NLRC Third Division Order "subsuming" respondent's ULP complaint, which was lodged at the NLRC Second Division, under the certified case pending with said NLRC Third Division. They fault the *First Division* of the appellate court for

I

. . . RULING THAT THE SECOND DIVISION OF THE NLRC COMMITTED SERIOUS ERROR OR GRAVE ABUSE OF DISCRETION WHEN IT AFFIRMED THE RULING OF LABOR ARBITER FELIPE P. PATI DATED 12 JULY 2002 (THROUGH ITS RESOLUTION AND ORDER DATED 26 JUNE 2003 AND 30 SEPTEMBER 2003, RESPECTIVELY) CONSIDERING THAT:

A. WHEN THE NLRC'S SECOND DIVISION RENDERED ITS 26 JUNE 2003 RESOLUTION, WHICH DISMISSED THE APPEAL FILED BY THE UNION AND AFFIRMED THE 12 JULY 2002 DECISION OF LABOR ARBITER FELIPE P. PATI IN NLRC NCR CASE NO. 30-08-0357-01 (NLRC NCR CA NO. 033173-02), THE CONSOLIDATION ORDER OF THE NLRC THIRD DIVISION IN NCMB-NCR-NS NO. 03-093-02 (NLRC NCR CC NO. 000222-02) WHICH WAS ISSUED ON 30 APRIL 2003 HAD NOT YET ATTAINED FINALITY.

B. . . . [NOT] TAK[ING] COGNIZANCE OF THE DECISION RENDERED BY THE TENTH DIVISION OF THE SAME COURT DATED 17 JUNE

2004, ANNULING AND SETTING ASIDE THE 30 APRIL 2003 AND 28 JULY 2003 RESOLUTIONS OF THE THIRD DIVISION, WHICH ORDERED THE CONSOLIDATION OF ALL CASES FILED BY THE UNION AGAINST THE UNIVERSITY.^[9]

In any event, petitioners contend that

II

THE SECOND DIVISION OF THE NLRC DID NOT GRAVELY ABUSE ITS DISCRETION WHEN IT HELD THAT THE PETITIONERS WERE NOT GUILTY OF UNFAIR LABOR PRACTICE, CONSIDERING THAT THE TEMPORARY MEASURES IMPLEMENTED BY THE UNIVERSITY WERE UNDERTAKEN IN GOOD FAITH AND ONLY TO MAINTAIN ITS NEUTRALITY AMID THE INTRA-UNION DISPUTE."^[10] (Underscoring supplied)

The petition is partly meritorious.

The June 17, 2004 Decision of the appellate court's *Tenth* Division setting aside the order of consolidation issued by the NLRC Third Division became final and executory on July 11, 2004. The herein challenged appellate court's *First* Division Decision **reversing** the NLRC Second Division Order which affirmed the dismissal of respondent's ULP complaint and directing that the records of said complaint be transmitted to the NLRC Third Division was promulgated on September 16, 2005.

It is thus clear that the appellate court's *Tenth* Division Decision declaring that the NLRC Third Division's order "subsuming" respondent's ULP complaint (then pending appeal before the NLRC Second Division) under the certified case pending before it (NLRC Third division) had become final and executory on July 11, 2004. Therefore, with respect to the herein challenged Decision of the appellate court's *First* Division ordering the NLRC Second Division to transmit the records of respondent's ULP complaint to the NLRC Third Division, the same can no longer be effected, the appellate court's *Tenth* Division ruling having, it bears repeating, become final.

To still transmit to the NLRC Third Division respondent's ULP complaint on appeal which has already been resolved by the NLRC Second Division would lead to absurd consequences.

On the other matter raised by petitioners - that their acts of withholding union and agency dues and suspension of normal relations with respondent's incumbent set of officers pending the intra-union dispute did not constitute interference, the Court finds for respondent.

Pending the final resolution of the intra-union dispute, respondent's officers remained duly authorized to conduct union affairs. The clarification letter of May 16, 2003 issued by BLR Director Hans Leo J. Cacadac enlightens:

We take this opportunity to clarify that there is **no void** in the DLSUEA leadership. The 19 March 2001 Decision of DOLE-NCR **Regional Director should not be construed as an automatic termination of the incumbent officers' tenure** of office. As duly-elected officers of the DLSUEA, their leadership is not deemed terminated by the expiration of their terms of office, for they shall continue their functions and enjoy the