478 Phil. 842

THIRD DIVISION

[G.R. No. 152094, July 22, 2004]

DHL PHILIPPINES CORPORATION UNITED RANK AND FILE ASSOCIATION-FEDERATION OF FREE WORKERS (DHL-URFA-FFW), PETITIONER, VS. BUKLOD NG MANGGAGAWA NG DHL PHILIPPINES CORPORATION, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

False statements made by union officers before and during a certification election -- that the union is independent and not affiliated with a national federation -- are material facts likely to influence the election results. This principle finds application in the present case in which the majority of the employees clearly wanted an independent union to represent them. Thus, after the members learned of the misrepresentation, and after a majority of them disaffiliated themselves from the union and formed another one, a new certification election should be held to enable them to express their true will.

The late filing of the Petition for a new election can be excused under the peculiar facts of this case, considering that the employees concerned did not sleep on their rights, but promptly acted to protect their prerogatives. Petitioner should not be permitted to use legal technicalities to perpetrate the betrayal foisted by its officers upon the majority of the employees. Procedural technicalities should not be allowed to suppress the welfare of labor.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to annul the December 17, 1999 Decision[2] and the January 30, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR SP No. 53270. The assailed Decision disposed as follows:

> "**WHEREFORE**, the petition is hereby given due course. Accordingly, the decision of Rosalinda Dimapilis-[B]aldoz, Undersecretary of Labor, in behalf of [the] Secretary of Labor and Employment, is hereby **ANNULED** and **SET ASIDE** and **DECLARED** to have **NO EFFECT** whatsoever.
>
> "Public respondent and its representatives are hereby enjoined to refrain and desist from implementing the said decision."[4]

The challenged Resolution denied petitioner's Motion for Reconsideration.

The Facts

On November 25, 1997, a certification election was conducted among the regular rank and file employees in the main office and the regional branches of DHL Philippines Corporation. The contending choices were petitioner and "no union."

On January 19, 1998, on the basis of the results of the certification election, with petitioner receiving 546 votes and "no union" garnering 348 votes, the election officer certified the former as the sole and exclusive bargaining agent of the rank and file employees of the corporation.[5]

Meanwhile, on December 19, 1997, Respondent Buklod ng Manggagawa ng DHL Philippines Corporation (BUKLOD) filed with the Industrial Relations Division of the Department of Labor and Employment (DOLE) a Petition for the nullification of the certification election. The officers of petitioner were charged with committing fraud and deceit in the election proceedings, particularly by misrepresenting to the voter-employees that it was an independent union, when it was in fact an affiliate of the Federation of Free Workers (FFW).

This misrepresentation was supposedly the basis for their selection of petitioner in the certification election. Allegedly supporting this claim was the fact that those whom it had misled allegedly withdrew their membership from it and subsequently formed themselves into an independent union. The latter union, BUKLOD, was issued a Certificate of Registration by DOLE on December 23, 1997.

On May 18, 1998, Med-Arbiter Tomas F. Falconitin nullified the November 25, 1997 certification election and ordered the holding of another one with the following contending choices: petitioner, respondent, and "no choice."

Setting aside the Decision of Med-Arbiter Falconitin, DOLE Undersecretary Rosalinda Dimapilis-Baldoz held on appeal that the issue of representation had already been settled with finality in favor of petitioner, and that no petitions for certification election would be entertained within one year from the time the election officer had issued the Certification Order.

Ruling of the Court of Appeals

The CA held that the withdrawal of a great majority of the members of petitioner -- 704 out of 894 of them -- provided a compelling reason to conduct a certification election anew in order to determine, once and for all, which union reflected their choice. Under the circumstances, the issue of representation was not put to rest by the mere issuance of a Certification Order by the election officer.

According to the appellate court, broader considerations should be accorded the disaffiliating member-employees and a new election held to finally ascertain their will, consistent with the constitutional and labor law policy of according full protection to labor's right to self-organization. The CA added that the best forum to determine the veracity of the withdrawal or retraction of petitioner's former members was another certification election.

The appellate court also held that the election officer's issuance of a Certification Order on January 19, 1998 was precipitate because, prior thereto, respondent had filed with the med-arbiter a Petition for nullification of the election. Furthermore,

the Certification was not in accordance with Department Order No. 9 (DO 9), Series of 1997. The charges of fraud and deceit, lodged immediately after the election by petitioner's former members against their officers, should have been treated as protests or issues of eligibility within the meaning of Section 13 of DO 9.

Hence, this Petition.[6]

Issues

In its Memorandum, petitioner submits the following issues for our consideration:

"I

Whether or not the Court of Appeals seriously erred and committed grave abuse of discretion amounting to lack and/or excess of jurisdiction when it 'annul[l]ed, set aside, and declared to have no effect whatsoever', the Decision of Undersecretary Rosalinda Dimapilis-Baldoz, which in effect, reinstated and affirmed the Decision of the Med-Arbiter, nullifying the result of the certification election as well as ordering the conduct of a new certification election at DHL Philippines Corporation, considering that:

A. The Court of Appeals, as well as the Med-Arbiter, ignored the undisputed fact that petitioner a quo (herein respondent) has not yet existed before, during and shortly after the conduct of certification election on November 25, 1997, and not yet even registered at the time of the filing of its Petition a quo on December 19, 1997, therefore, has no legal personality to institute an action.

B. The Court of Appeals, as well as the Med-Arbiter ignored and unjustifiably refused to apply Section 13, Rule XII of Department Order No. 9, there being no protest nor challenge raised before, during and even after five (5) days have lapsed from the conduct of the certification election on November 25, 1997, as the Petition a quo was only filed on December 19, 1997 – a week before herein respondent was able to obtain its Certificate of Registration.

C. The Court of Appeals ignored and unjustifiably refused to apply Section 3, Rule V of Department Order No. 9, or commonly know[n] as the 'Certification-Year Rule', which means that no certification election should be entertained within one (1) year from the time the Election Officer issued the Certification Order.

"II

Whether or not the Court of Appeals seriously erred and committed grave abuse of discretion, amounting to lack and/or excess of jurisdiction in rendering the assailed Decision promulgated on December 17, 1999, as the same was rendered without the [Office of the] Solicitor General having filed its comment on the Petition a quo, despite having filed a Manifestation with Motion to the effect of not having received the Petition filed by petitioner a quo, which [h]as remained unacted upon; as well as

the Resolution promulgated on January 30, 2002, which denied herein petitioner's Motion for Reconsideration, which was rendered without the required comment thereon by the Petitioner a quo, thus, due process was violated.

"III

Whether or not the Court of Appeals seriously erred and committed grave abuse of discretion amounting to lack and/or excess of jurisdiction in holding that the 'resignation, withdrawal, retraction of the great majority of the former members of United DHL should be treated as disaffiliation from such union.'

"IV

Whether or not, the Court of Appeals seriously erred and committed grave abuse of discretion amounting to lack and/or excess of jurisdiction in declaring that 'x x x while in the February 28, 1996 x x x decision of Med-Arbiter Tomas Falconitin provides for a certification election among two (2) specific choices: the private respondent (then as petitioner), and No Union 'as the contending choices', what was conducted on November 25, 1996 (sic) was a referendum on a choice of yes or no and not certification order of the Election Officer reflecting the results in the number of yes votes and no votes, without indicating the name of the contending choices.

"V

Whether or not the Court of Appeals placed both parties in 'Limbo', as the dispositive portion of the Decision or the *fallo,* which x x x actually constitutes the judgment or resolution of the court, failed to specify what should be done by the parties after the rendition of the said Decision and Resolution, thus, there can be no subject of execution."[7]

In simpler terms, the issues being raised are as follows: 1) the validity of the CA Decision and Resolution; and 2) the validity of the certification election.

The Court's Ruling

The Petition lacks merit.

First Issue:
Validity of the CA Decision and Resolution

Petitioner assails the validity of the CA Decision for having been rendered without receipt of the required comment of the Office of the Solicitor General (OSG) on respondent's Petition; and the CA Resolution for having been issued without receipt of respondent's comment on petitioner's Motion for Reconsideration.

This contention is untenable.

The applicable provision is Section 8 of Rule 65 of the Rules of Court, which provides:

> "SECTION 8. Proceedings after comment is filed. -- After the comment or other pleadings required by the court are filed, *or the time for the filing thereof has expired*, the court may hear the case or require the parties to submit memoranda. If after such hearing or submission of memoranda or the expiration of the period for the filing thereof the court finds that the allegations of the petition are true, it shall render judgment for the relief prayed for or to which the petitioner is entitled. x x x". (Italics supplied)

From the foregoing provision, it is clear that the Petition may be resolved, notwithstanding the failure of the adverse party to file a comment. Its failure to do so despite due notice is its own lookout. Indeed, when a respondent fails to file its comment within the given period, the court may decide the case on the basis of the records before it, specifically the petition and its attachments.[8]

Petitioner insists that the failure of the OSG to receive a copy of the Petition filed before the CA was the reason for the OSG's failure to file a Comment thereon. Be that as it may, as correctly pointed out by respondent, petitioner is not the proper party to invoke such failure.

At any rate, it is the duty of petitioner to defend its position, as well as those that upheld it -- the tribunal, the board and the officer --because it is the party that is ultimately interested in sustaining the correctness of the disposition or the validity of the proceedings.[9]

Petitioner further assails the validity of the CA Decision, on the ground that its dispositive portion or *fallo* failed to specify what should be done by the parties after its promulgation.

All that the law requires is that the judgment must be definitive. That is, the rights of the parties must be stated with finality by the decision itself, which must thus specifically deny or grant the remedy sought by the action.[10] For review by the CA was Undersecretary Dimapilis-Baldoz's Resolution reversing the Decision of Med-Arbiter Falconitin.

Parenthetically, the ultimate question presented before the appellate court was whether a new certification election should be conducted among the employees of DHL Philippines Corporation. As correctly pointed out by respondent, in reversing the undersecretary's Resolution, the CA necessarily reinstated the med-arbiter's earlier Decision to conduct a new certification election.

A judgment is not confined to what appears on the face of the decision; it encompasses matters necessarily included in or are necessary to such judgment.[11] The Decision of Med-Arbiter Falconitin and Undersecretary Dimapilis-Baldoz should be read in the context of and in relation to the assailed Decision of the CA. The setting aside of the undersecretary's Resolution necessarily implies the holding of a new certification election by the med-arbiter upon receipt of the records of the case and the motion of the interested party.