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SECOND DIVISION

[G.R. No. 146728, February 11, 2004]

GENERAL MILLING CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS, GENERAL MILLING CORPORATION INDEPENDENT LABOR UNION (GMC-ILU), AND RITO MANGUBAT, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

Before us is a petition for *certiorari* assailing the decision[1] dated July 19, 2000, of the Court of Appeals in CA-G.R. SP No. 50383, which earlier reversed the decision[2] dated January 30, 1998 of the National Labor Relations Commission (NLRC) in NLRC Case No. V-0112-94.

The antecedent facts are as follows:

In its two plants located at Cebu City and Lapu-Lapu City, petitioner General Milling Corporation (GMC) employed 190 workers. They were all members of private respondent General Milling Corporation Independent Labor Union (union, for brevity), a duly certified bargaining agent.

On April 28, 1989, GMC and the union concluded a collective bargaining agreement (CBA) which included the issue of representation effective for a term of three years. The CBA was effective for three years retroactive to December 1, 1988. Hence, it would expire on November 30, 1991.

On November 29, 1991, a day before the expiration of the CBA, the union sent GMC a proposed CBA, with a request that a counter-proposal be submitted within ten (10) days.

As early as October 1991, however, GMC had received collective and individual letters from workers who stated that they had withdrawn from their union membership, on grounds of religious affiliation and personal differences. Believing that the union no longer had standing to negotiate a CBA, GMC did not send any counter-proposal.

On December 16, 1991, GMC wrote a letter to the union's officers, Rito Mangubat and Victor Lastimoso. The letter stated that it felt there was no basis to negotiate with a union which no longer existed, but that management was nonetheless always willing to dialogue with them on matters of common concern and was open to suggestions on how the company may improve its operations.

In answer, the union officers wrote a letter dated December 19, 1991 disclaiming any massive disaffiliation or resignation from the union and submitted a manifesto,

signed by its members, stating that they had not withdrawn from the union.

On January 13, 1992, GMC dismissed Marcia Tumbiga, a union member, on the ground of incompetence. The union protested and requested GMC to submit the matter to the grievance procedure provided in the CBA. GMC, however, advised the union to "refer to our letter dated December 16, 1991."[3]

Thus, the union filed, on July 2, 1992, a complaint against GMC with the NLRC, Arbitration Division, Cebu City. The complaint alleged unfair labor practice on the part of GMC for: (1) refusal to bargain collectively; (2) interference with the right to self-organization; and (3) discrimination. The labor arbiter dismissed the case with the recommendation that a petition for certification election be held to determine if the union still enjoyed the support of the workers.

The union appealed to the NLRC.

On January 30, 1998, the NLRC set aside the labor arbiter's decision. Citing Article 253-A of the Labor Code, as amended by Rep. Act No. 6715,[4] which fixed the terms of a collective bargaining agreement, the NLRC ordered GMC to abide by the CBA draft that the union proposed for a period of two (2) years beginning December 1, 1991, the date when the original CBA ended, to November 30, 1993. The NLRC also ordered GMC to pay the attorney's fees.[5]

In its decision, the NLRC pointed out that upon the effectivity of Rep. Act No. 6715, the duration of a CBA, insofar as the representation aspect is concerned, is five (5) years which, in the case of GMC-Independent Labor Union was from December 1, 1988 to November 30, 1993. All other provisions of the CBA are to be renegotiated not later than three (3) years after its execution. Thus, the NLRC held that respondent union remained as the exclusive bargaining agent with the right to renegotiate the economic provisions of the CBA. Consequently, it was unfair labor practice for GMC not to enter into negotiation with the union.

The NLRC likewise held that the individual letters of withdrawal from the union submitted by 13 of its members from February to June 1993 confirmed the pressure exerted by GMC on its employees to resign from the union. Thus, the NLRC also found GMC guilty of unfair labor practice for interfering with the right of its employees to self-organization.

With respect to the union's claim of discrimination, the NLRC found the claim unsupported by substantial evidence.

On GMC's motion for reconsideration, the NLRC set aside its decision of January 30, 1998, through a resolution dated October 6, 1998. It found GMC's doubts as to the status of the union justified and the allegation of coercion exerted by GMC on the union's members to resign unfounded. Hence, the union filed a petition for *certiorari* before the Court of Appeals. For failure of the union to attach the required copies of pleadings and other documents and material portions of the record to support the allegations in its petition, the CA dismissed the petition on February 9, 1999. The same petition was subsequently filed by the union, this time with the necessary documents. In its resolution dated April 26, 1999, the appellate court treated the refiled petition as a motion for reconsideration and gave the petition due

course.

On July 19, 2000, the appellate court rendered a decision the dispositive portion of which reads:

> WHEREFORE, the petition is hereby **GRANTED**. The NLRC Resolution of October 6, 1998 is hereby **SET ASID**E, and its decision of January 30, 1998 is, except with respect to the award of attorney's fees which is hereby deleted, **REINSTATED**.[6]

A motion for reconsideration was seasonably filed by GMC, but in a resolution dated October 26, 2000, the CA denied it for lack of merit.

Hence, the instant petition for *certiorari* alleging that:

> I
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> THE COURT OF APPEALS DECISION VIOLATED THE CONSTITUTIONAL RULE THAT NO DECISION SHALL BE RENDERED BY ANY COURT WITHOUT EXPRESSING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED.
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> II
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> THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN REVERSING THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION IN THE ABSENCE OF ANY FINDING OF SUBSTANTIAL ERROR OR GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.
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> III
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> THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN NOT APPRECIATING THAT THE NLRC HAS NO JURISDICTION TO DETERMINE THE TERMS AND CONDITIONS OF A COLLECTIVE BARGAINING AGREEMENT.[7]

Thus, in the instant case, the principal issue for our determination is whether or not the Court of Appeals acted with grave abuse of discretion amounting to lack or excess of jurisdiction in (1) finding GMC guilty of unfair labor practice for violating the duty to bargain collectively and/or interfering with the right of its employees to self-organization, and (2) imposing upon GMC the draft CBA proposed by the union for two years to begin from the expiration of the original CBA.

On the first issue, Article 253-A of the Labor Code, as amended by Rep. Act No. 6715, states:

> ART. 253-A. **Terms of a collective bargaining agreement**. – Any Collective Bargaining Agreement that the parties may enter into shall, insofar as the representation aspect is concerned, be for a term of five (5) years. No petition questioning the majority status of the incumbent bargaining agent shall be entertained and no certification election shall be conducted by the Department of Labor and Employment outside of the

> sixty-day period immediately before the date of expiry of such five year term of the Collective Bargaining Agreement. All other provisions of the Collective Bargaining Agreement shall be renegotiated not later than three (3) years after its execution....

The law mandates that the representation provision of a CBA should last for five years. The relation between labor and management should be undisturbed until the last 60 days of the fifth year. Hence, it is indisputable that when the union requested for a renegotiation of the economic terms of the CBA on November 29, 1991, it was still the certified collective bargaining agent of the workers, because it was seeking said renegotiation within five (5) years from the date of effectivity of the CBA on December 1, 1988. The union's proposal was also submitted within the prescribed 3-year period from the date of effectivity of the CBA, albeit just before the last day of said period. It was obvious that GMC had no valid reason to refuse to negotiate in good faith with the union. For refusing to send a counter-proposal to the union and to bargain anew on the economic terms of the CBA, the company committed an unfair labor practice under Article 248 of the Labor Code, which provides that:

> ART. 248. **Unfair labor practices of employers.** – It shall be unlawful for an employer to commit any of the following unfair labor practice:
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> . . .
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> (g) To violate the duty to bargain collectively as prescribed by this Code;
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> . . .

Article 252 of the Labor Code elucidates the meaning of the phrase "duty to bargain collectively," thus:

> ART. 252. **Meaning of duty to bargain collectively.** – The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement....

We have held that the crucial question whether or not a party has met his statutory duty to bargain in good faith typically turn$ on the facts of the individual case.[8] There is no *per se* test of good faith in bargaining.[9] Good faith or bad faith is an inference to be drawn from the facts.[10] The effect of an employer's or a union's actions individually is not the test of good-faith bargaining, but the impact of all such occasions or actions, considered as a whole.[11]

Under Article 252 abovecited, both parties are required to perform their mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement. The union lived up to this obligation when it presented proposals for a new CBA to GMC within three (3) years from the effectivity of the original CBA. But GMC failed in its duty under Article 252. What it did was to devise a flimsy excuse, by questioning the existence of the union and the status of its membership to prevent any negotiation.

It bears stressing that the procedure in collective bargaining prescribed by the Code