

## THIRD DIVISION

[ G.R. No. 183317, December 21, 2009 ]

**MARIWASA SIAM CERAMICS, INC., PETITIONER, VS. THE SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT, CHIEF OF THE BUREAU OF LABOR RELATIONS, DEPARTMENT OF LABOR AND EMPLOYMENT, REGIONAL DIRECTOR OF DOLE REGIONAL OFFICE NUMBER IV-A & SAMAHAN NG MGA MANGGAGAWA SA MARIWASA SIAM CERAMICS, INC. (SMMSC-INDEPENDENT), RESPONDENTS.**

### DECISION

**NACHURA, J.:**

This is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, seeking to annul the Decision<sup>[2]</sup> dated December 20, 2007 and the Resolution<sup>[3]</sup> dated June 6, 2008 of the Court of Appeals in CA-G.R. SP No. 98332.

The antecedent facts are as follows--

On May 4, 2005, respondent Samahan Ng Mga Manggagawa Sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent) was issued a Certificate of Registration<sup>[4]</sup> as a legitimate labor organization by the Department of Labor and Employment (DOLE), Region IV-A.

On June 14, 2005, petitioner Mariwasa Siam Ceramics, Inc. filed a Petition for Cancellation of Union Registration against respondent, claiming that the latter violated Article 234<sup>[5]</sup> of the Labor Code for not complying with the 20% requirement, and that it committed massive fraud and misrepresentation in violation of Article 239<sup>[6]</sup> of the same code. The case was docketed as Case No. RO400-0506-AU-004.

On August 26, 2005, the Regional Director of DOLE IV-A issued an Order granting the petition, revoking the registration of respondent, and delisting it from the roster of active labor unions.

Aggrieved, respondent appealed to the Bureau of Labor Relations (BLR).

In a Decision<sup>[7]</sup> dated June 14, 2006, the BLR granted respondent's appeal and disposed as follows--

WHEREFORE, premises considered, the appeal by Samahan ng Manggagawa sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent) is hereby GRANTED, and the Decision dated 26 August 2005 by DOLE-

Region-IV-A Director Maximo B. Lim is hereby REVERSED and SET ASIDE. Samahan ng Manggagawa sa Mariwasa Siam Ceramics, Inc. (SMMSC-Independent), under Registration Certificate No. RO400-200505-UR-002, remains in the roster of legitimate labor organizations.

SO DECIDED.<sup>[8]</sup>

Petitioner filed a Motion for Reconsideration but the BLR denied it in a Resolution<sup>[9]</sup> dated February 2, 2007.

Petitioner sought recourse with the Court of Appeals (CA) through a Petition for *Certiorari*; but the CA denied the petition for lack of merit.

Petitioner's motion for reconsideration of the CA Decision was likewise denied, hence, this petition based on the following grounds--

Review of the Factual Findings of the Bureau of Labor Relations, adopted and confirmed by the Honorable Court of Appeals is warranted[;]

The Honorable Court of Appeals seriously erred in ruling that the affidavits of recantation cannot be given credence[;]

The Honorable Court of Appeals seriously erred in ruling that private respondent union complied with the 20% membership requirement[; and]

The Honorable Court of Appeals seriously erred when it ruled that private respondent union did not commit misrepresentation, fraud or false statement.<sup>[10]</sup>

The petition should be denied.

The petitioner insists that respondent failed to comply with the 20% union membership requirement for its registration as a legitimate labor organization because of the disaffiliation from the total number of union members of 102 employees who executed affidavits recanting their union membership.

It is, thus, imperative that we peruse the affidavits appearing to have been executed by these affiants.

The affidavits uniformly state--

Ako, \_\_\_\_\_, Pilipino, may sapat na gulang, regular na empleyado bilang Rank & File sa Mariwasa Siam Ceramics, Inc., Bo. San Antonio, Sto. Tomas, Batangas, matapos na makapanumpa ng naaayon sa batas ay malaya at kusang loob na nagsasaad ng mga sumusunod:

1. Ako ay napilitan at nilinlang sa pagsapi sa Samahan ng mga

Manggagawa sa Mariwasa Siam Ceramics, Inc. o SMMSC-Independent sa kabila ng aking pag-aalinlangan[;]

2. Aking lubos na pinagsisihan ang aking pagpirma sa sipi ng samahan, at handa ako[ng] tumalikod sa anumang kasulatan na aking nalagdaan sa kadahilanan na hindi angkop sa aking pananaw ang mga mungkahi o adhikain ng samahan.

SA KATUNAYAN NANG LAHAT, ako ay lumagda ng aking pangalan ngayong ika-\_\_\_\_ ng \_\_\_\_\_, 2005 dito sa Lalawigan ng Batangas, Bayan ng Sto. Tomas.

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Nagsasalaysay

Evidently, these affidavits were written and prepared in advance, and the *pro forma* affidavits were ready to be filled out with the employees' names and signatures.

The first common allegation in the affidavits is a declaration that, in spite of his hesitation, the affiant was forced and deceived into joining the respondent union. It is worthy to note, however, that the affidavit does not mention the identity of the people who allegedly forced and deceived the affiant into joining the union, much less the circumstances that constituted such force and deceit. Indeed, not only was this allegation couched in very general terms and sweeping in nature, but more importantly, it was not supported by any evidence whatsoever.

The second allegation ostensibly bares the affiant's regret for joining respondent union and expresses the desire to abandon or renege from whatever agreement he may have signed regarding his membership with respondent.

Simply put, through these affidavits, it is made to appear that the affiants recanted their support of respondent's application for registration.

In appreciating affidavits of recantation such as these, our ruling in *La Suerte Cigar and Cigarette Factory v. Director of the Bureau of Labor Relations*<sup>[11]</sup> is enlightening, viz.--

On the second issue--whether or not the withdrawal of 31 union members from NATU affected the petition for certification election insofar as the 30% requirement is concerned, We reserve the Order of the respondent Director of the Bureau of Labor Relations, it appearing undisputably that the 31 union members had withdrawn their support to the petition before the filing of said petition. It would be otherwise if the withdrawal was made after the filing of the petition for it would then be presumed that the withdrawal was not free and voluntary. The presumption would arise that the withdrawal was procured through duress, coercion or for valuable consideration. In other words, the distinction must be that withdrawals made before the filing of the petition are presumed voluntary unless there is convincing proof to the contrary,