

## SECOND DIVISION

[ G.R. No. 114974, June 16, 2004 ]

**STANDARD CHARTERED BANK EMPLOYEES UNION (NUBE),  
PETITIONER, VS. THE HONORABLE MA. NIEVES R. CONFESOR, IN  
HER CAPACITY AS SECRETARY OF LABOR AND EMPLOYMENT;  
AND THE STANDARD CHARTERED BANK, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for certiorari under Rule 65 of the Rules of Court filed by the Standard Chartered Bank Employees Union, seeking the nullification of the October 29, 1993 Order<sup>[1]</sup> of then Secretary of Labor and Employment Nieves R. Confesor and her resolutions dated December 16, 1993 and February 10, 1994.

### The Antecedents

Standard Chartered Bank (the Bank, for brevity) is a foreign banking corporation doing business in the Philippines. The exclusive bargaining agent of the rank and file employees of the Bank is the Standard Chartered Bank Employees Union (the Union, for brevity).

In August of 1990, the Bank and the Union signed a five-year collective bargaining agreement (CBA) with a provision to renegotiate the terms thereof on the third year. Prior to the expiration of the three-year period<sup>[2]</sup> but within the sixty-day freedom period, the Union initiated the negotiations. On February 18, 1993, the Union, through its President, Eddie L. Divinagracia, sent a letter<sup>[3]</sup> containing its proposals<sup>[4]</sup> covering political provisions<sup>[5]</sup> and thirty-four (34) economic provisions.<sup>[6]</sup> Included therein was a list of the names of the members of the Union's negotiating panel.<sup>[7]</sup>

In a Letter dated February 24, 1993, the Bank, through its Country Manager Peter H. Harris, took note of the Union's proposals. The Bank attached its counter-proposal to the non-economic provisions proposed by the Union.<sup>[8]</sup> The Bank posited that it would be in a better position to present its counter-proposals on the economic items after the Union had presented its justifications for the economic proposals.<sup>[9]</sup> The Bank, likewise, listed the members of its negotiating panel.<sup>[10]</sup> The parties agreed to set meetings to settle their differences on the proposed CBA.

Before the commencement of the negotiation, the Union, through Divinagracia, suggested to the Bank's Human Resource Manager and head of the negotiating panel, Cielito Diokno, that the bank lawyers should be excluded from the negotiating team. The Bank acceded.<sup>[11]</sup> Meanwhile, Diokno suggested to Divinagracia that Jose P. Umali, Jr., the President of the National Union of Bank Employees (NUBE), the

federation to which the Union was affiliated, be excluded from the Union's negotiating panel.<sup>[12]</sup> However, Umali was retained as a member thereof.

On March 12, 1993, the parties met and set the ground rules for the negotiation. Diokno suggested that the negotiation be kept a "family affair." The proposed non-economic provisions of the CBA were discussed first.<sup>[13]</sup> Even during the final reading of the non-economic provisions on May 4, 1993, there were still provisions on which the Union and the Bank could not agree. Temporarily, the notation "DEFERRED" was placed therein. Towards the end of the meeting, the Union manifested that the same should be changed to "DEADLOCKED" to indicate that such items remained unresolved. Both parties agreed to place the notation "DEFERRED/DEADLOCKED."<sup>[14]</sup>

On May 18, 1993, the negotiation for economic provisions commenced. A presentation of the basis of the Union's economic proposals was made. The next meeting, the Bank made a similar presentation. Towards the end of the Bank's presentation, Umali requested the Bank to validate the Union's "guestimates," especially the figures for the rank and file staff.<sup>[15]</sup> In the succeeding meetings, Umali chided the Bank for the insufficiency of its counter-proposal on the provisions on salary increase, group hospitalization, death assistance and dental benefits. He reminded the Bank, how the Union got what it wanted in 1987, and stated that if need be, the Union would go through the same route to get what it wanted.<sup>[16]</sup>

Upon the Bank's insistence, the parties agreed to tackle the economic package item by item. Upon the Union's suggestion, the Bank indicated which provisions it would accept, reject, retain and agree to discuss.<sup>[17]</sup> The Bank suggested that the Union prioritize its economic proposals, considering that many of such economic provisions remained unresolved. The Union, however, demanded that the Bank make a revised itemized proposal.

In the succeeding meetings, the Union made the following proposals:

Wage Increase:

1st Year – Reduced from 45% to 40%

2nd Year - Retain at 20%

Total = 60%

Group Hospitalization Insurance:

Maximum disability benefit reduced from P75,000.00 to P60,000.00 per illness annually

Death Assistance:

For the employee --Reduced from P50,000.00 to P45,000.00

For Immediate Family Member -- Reduced from P30,000.00 to P25,000.00

Dental and all others -- No change from the original demand.<sup>[18]</sup>

In the morning of the June 15, 1993 meeting, the Union suggested that if the Bank would not make the necessary revisions on its counter-proposal, it would be best to

seek a third party assistance.<sup>[19]</sup> After the break, the Bank presented its revised counter-proposal<sup>[20]</sup> as follows:

Wage  
Increase : 1st Year – from P1,000 to P1,050.00  
2nd Year – P800.00 – no change

Group Hospitalization Insurance  
From: P35,000.00 per illness  
To : P35,000.00 per illness per year

Death Assistance – For employee  
From: P20,000.00  
To : P25,000.00

Dental Retainer – Original offer remains the same<sup>[21]</sup>

The Union, for its part, made the following counter-proposal:

Wage  
Increase: 1st Year - 40%  
2nd Year - 19.5%

Group Hospitalization Insurance  
From: P60,000.00 per year  
To : P50,000.00 per year

Dental:  
Temporary Filling/ – P150.00  
Tooth Extraction  
Permanent Filling – 200.00  
Prophylaxis – 250.00  
Root Canal – From P2,000 per tooth  
To: 1,800.00 per tooth

Death Assistance:  
For Employees: From P45,000.00 to P40,000.00  
For Immediate Family Member: From P25,000.00 to P20,000.00.<sup>[22]</sup>

The Union's original proposals, aside from the above-quoted, remained the same.

Another set of counter-offer  
followed:

<u>Management</u>	<u>Union</u>
Wage Increase	
1st Year – P1,050.00	40%
2nd Year - 850.00	19.0% <sup>[23]</sup>

Diokno stated that, in order for the Bank to make a better offer, the Union should clearly identify what it wanted to be included in the total economic package. Umali

replied that it was impossible to do so because the Bank's counter-proposal was unacceptable. He further asserted that *it would have been easier to bargain if the atmosphere was the same as before, where both panels trusted each other*. Diokno requested the Union panel to refrain from involving personalities and to instead focus on the negotiations.<sup>[24]</sup> He suggested that in order to break the impasse, the Union should prioritize the items it wanted to iron out. Divinagracia stated that the Bank should make the first move and make a list of items it wanted to be included in the economic package. Except for the provisions on signing bonus and uniforms, the Union and the Bank failed to agree on the remaining economic provisions of the CBA. The Union declared a deadlock<sup>[25]</sup> and filed a Notice of Strike before the National Conciliation and Mediation Board (NCMB) on June 21, 1993, docketed as NCMB-NCR-NS-06-380-93.<sup>[26]</sup>

On the other hand, the Bank filed a complaint for Unfair Labor Practice (ULP) and Damages before the Arbitration Branch of the National Labor Relations Commission (NLRC) in Manila, docketed as NLRC Case No. 00-06-04191-93 against the Union on June 28, 1993. The Bank alleged that the Union violated its duty to bargain, as it did not bargain in good faith. It contended that the Union demanded "sky high economic demands," indicative of *blue-sky bargaining*.<sup>[27]</sup> Further, the Union violated its no strike- no lockout clause by filing a notice of strike before the NCMB. Considering that the filing of notice of strike was an illegal act, the Union officers should be dismissed. Finally, the Bank alleged that as a consequence of the illegal act, the Bank suffered nominal and actual damages and was forced to litigate and hire the services of the lawyer.<sup>[28]</sup>

On July 21, 1993, then Secretary of Labor and Employment (SOLE) Nieves R. Confesor, pursuant to Article 263(g) of the Labor Code, issued an Order assuming jurisdiction over the labor dispute at the Bank. The complaint for ULP filed by the Bank before the NLRC was consolidated with the complaint over which the SOLE assumed jurisdiction. After the parties submitted their respective position papers, the SOLE issued an Order on October 29, 1993, the dispositive portion of which is herein quoted:

WHEREFORE, the Standard Chartered Bank and the Standard Chartered Bank Employees Union – NUBE are hereby ordered to execute a collective bargaining agreement incorporating the dispositions contained herein. The CBA shall be retroactive to 01 April 1993 and shall remain effective for two years thereafter, or until such time as a new CBA has superseded it. All provisions in the expired CBA not expressly modified or not passed upon herein are deemed retained while all new provisions which are being demanded by either party are deemed denied, but without prejudice to such agreements as the parties may have arrived at in the meantime.

The Bank's charge for unfair labor practice which it originally filed with the NLRC as NLRC-NCR Case No. 00-06-04191-93 but which is deemed consolidated herein, is dismissed for lack of merit. On the other hand, the Union's charge for unfair labor practice is similarly dismissed.

Let a copy of this order be furnished the Labor Arbiter in whose sala

NLRC-NCR Case No. 00-06-04191-93 is pending for his guidance and appropriate action.<sup>[29]</sup>

The SOLE gave the following economic awards:

1. Wage Increase:
  - a) To be incorporated to present salary rates:  
Fourth year : 7% of basic monthly salary  
Fifth year : 5% of basic monthly salary based on the 4th year adjusted salary
  - b) Additional fixed amount:  
Fourth year : P600.00 per month  
Fifth year : P400.00 per month
2. Group Insurance
  - a) Hospitalization : P45,000.00
  - b) Life : P130,000.00
  - c) Accident : P130,000.00
3. Medicine Allowance  
Fourth year : P5,500.00  
Fifth year : P6,000.00
4. Dental Benefits  
Provision of dental retainer as proposed by the Bank, but without diminishing existing benefits
5. Optical Allowance  
Fourth year: P2,000.00  
Fifth year : P2,500.00
6. Death Assistance
  - a) Employee : P30,000.00
  - b) Immediate Family Member : P5,000.00
7. Emergency Leave – Five (5) days for each contingency
8. Loans
  - a) Car Loan : P200,000.00
  - b) Housing Loan : It cannot be denied that the costs attendant to having one's own home have tremendously gone up. The need, therefore, to improve on this benefit cannot be overemphasized. Thus, the management is urged to increase the existing and allowable housing loan that the Bank extends to its employees to an amount that will give meaning and substance to this CBA benefit.<sup>[30]</sup>

The SOLE dismissed the charges of ULP of both the Union and the Bank, explaining that both parties failed to substantiate their claims. Citing *National Labor Union v. Insular-Yebana Tobacco Corporation*,<sup>[31]</sup> the SOLE stated that ULP charges would prosper only if shown to have directly prejudiced the public interest.

Dissatisfied, the Union filed a motion for reconsideration with clarification, while the Bank filed a motion for reconsideration. On December 16, 1993, the SOLE issued a