

## THIRD DIVISION

[ G.R. No. 133215, July 15, 1999 ]

**PAGPALAIN HAULERS, INC., PETITIONER, VS. THE HONORABLE CRESENCIANO B. TRAJANO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF LABOR AND EMPLOYMENT, THE HONORABLE RENATO D. PARUNGO, IN HIS OFFICIAL CAPACITY AS THE MED-ARBITER IN DOLE CASE NO. NCR-OD-M-9705-006, AND THE INTEGRATED LABOR ORGANIZATION (ILO-PHILS) PAGPALAIN WORKERS UNION-ILO-PHILS. RESPONDENTS.**

### DECISION

**ROMERO, J.:**

On May 14, 1997, respondent Integrated Labor Organization-Pagpalain Haulers Worker's Union (hereafter referred to as ILO-PHILS), in a bid to represent the rank-and-file drivers and helpers of petitioner Pagpalain Haulers, Inc. (hereafter referred to as Pagpalain), filed a petition for certification election with the Department of Labor and Employment. ILO-PHILS attached to the petition copies of its charter certificate, its constitution and by-laws, its books of account, and a list of its officers and their addresses.

On July 10, 1997, Pagpalain filed a motion to dismiss the petition, alleging that ILO-PHILS was not a legitimate labor organization due to its failure to comply with the requirements for registration under the Labor Code. Specifically, it claimed that the books of account submitted by ILO-PHILS were not verified under oath by its treasurer and attested to by its president, a required by Rule II, Book V of the Omnibus Rules Implementing the Labor Code.

In a reply dated August 4, 1997, ILO-PHILS dismissed Pagpalain's claims, saying that Department Order No. 9, Series of 1997 had dispensed with the requirement that a local or chapter of a national union submit books of account in order to be registered with the Department of Labor and Employment.

Finding in favor of ILO-PHILS, the Med-Arbiter, on August 27, 1997, ordered the holding of certification elections among the rank-and-file of Pagpalain Haulers. Pagpalain promptly appealed the decision to the Secretary of Labor and Employment. It claimed that the Med-Arbiter had gravely abused his discretion in allowing Department Order No. 9 to take precedence over a ruling of the Supreme Court. Pagpalain cited *Protection Technology v. Secretary, Department of Labor and Employment*<sup>[1]</sup> and *Progressive Development Corporation v. Secretary of Labor*<sup>[2]</sup> in support of its contention.

Declaring *Protection* and *Progressive* to be inapplicable to the case before him, the Secretary, on February 27, 1998, issued a resolution dismissing Pagpalain's appeal. In his own words, "[I]n these aforementioned cases, the Supreme Court premised

its ruling on the previous rules implementing the Labor Code, particularly Book V, that provides the requirements for the registration of a local or chapter of a federation or national union. With the issuance of Department Order No. 09 amending the rules implementing Book V of the Code, the requirement on books of account no longer exists."<sup>[3]</sup>

Aggrieved by said resolution, Pagpalain now comes to this Court for relief claiming that the Secretary of Labor acted without jurisdiction in issuing the questioned resolution. In support of its proposition, it claims that:

1. DEPARTMENT ORDER NO. 9, SERIES OF 1997, ISSUED BY PUBLIC RESPONDENT SECRETARY OF LABOR IS NULL AND VOID FOR BEING CONTRARY TO PUBLIC POLICY LAID DOWN BY THE SUPREME COURT IN *PROTECTION TECHNOLOGY, INC. V. SECRETARY OF LABOR* (G.R. NO. 117211, 1 MARCH 1995) AND *PROGRESSIVE DEVELOPMENT CORP. V. SECRETARY OF LABOR* (G.R. NO. 96425, 4 FEBRUARY 1992);
2. DEPARTMENT ORDER NO. 9, SERIES OF 1997, OF PUBLIC RESPONDENT SECRETARY OF LABOR CANNOT ALTER THE REQUIREMENTS OF ARTICLES 241(H) AND (J) OF THE LABOR CODE OF THE PHILIPPINES, NOR CAN IT PREVAIL OVER THE RULINGS OF THE SUPREME COURT, WHICH FORM PART OF THE LAW OF THE LAND.

Pagpalain's contentions are without merit.

Under Article 234 of the Labor Code, the requirements for registration of a labor organization is as follows:

*Art. 234. Requirements of registration.-* Any applicant labor organization, association or group of unions or workers shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) The names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) Four (4) copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it.

As can be gleaned from the above, the Labor Code does not require the submission of books of account in order for a labor organization to be registered as a legitimate labor organization. The requirement that books of account be submitted as a requisite for a registration can be found only in Book V of the Omnibus Rules Implementing the Labor Code, *prior* to its amendment by Department Order No. 9, Series of 1997. Specifically, the old Section 3(e), Rule II, of Book V provided that "[t]he local or chapter of a labor federation or national union shall have and maintain a constitution and by-laws, set of officers and *books of accounts*. For reporting purposes, the procedure governing the reporting of independently registered unions, federations or national unions shall be observed."

In *Progressive Development Corporation*, cited by Pagpalain, this Court held that the above-mentioned "procedure governing the reporting of independently registered unions" refers to the certification and attestation requirements contained in Article 235, paragraph 2. Article 235, paragraph 2 provides that "[a]ll requisite documents and papers shall be certified under oath by the secretary or the treasurer of the organization, as the case may be, and attested to by its president;" hence, in the above-mentioned case, we ruled that in applications for registration by a local or chapter of a federation or national union, the constitution and by-laws, set of officers and *books of account* submitted by said local or chapter must be certified under oath by the secretary or treasurer and attested to by its president.

Three years later, in *Protection Technology v. Secretary of Labor*, we amplified our ruling in *Progressive*, saying that the non-submission of books of account certified by and attested to by the appropriate officer is a ground for an employer to legitimately oppose a petition for certification election filed by a local or chapter of a national union.

By virtue of Department Order No. 9, Series of 1997, however, the documents needed to be submitted by a local or chapter have been reduced to the following:

- (a) A charter certificate issued by the federation or national union indicating the creation or establishment of the local/chapter;
- (b) The names of the local/chapter's officers, their addresses, and the principal office of the local/chapter;
- (c) The local/chapter's constitution and by-laws; provided that where the local/chapter's constitution and by-laws is the same as that of the federation or national union, this fact shall be indicated accordingly.

All the foregoing supporting requirements shall be certified under oath by the Secretary or Treasurer of the local/chapter and attested by its President.<sup>[4]</sup>

Since the Department Order No. 9 has done away with the submission of books of account as a requisite for registration, Pagpalain's only recourse now is to have said order declared null and void. It premises its case on the principles laid down in *Progressive* and *Protection Technology*. First, Pagpalain maintains that Department Order No. 9 is illegal, allegedly because it contravenes the above-mentioned rulings of this Court. Citing Article 8 of the Civil Code, which provides that "[j]udicial decisions applying or interpreting the laws or the Constitution shall form a part of

the legal system of the Philippines," Pagpalain declares the two cases part of the law of the land which, under the third paragraph of Article 7 of the Civil Code,<sup>[5]</sup> may not be supplanted by mere regulation.

Second, it claims that dispensing with books of account contravenes public policy, citing *Protection Technology*, as follows:

It is immaterial that the Union, having been organized for less than a year before the application for registration with the BLR, would have had no real opportunity to levy and collect dues and fees from its members which need to be recorded in the books of account. Such accounting books can and must be submitted to the BLR, even if they contain no detailed or extensive entries as yet. The point to be stressed is that the applicant local or chapter must demonstrate to the BLR that it is entitled to registered status because it has in place a system for accounting for members' contributions to its fund even before it actually receives dues and fees from its members. The controlling intention is to minimize the risk of fraud and diversion in the course of the subsequent formation and growth of the Union fund. [Underscoring petitioner's]

To buttress its argument, Pagpalain also cites *Progressive*, thus:

The employer naturally needs assurance that the union it is dealing with is a bona fide organization, one which has not submitted false statements or misrepresentations to the Bureau. The inclusion of the certification and attestation requirements will in a marked degree allay these apprehensions of management. Not only is the issuance of any false statement and misrepresentation a ground for cancellation of registration (See Article 239(a), (c) and (d)); it is also a ground for a criminal charge of perjury.

The certification and attestation requirements are preventive measures against the commission of fraud. They likewise afford a measure of protection to unsuspecting employees who may be lured into joining unscrupulous or fly-by-night unions whose sole purpose is to control union funds or to use the union for dubious ends. [Underscoring petitioner's]

Finally, Pagpalain cites as indicative of public policy, the following sections of Article 241 of the Labor Code:

The following are the rights and conditions of membership in a labor organization:

xxx xxx xxx

(h) Every payment of fees, dues, or other contributions by a member shall be evidenced by a receipt signed by the officer or agent making the collection and entered into the record of the organization to be kept and maintained for that purpose;

xxx xxx xxx

(j) Every income or revenue of the organization shall be evidenced by a