

FIRST DIVISION

[G.R. No. 151326, November 23, 2005]

**ST. JAMES SCHOOL OF QUEZON CITY, PETITIONER, SAMAHANG
MANGGAGAWA SA ST. JAMES SCHOOL OF QUEZON CITY,
RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the 5 September 2001 Decision and 3 January 2002 Resolution of the Court of Appeals^[2] in CA-G.R. SP No. 60197. The Court of Appeals sustained the Decision of the Department of Labor and Employment ("DOLE") directing the opening of the challenged ballots cast during the certification election.

The Antecedent Facts

The Samahang Manggagawa sa St. James School of Quezon City ("Samahang Manggagawa") filed a petition for certification election to determine the collective bargaining representative of the motor pool, construction and transportation employees of St. James School of Quezon City ("St. James"). On 26 June 1999, the certification election was held at the DOLE office in Intramuros, Manila. There were 149 eligible voters and 84 voters cast their votes. St. James filed a certification election protest challenging the 84 votes. St. James alleged that it had 179 rank and file employees, none of whom voted in the certification election. St. James argued that those who voted were not its regular employees but construction workers of an independent contractor, Architect Conrado Bacoy ("Architect Bacoy").

In an Order dated 6 January 2000,^[3] Med-Arbiter Tomas F. Falconitin ("Med-Arbiter Falconitin") ruled that at the time of the certification election, the 84 voters were no longer working at St. James. Med-Arbiter Falconitin supported his ruling using the roster of rank and file employees submitted by St. James, which did not include the names of the 84 voters. Med-Arbiter Falconitin also ruled that since the construction projects have ceased, some of the workers were no longer entitled to vote in the certification election. Finally, Med-Arbiter Falconitin ruled that even if the 84 workers were to be included in the 179 rank and file employees of St. James, the total number of voters would be 263. Thus, the 84 votes cast would not be sufficient to constitute a majority of all eligible voters to have a valid certification election. The dispositive portion of the Order reads:

WHEREFORE, premises considered, the certification election protest is hereby given due course.

Accordingly, judgment is hereby rendered, declaring the certification election for the rank and file employees of respondent/protestant St. James School of Quezon City conducted on June 26, 1999, a failure; and null and void ab initio.

SO ORDERED.^[4]

Samahang Manggagawa appealed to the Secretary of Labor. In its Decision^[5] dated 5 May 2000, the DOLE^[6] reversed the ruling of Med-Arbiter Falconitin. The DOLE ruled that Samahang Manggagawa seeks to represent the non-academic personnel or the rank and file employees from the motor pool, construction and transportation departments, and not all the rank and file employees of St. James. According to the DOLE, Med-Arbiter Falconitin erred in including all the rank and file employees of St. James, whether teaching or non-teaching personnel, in the computation of the total number of employees. The DOLE ruled that the list submitted by St. James contained only the administrative, teaching and office personnel of the school. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is hereby GRANTED and the order dated 06 January 2000 of the Med-Arbiter is REVERSED and SET ASIDE. In lieu thereof, an order is hereby issued directing the Election Officer, Lilibeth Cagara, DOLE-National Capital Region to open and canvass the 84 challenged ballots within ten (10) days from receipt hereof, subject to usual notice and representation by the parties and thereafter to issue the corresponding certification of the results.

SO DECIDED.^[7]

St. James filed a motion for reconsideration. The DOLE^[8] denied the motion in its 19 June 2000 Resolution.^[9] St. James filed a special civil action before the Court of Appeals.

In a Decision^[10] dated 5 September 2001, the Court of Appeals dismissed the petition and ruled that the DOLE did not commit grave abuse of discretion in reversing the ruling of Med-Arbiter Falconitin. In its 3 January 2002 Resolution,^[11] the Court of Appeals denied St. James' motion for reconsideration.

Hence, the petition before this Court.

The Issues

St. James questions the validity of the formation of the labor union and the validity of the certification election.^[12]

The Ruling of the Court

The petition has no merit.

The Validity of the Formation of the Labor Union

St. James argues that majority of the members of Samahang Manggagawa are not

its employees but employees of Architect Bacoy, an independent contractor.

St. James may no longer question the validity of the formation of the labor union.

The records^[13] show that prior to the holding of the certification election, St. James filed a petition for cancellation of Samahang Manggagawa's union registration. Among the grounds cited in the petition was the lack of employer-employee relationship between St. James and Samahang Manggagawa's members. The Med-Arbiter recommended the cancellation of the union registration. DOLE Regional Director IV Romeo Young ("Director Young") adopted the Med-Arbiter's recommendation and cancelled Samahang Manggagawa's union registration. Samahang Manggagawa filed an appeal before the Bureau of Labor Relations ("BLR"). In its Decision^[14] dated 22 January 1998, the BLR^[15] reversed Director Young's Decision. In its Resolution^[16] of 12 February 1998, the BLR denied St. James' motion for reconsideration. St. James filed a special civil action before the Court of Appeals. The case was docketed as CA-G.R. SP No. 50918. In its 9 February 2001 Decision,^[17] the Court of Appeals dismissed St. James' petition and affirmed the BLR's Decision. The Court of Appeals ruled that the construction workers are actually St. James' regular employees in its motor pool, construction and transportation departments. The Court of Appeals also ruled that Architect Bacoy is a labor-only contractor and thus an agent of St. James, which is the real employer.

St. James filed a petition for certiorari before this Court. The case was docketed as G.R. No. 149648. In a Resolution dated 10 October 2001, this Court denied the petition for St. James' error in the choice or mode of appeal.^[18] The Court's 10 October 2001 Resolution closed any issue on the validity of the formation of the labor union.

The Validity of the Certification Election

Section 13, Rule XII, Book V of the Omnibus Rules Implementing the Labor Code ("Omnibus Rules") provides:

Section 13. *Proclamation and certification of results by election officer; when proper.* – Upon completion of the canvass there being a valid election, the election officer shall proclaim and certify as winner the union which obtained a majority of the valid votes cast under any of the following conditions:

- a) No protest had been filed or, even if one was filed, the same was not perfected within the five-day period for perfection of the protest;
- b) No challenge of eligibility issue was raised or even if one was raised, the resolution of the same will not materially change the result.

For this purpose, the election officer shall immediately issue the corresponding certification, copy furnished all parties, which shall form part of the records of the case. The winning union shall have the rights,