

## SECOND DIVISION

[ G.R. NO. 123375, February 28, 2005 ]

**GENARO BAUTISTA, PETITIONER, VS. HON. COURT OF APPEALS  
AND THE OFFICIALS AND BOARD OF DIRECTORS OF KAISAHAN  
AT KAPATIRAN NG MGA MANGGAGAWA AT KAWANI SA  
METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM UNION,  
REPRESENTED BY ITS PRESIDENT, PRUDENCIO CRUZ,  
RESPONDENTS.**

### DECISION

**CHICO-NAZARIO, J.:**

Before us is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals, dated 09 October 1995 and 08 January 1996, respectively. The court *a quo*, in said Decision, held that the jurisdiction to determine the proper representative of employees in the Metropolitan Waterworks and Sewerage System pertains to the Department of Labor and Employment, more particularly to the Bureau of Labor Relations.

### The Facts

On 07 May 1993, after a petition for election of officers of Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa Metropolitan Waterworks and Sewerage System (KKMK-MWSS) was filed by Bonifacio De Guzman, former auditor of KKMK-MWSS, a Resolution was issued by Perlita Bathán-Velasco, in her capacity as Director of the Bureau of Labor Relations (BLR), the decretal portion of which states:

Wherefore, the instant petition is hereby granted and the Kaisahan at Kapatiran ng mga Manggagawa at Kawani sa Metropolitan Waterworks and Sewerage System (KKMK-MWSS) is hereby directed to immediately conduct an election of the following union officers: 1. President, 2. 1<sup>st</sup> Vice President, 3. 2<sup>nd</sup> Vice President, 4. Executive Secretary, 5. Assistant Executive Secretary, 6. Treasurer, 7. Assistant Treasurer, 8. Auditor, 9. Assistant Auditor, 10. Public Relations Officer, 11. Twenty Three (23) Directors, 12. Four Sergeants at Arms, and 13. Business Manager, after the usual pre-election conferences.

The Labor Organizations Division, this Bureau, shall supervise the conduct of said election.<sup>[3]</sup>

A Motion for Reconsideration was filed by the incumbent officers of KKMK-MWSS, led by its President, Genaro Bautista, with the BLR, but was denied by Perlita Bathán-Velasco on 08 July 1993.

An appeal was filed with the Office of the Secretary of Labor and Employment where the order of the BLR was assailed as having been issued with grave abuse of discretion and without jurisdiction.<sup>[4]</sup>

On 24 August 1993, an Order was issued by the Office of the Secretary of Labor and Employment, through Undersecretary Bienvenido Laguesma, part of which reads:

Records clearly show that the subject of the present controversy is an intra union conflict involving an employee's organization in the public sector created and registered pursuant to Executive Order No. 180. Consequently, this office (referring to the Secretary of Labor and Employment) has no other recourse but to dismiss the appeal for lack of jurisdiction.

. . .

Wherefore, the instant appeal is hereby dismissed for lack of jurisdiction. Accordingly, let the entire records of this case be returned to the Bureau of Labor Relations, for appropriate action.<sup>[5]</sup>

The then incumbent officers of KKMK-MWSS, represented by its President, Genaro C. Bautista, filed a special civil action for *certiorari* which was, however, dismissed. The Court, on 20 September 1993, issued the following Resolution:

G.R. No. 111635 (Incumbent Officers of KKMK-MWSS represented by its President Genaro C. Bautista v. Hon. Bienvenido E. Laguesma, in his capacity as Undersecretary of Labor and Employment, Hon. Perlita Bathan-Velasco, in her capacity as Officer-In-Charge of the Bureau of Labor Relations, Bonifacio De Guzman and 544 other members of KKMK-MWSS). – Acting on the special civil action for *certiorari*, with prayer for the issuance of a temporary restraining order, the Court Resolved to DISMISS the petition for being insufficient in form and substance, and for want of a genuine justiciable issue.

Petitioners claim to be incumbent officers of the Kaisahan at Kapatiran ng mga Manggagawa sa Metropolitan Waterworks and Sewerage System (KKMK-MWSS). However, they are not individually named in the petition.

In the main, the petition argues that public respondents have no jurisdiction over an intra-union dispute among government employees, hence, cannot order a new election of officers. A cursory reading of the Order of 24 August 1993 issued by respondent Undersecretary reveals that he agrees with this view. Thus –

Records clearly show that the subject of the present controversy is an intra-union conflict involving an employees organization in the public sector created and registered pursuant to Executive Order No. 180. Consequently, this Office (referring to the Secretary of Labor and Employment) has no other recourse but to dismiss the appeal for lack of jurisdiction.

There is no valid issue therefore to be resolved in the instant petition.<sup>[6]</sup>

This Resolution of the Court became final and executory on 27 October 1994 and was recorded in the Book of Entries of Judgments.<sup>[7]</sup>

Earlier, or on 25 November 1993, a Petition for Prohibition with Prayer for a Temporary Restraining Order/Injunction<sup>[8]</sup> was filed by Genaro Bautista, *et al.*, against Perlita Bathan-Velasco, Director, Eugenia Fernandez, Med-Arbiter, and Johnny P. Garcia, Chief, Labor Organizations Division, all of the BLR, before the Regional Trial Court (RTC), Quezon City, Branch 87. The petition sought to enjoin the herein respondents from proceeding with the election of officers of KKMK-MWSS scheduled on 02 December 1993, and to permanently prohibit them from exercising jurisdiction over the conduct of election of the officers of the KKMK-MWSS.

On 26 November 1993, the RTC, Quezon City, Branch 87, through Judge Elsie Ligot Telan, issued a temporary restraining order, quoted as follows:

A verified petition for prohibition with prayer for a temporary restraining order/injunction has been filed by the plaintiffs. The petition being sufficient in form and substance, and so as not to render the issues raised moot and academic, the defendants are hereby ordered to temporarily refrain from proceeding with the election of officers of the KKMK-MWSS scheduled on December 2, 1993, until further orders from the Court.

Let the prayer for issuance of injunction be set for hearing on December 7, 1993 at 8:30 a.m., at which date and time, defendants may show cause why the same should not be granted.

Let summons together with copies of the complaint be served upon the defendants.<sup>[9]</sup>

Copies of this Order were served upon the defendants therein on 29 November 1993.<sup>[10]</sup>

On 02 December 1993, the election of the officers of KKMK-MWSS pushed through despite the issuance of the temporary restraining order. Another Order was issued by Branch 87 on the same date, hereunder quoted:

Counsel for petitioners appeared today with an urgent *ex-parte* manifestation stating that despite the order of this Court, dated November 26, 1993, restraining the defendants temporarily from proceeding with the election of officers of the KKMK-MWSS – scheduled for today, until further orders, and that the officials of the MWSS had been served copy of this order, the election is now being held in utter defiance and disobedience of the said order of this Court.

To substantiate the above manifestation report are affidavits attached thereto executed by Angelito Ignacio, alleged incumbent Asst. Treasurer of the KKMK-MWSS and Mario Perez, incumbent assistant auditor, respectively, swearing to the truth that the prohibited elections are now being held at the compounds of the MWSS, Balara, Quezon City, and at Arroceros, Manila.

The defendants in this case together with Teofilo Asuncion and Gregorio Garcia, who were furnished copy of the order and such other persons who are involved in conducting [of] the election and/or sanctioning the same are hereby given up to 4:30 o'clock this afternoon to explain why they should not be punished for contempt in defying the order of this Court dated November 26, 1993.

The Court hereby reiterates its order restraining the defendants, their agents, assigns and representatives, and any or all persons having to do with such elections, specifically the management of the MWSS and all others acting in cooperation with them or acting on their behalf or direction, from conducting or continuing or tolerating the elections scheduled today.<sup>[11]</sup>

On 07 December 1993, another Order was issued by the RTC, Quezon City, Branch 87, part of which reads:

. . . [T]he defendants, as well as all their agents, assigns, representatives and any or all persons having to do with the elections, scheduled on December 2, 1993, including the BLR officials and the management of the Metropolitan Waterworks and Sewerage System, and all others cooperating with them, or acting on their behalf and direction, are hereby restrained from continuing or tolerating the election process in question at any stage thereof, and if already accomplished in defiance of the orders of this Court, the said defendants are ordered to refrain from giving effect to the election by ratifying and registering the same and recognizing the persons supposedly elected. Further, the persons allegedly elected in said elections are hereby ordered to refrain from assuming office and acting as officers of the KMK-MWSS.<sup>[12]</sup>

On 28 December 1993, an order for the issuance of a writ of preliminary injunction was issued by Branch 87.<sup>[13]</sup> A day later, or on 29 December 1993, a Writ of Preliminary Injunction was issued by the RTC, the pertinent portion of which reads:

NOW THEREFORE, you the respondents, your agents and representatives, particularly the officers concerned ordering them until further orders of this Court to refrain from giving any effect to the elections above adverted to by ratifying and registering the same, and recognizing as officers the persons supposedly elected; and for the latter to refrain from assuming office and acting as officers of the KMK-MWSS.  
<sup>[14]</sup>

After the case was re-raffled to Branch 220, RTC, Quezon City,<sup>[15]</sup> presided by Judge Prudencio Altre Castillo, Jr., the respondents, on 20 June 1994, filed a Reiteration of Motion to Dismiss and Motion to Lift Writ of Preliminary Injunction,<sup>[16]</sup> on the ground of lack of jurisdiction and that the injunction does not anymore serve its purpose.<sup>[17]</sup> Branch 220 issued an Order dated 01 July 1994, dismissing the case, the decretal portion of which states:

WHEREFORE, the instant case is dismissed. The Writ is ordered quashed and Petitioners are hereby ordered to show cause why their injunction bond should not be confiscated in favor of the respondents.<sup>[18]</sup>

A motion for reconsideration was filed by Bautista, *et al.*, dated 16 July 1994, alleging among other things, that the RTC has jurisdiction considering that the case before it was an action for prohibition, which was cognizable by it.<sup>[19]</sup> As a result of which Branch 220 issued another Order<sup>[20]</sup> dated 27 December 1994 reinstating the Writ of Preliminary Injunction and injunction bond.

A motion for reconsideration was filed by the private respondents but was denied by Branch 220 in its order dated 27 April 1995.<sup>[21]</sup>

On 18 May 1995, a petition for *certiorari*, prohibition and *mandamus* with prayer for Preliminary Injunction and/or Restraining Order was filed before the Court of Appeals by private respondents herein.<sup>[22]</sup> In it, the orders of Branch 220 dated 27 December 1994 and 27 April 1995 were assailed for having been issued with grave abuse of discretion.

On 09 October 1995, a Decision was rendered by the Court of Appeals finding for the private respondents, upholding that the BLR had jurisdiction over an intra-union dispute, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING PREMISES, the instant petition for *certiorari*, prohibition and *mandamus* is hereby GRANTED. The assailed orders of December 27, 1994 and April 27, 1995 are hereby SET ASIDE and NULLIFIED for reasons above-stated. No costs.<sup>[23]</sup>

Petitioner then filed a motion for reconsideration dated 27 October 1995,<sup>[24]</sup> but was denied by the court *a quo* in its Resolution dated 08 January 1996, which is quoted hereunder:

This Court hereby resolves the following:

(1) to DENY the motion for the issuance of temporary restraining order of the petitioners, considering that the instant case has already been decided on October 9, 1995;

(2) to DENY the motion for reconsideration of the respondents, it appearing that there are no new issues raised which would warrant the reversal or modification of Our decision.<sup>[25]</sup>

On 13 February 1996, a petition for review on *certiorari* was filed before this Court by Genaro Bautista<sup>[26]</sup> seeking the reversal and setting aside of the Decision and Resolution of the Court of Appeals cited earlier.

Meanwhile, on 28 May 1996, a petition for *mandamus* was filed by Genaro Bautista, as President, and by the other officers<sup>[27]</sup> and members of the board<sup>[28]</sup> of KKMK-MWSS against Angel L. Lazaro III, Administrator, MWSS, and the Board of Trustees of MWSS, before the RTC, Quezon City, raffled again to Branch 220, docketed as Sp. Proc. No. Q-96-27586.<sup>[29]</sup> In this petition, it was prayed, among other things, that Angel Lazaro III and the Board of Trustees of MWSS give due recognition to Genaro Bautista, *et al.*, as officers of KKMK-MWSS, and that the union dues be released to the latter.