

SECOND DIVISION

[G.R. No. 177024, October 30, 2009]

THE HERITAGE HOTEL MANILA (OWNED AND OPERATED BY GRAND PLAZA HOTEL CORPORATION) PETITIONER, VS. PINAG-ISANG GALING AT LAKAS NG MGA MANGGAGAWA SA HERITAGE MANILA (PIGLAS-HERITAGE), RESPONDENT.

DECISION

ABAD, J.:

This case is about a company's objections to the registration of its rank and file union for non-compliance with the requirements of its registration.

The Facts and the Case

Sometime in 2000, certain rank and file employees of petitioner Heritage Hotel Manila (petitioner company) formed the "Heritage Hotel Employees Union" (the HHE union). The Department of Labor and Employment-National Capital Region (DOLE-NCR) later issued a certificate of registration^[1] to this union.

Subsequently, the HHE union filed a petition for certification election^[2] that petitioner company opposed. The company alleged that the HHE union misrepresented itself to be an independent union, when it was, in truth, a local chapter of the National Union of Workers in Hotel and Restaurant and Allied Industries (NUWHRAIN). The company claimed that the HHE union intentionally omitted disclosure of its affiliation with NUWHRAIN because the company's supervisors union was already affiliated with it.^[3] Thus, the company also filed a petition for the cancellation of the HHE union's registration certificate.^[4]

Meanwhile, the Med-Arbiter granted the HHE union's petition for certification election.^[5] Petitioner company appealed the decision to the Secretary of Labor but the latter denied the appeal.^[6] The Secretary also denied petitioner's motion for reconsideration, prompting the company to file a petition for *certiorari*^[7] with the Court of Appeals.

On October 12, 2001 the Court of Appeals issued a writ of injunction against the holding of the HHE union's certification election, effective until the petition for cancellation of that union's registration shall have been resolved with finality.^[8] The decision of the Court of Appeals became final when the HHE union withdrew the petition for review that it filed with this Court.^[9]

On December 10, 2003 certain rank and file employees of petitioner company held a meeting and formed another union, the respondent Pinag-Isang Galing at Lakas ng mga Manggagawa sa Heritage Manila (the PIGLAS union). This union applied for

registration with the DOLE-NCR^[10] and got its registration certificate on February 9, 2004. Two months later, the members of the first union, the HHE union, adopted a resolution for its dissolution. The HHE union then filed a petition for cancellation of its union registration.^[11]

On September 4, 2004 respondent PIGLAS union filed a petition for certification election^[12] that petitioner company also opposed, alleging that the new union's officers and members were also those who comprised the old union. According to the company, the employees involved formed the PIGLAS union to circumvent the Court of Appeals' injunction against the holding of the certification election sought by the former union. Despite the company's opposition, however, the Med-Arbitrator granted the petition for certification election.^[13]

On December 6, 2004 petitioner company filed a petition to cancel the union registration of respondent PIGLAS union.^[14] The company claimed that the documents submitted with the union's application for registration bore the following false information:

(a) The List of Members showed that the PIGLAS union had 100 union members;^[15]

(b) The Organizational Minutes said that 90 employees attended the meeting on December 10, 2003;^[16]

(c) The Attendance Sheet of the meeting of December 10, 2003 bore the signature of 127 members who ratified the union's Constitution and By-Laws;^[17] and

(d) The Signature Sheet bore 128 signatures of those who attended that meeting.^[18]

Petitioner company alleged that the misrepresentation was evidenced by the discrepancy in the number of union members appearing in the application and the list as well as in the number of signatories to the attendance and signature sheets. The minutes reported that only 90 employees attended the meeting. The company further alleged that 33 members of respondent PIGLAS union were members of the defunct HHE union. This, according to the company, violated the policy against dual unionism and showed that the new union was merely an alter ego of the old.

On February 22, 2005 the DOLE-NCR denied the company's petition to cancel respondent PIGLAS union's registration for the reason that the discrepancies in the number of members stated in the application's supporting documents were not material and did not constitute misrepresentation. As for the charge of dual unionism, the same is not a ground for canceling registration. It merely exposed a union member to a possible charge of disloyalty, an internal matter. Here, the members of the former union simply exercised their right to self-organization and to the freedom of association when they subsequently joined the PIGLAS union.^[19]

On appeal, the Bureau of Labor Relation (BLR) affirmed the ruling of the DOLE-NCR. It reasoned that respondent PIGLAS union's organization meeting lasted for 12 hours. It was possible for the number of attendees to have increased from 90 to 128 as the meeting progressed. Besides, with a total of 250 employees in the bargaining unit, the union needed only 50 members to comply with the 20 percent membership requirement. Thus, the union could not be accused of misrepresentation since it did not pad its membership to secure registration.

As for the issue of dual unionism, it has become moot and academic, said the BLR, because of the dissolution of the old union and the cancellation of its certificate of registration.^[20]

Petitioner company filed a petition for *certiorari* with the Court of Appeals,^[21] assailing the order of the BLR. But the latter court dismissed the petition, not being accompanied by material documents and portions of the record.^[22] The company filed a motion for reconsideration, attaching parts of the record that were deemed indispensable but the court denied it for lack of merit.^[23] Hence, the company filed this petition for review under Rule 45.

Issues Presented

The petition presents the following issues:

1. Whether or not the Court of Appeals erred in dismissing the petition for *certiorari* before it for failure of petitioner company to attach certain material portions of the record;
2. Whether or not the union made fatal misrepresentation in its application for union registration; and
3. Whether or not "dual unionism" is a ground for canceling a union's registration.

The Rulings of the Court

First. While the Court of Appeals correctly dismissed the company's petition initially for failure to attach material portions of the record, the court should have bended back a little when petitioner company subsequently attached those missing materials to its motion for reconsideration. As a general rule, petitions for *certiorari* that lack copies of essential pleadings and portions of the record may be dismissed but this rule has not been regarded as absolute. The omission may be cured.^[24]

The Court of Appeals has three courses of action when the annexes to the petition are insufficient. It may dismiss the petition,^[25] require the submission of the relevant documents, or order the filing of an amended petition with the required pleadings or documents. A petition lacking in essential pleadings or portions of the record may still be given due course, or reinstated if earlier dismissed, upon subsequent submission of the necessary documents or to serve the higher interest

of justice.^[26]

Second. Since a remand of the case to the Court of Appeals for a determination of the substantive issues will only result in more delays and since these issues have been amply argued by the opposing sides in the various pleadings and documents they submitted to this Court, the case may now be resolved on the merits.

Did respondent PIGLAS union commit fraud and misrepresentation in its application for union registration? We agree with the DOLE-NCR and the BLR that it did not. Except for the evident discrepancies as to the number of union members involved as these appeared on the documents that supported the union's application for registration, petitioner company has no other evidence of the alleged misrepresentation. But those discrepancies alone cannot be taken as an indication that respondent misrepresented the information contained in these documents.

The charge that a labor organization committed fraud and misrepresentation in securing its registration is a serious charge and deserves close scrutiny. It is serious because once such charge is proved, the labor union acquires none of the rights accorded to registered organizations. Consequently, charges of this nature should be clearly established by evidence and the surrounding circumstances.^[27]

Here, the discrepancies in the number of union members or employees stated in the various supporting documents that respondent PIGLAS union submitted to labor authorities can be explained. While it appears in the minutes of the December 10, 2003 organizational meeting that only 90 employees responded to the roll call at the beginning, it cannot be assumed that such number could not grow to 128 as reflected on the signature sheet for attendance. The meeting lasted 12 hours from 11:00 a.m. to 11:00 p.m. There is no evidence that the meeting hall was locked up to exclude late attendees.

There is also nothing essentially mysterious or irregular about the fact that only 127 members ratified the union's constitution and by-laws when 128 signed the attendance sheet. It cannot be assumed that all those who attended approved of the constitution and by-laws. Any member had the right to hold out and refrain from ratifying those documents or to simply ignore the process.

At any rate, the Labor Code^[28] and its implementing rules^[29] do not require that the number of members appearing on the documents in question should completely dovetail. For as long as the documents and signatures are shown to be genuine and regular and the constitution and by-laws democratically ratified, the union is deemed to have complied with registration requirements.

Petitioner company claims that respondent PIGLAS union was required to submit the names of **all** its members comprising at least 20 percent of the employees in the bargaining unit. Yet the list it submitted named only 100 members notwithstanding that the signature and attendance sheets reflected a membership of 127 or 128 employees. This omission, said the company, amounted to material misrepresentation that warranted the cancellation of the union's registration.

But, as the labor authorities held, this discrepancy is immaterial. A comparison of the documents shows that, except for six members, the names found in the subject