

FIRST DIVISION

[G.R. Nos. 113204-05, September 16, 1996]

**BARBIZON PHILIPPINES, INC., PETITIONER, VS.
NAGKAKAISANG SUPERVISOR NG BARBIZON PHILIPPINES,
INC.-NAFLU AND THE HON. UNDERSECRETARY OF LABOR
BIENVENIDO E. LAGUESMA, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

This is a *petition for certiorari and prohibition* under Rule 65 of the Revised Rules of Court to set aside and annul the decision and orders of the public respondent dated 11 February 1993, 4 March 1993, 16 June 1993 and 25 November 1993, respectively.

The facts which gave rise to the present petition are as follows:

On 27 June 1988, petitioner (formerly the Philippine Lingerie Corporation) filed a petition for certification election among its rank-and-file employees (docketed as NCR-OD-M-6-349-88). As a consequence thereof, two (2) unions sought recognition, namely: PHILIPPINE LINGERIE WORKERS UNION-ALAB and BUKLOD NG MANGGAGAWA NG PHILIPPINE LINGERIE CORPORATION.

In one of the pre-election conferences, PHILIPPINE LINGERIE WORKERS UNION-ALAB moved for the exclusion of a number of employees who were allegedly holding supervisory positions.

On 28 July 1988, Med-Arbiter Rasidali C. Abdullah issued an order denying the motion of PHILIPPINE LINGERIE CORPORATION WORKERS UNION-ALAB for lack of merit. Said order was appealed to the Bureau of Labor Relations (BLR) which issued an Order on 16 November 1988, the dispositive portion of which declares:

WHEREFORE, premises considered, the Order dated 28 July 1988 is hereby affirmed. Accordingly, to ensure fairness to all the parties and in order to hasten the proceedings, let the election be conducted under the supervision of the Labor Organization Division, this Office, which is hereby directed to immediately set this case for pre-election conference.

SO ORDERED.^[1]

PHILIPPINE LINGERIE WORKERS UNION-ALAB filed two (2) separate motions for reconsideration of the above order which were consolidated and treated in an Order dated 22 December 1988, the decretal portion of which reads:

WHEREFORE, premises considered, the twin motions for reconsideration are hereby deemed denied for lack of merit. Accordingly, let the pre-

election conference preparatory to the certification election proceed without further delay.

No further motion of similar nature shall be hereafter entertained.

SO ORDERED.^[2]

No further appeal of the above-quoted order was interposed, thus it became final and executory.

On 3 May 1989, a certification election was conducted with the votes of "supervisors and confidential" employees being challenged. Thus, the certification election showed the following results:

1.Philippine Lingerie Workers Union-ALAB- - - - -318 votes

2.Buklod Ng Manggagawa Ng Philippine
Lingerie Corporation- - - - - 412 votes

3.No Union - - - - - 17 votes

4.Challenged Supervisors/Confidential

Employees- - - - - 99 votes

TOTAL VALID VOTES CAST- - - - -855 votes

SPOILED BALLOTS- - - - -12 votes

PHILIPPINE LINGERIE WORKERS UNION-ALAB filed an election protest which was later formalized on 25 May 1989. In the meantime, on 9 May 1989, BUKLOD moved for the opening of the challenged ballots.

On 20 July 1989, the BLR, through its director Pura Ferrer-Calleja, issued an Order, the dispositive portion of which reads:

WHEREFORE, premises considered, the protest and challenged (sic) of the Alyansang Likha Ng Mga Anak Ng Bayan (ALAB) are hereby denied for lack of merit.

Accordingly, let the challenged votes of the supervisors and confidential employees be opened in the presence of the parties under the supervision of the Labor Organization Division (LOD) on 26 July 1989 at 9:00 A.M., Bureau of Labor Relations.

SO ORDERED.^[3]

With the above-quoted order, the challenged votes were opened on 3 August 1989 and the results were as follows:

Philippine Lingerie Workers Union-ALAB- - - - - 4 votes

Buklod Ng Manggagawa Ng Phil. Lingerie Corp.- - - - - 84 votes

No Union- - - - - 6 votes

Spoiled- - - - - 5 votes

TOTAL VOTES CAST- - - - - -99 votes

PHILIPPINE LINGERIE WORKERS UNION-ALAB filed a motion for reconsideration of the BLR's Order of 20 July 1989 which, however, was denied in an Order dated 22 August 1989, the pertinent portion of which states:

xxx

xxx

xxx

This time movant should now be convinced that the alleged supervisory and confidential employees are more rank-and-file employees.

As early as Resolution dated 16 November 1988, the Bureau had already ruled that the alleged supervisors are not managerial employees (rec. p. 154, First Folder). On motion for reconsideration the Bureau affirmed the aforementioned Resolution in its Order dated 22 December 1988 (rec. p. 302. First Folder). And on 20 July 1989, when R.A. 6715 was already in full force and effect, the Bureau in resolving the protest of ALAB declared that the job descriptions of the alleged supervisors and confidential employees do not in any way suggest that they are indeed supervisors or managerial employees (rec. p. 39, Second Folder).

xxx

WHEREFORE, the motion for reconsideration is hereby denied and the Buklod Ng Manggagawa Ng Philippine Lingerie Corporation (now, Barbizon Philippines, Inc.) is hereby certified as the sole and exclusive bargaining representative of all the regular rank-and-file employees of Barbizon Philippines, Inc. (formerly Philippine Lingerie Corporation).

The management of Barbizon Philippines, Inc. is hereby directed to immediately start negotiating for a collective bargaining agreement (CBA) with the said union.

No further motion of any nature shall hereinafter be entertained by this Office.

SO ORDERED.^[4]

Not satisfied with the aforequoted order, PHILIPPINE LINGERIE WORKERS UNION-ALAB appealed to the Secretary of Labor but on 26 September 1989, the same was withdrawn and a motion to dismiss appeal with prejudice was filed by the same union. There being no more obstacle to collective bargaining, petitioner negotiated with BUKLOD as the sole and exclusive bargaining representative.

A Collective Bargaining Agreement (CBA) was signed by petitioner and BUKLOD which was effective for five (5) years or until 18 November 1994.^[5]

While the CBA was still in force, several employees organized themselves into the Nagkakaisang Supervisors Ng Barbizon Philippines, Inc. (NSBPI) and the Nagkakaisang Excluded Monthly Paid Employees Ng Barbizon, Philippines, Inc. (NEMPEBPI) allegedly because they were excluded from the coverage of the existing CBA between petitioner and BUKLOD.

Two (2) separate petitions for certification election were filed by NSBPI and NEMPEBPI. The petition of the former was raffled to Med-Arbiter Renato D. Parungo and the latter to Med-Arbiter Paterno D. Adap. Both cases were dismissed.^[6]

NSBPI appealed to the Office of the Secretary of Labor. On 29 December 1992, public respondent Undersecretary Bienvenido Laguesma denied the same for lack of merit. NSBPI moved for reconsideration on 15 January 1993.

On 11 February 1993, the Office of the Secretary of Labor, through public respondent rendered the questioned Decision, the dispositive portion of which reads:

WHEREFORE the Motion for Reconsideration of Nagkakaisang Superbisor ng Barbizon Philippines, Inc. (NSBPI) and the appeal of Nagkakaisang Excluded Monthly Paid Employees ng Barbizon Philippines, Inc. (NEMPEBPI) are hereby granted and the Orders of this Office and the Med-Arbiter dated 29 December 1992 and 01 September 1992, respectively, are hereby SET ASIDE.

Accordingly, a new Order is hereby entered in the above-captioned cases directing the conduct of certification election among the subject employees excluded from the coverage of the bargaining unit of the existing CBA of rank and file employees aforestated, not otherwise excluded/disqualified by law. The choices are as follows:

1. Nagkakaisang Superbisor ng Barbizon Philippines, Inc. (NSBPI)
2. Nagkakaisang Excluded Monthly Paid Employees ng Barbizon Philippines, Inc. (NEMPEBPI); and,
3. No Union.

Let, therefore, the entire records of these consolidated cases be forwarded to the Regional Office of origin for the immediate conduct of certification election, subject to the usual pre-election conference.

SO ORDERED.^[7]

Petitioner filed a motion for reconsideration but the same was denied.^[8] A second motion for reconsideration was filed by petitioner but it was likewise denied, this time, with finality.^[9] Undaunted, petitioner filed a third motion for reconsideration which was also denied for lack of merit.^[10]

Hence, this petition wherein the following issues were raised:

A

THE RESPONDENT "SUPERVISORS" LOCAL UNION CANNOT FORM A SUPERVISORS UNION, WHEN THEIR MEMBERS ARE INCOMPATIBLY "RANK-AND-FILE EMPLOYEES"; MUCH LESS, CAN IT SEEK REPRESENTATION STATUS FOR SUPERVISORS, WHEN THE EMPLOYEES THEY WANT TO REPRESENT FOR COLLECTIVE BARGAINING PURPOSES BELONG IN THE "APPROPRIATE BARGAINING UNIT" OF RANK-AND-FILE EMPLOYEES ON THE "EMPLOYER WIDE UNIT", WHICH ALREADY HAS A CERTIFIED BARGAINING AGENT: BUKLOD NG MANGGAGAWA NG PHILIPPINE LINGERIE CORPORATION.

B

WORSE, SINCE THE MEMBERS OF THE RESPONDENT LOCAL UNION BELONG TO THE APPROPRIATE BARGAINING UNIT OF RANK-AND-FILE EMPLOYEES, THE EXISTING COLLECTIVE BARGAINING AGREEMENT WHICH COVERS THEM, IS (A) "BAR" TO ITS CERTIFICATION ELECTION PETITION.^[11]

Barbizon Philippines, Inc. alleges that this petition only assails the resolution of the public respondent regarding NSBPI and does not include the NEMPEBPI, the union of the excluded monthly paid employees because the separate motion for reconsideration it filed in connection with the latter has not yet been resolved by the NLRC.

On 8 February 1994, this Court issued a temporary restraining order, enjoining the Bureau of Labor Relations from setting the pre-election conference in Case No. OS-MA-A-215-92-93 entitled "In Re: Petition for Certification Election among the Supervisory Employees of Barbizon Philippines, Inc., Nagkakaisang Supervisor Ng Barbizon Philippines, Inc.-OBRERO" and from conducting further proceedings in the aforesaid cases.^[12]

During the pendency of the petition, the CBA expired. However, no other agreement between the parties was made known to this Court, thus, in accordance with Article XX of the CBA, it continues to be in force and shall govern the relations between the parties thereto.^[13]

We find no merit in the petition.

Petitioner maintains its stance that the petition for certification election filed by the Nagkakaisang Supervisor ng Barbizon Philippines., Inc. - NAFLU (NSBPI) must necessarily fail because the employees designated as "supervisors" cannot legally form a supervisors' union by virtue of the BLR's final decision dated 22 August 1989 declaring the abovementioned employees mere rank and file workers. Being part of the rank and file, petitioner avers that said employees belong to the "employer wide unit," which is the appropriate bargaining unit of all its rank and file employees and which is represented by the Buklod ng Manggagawa ng Philippine Lingerie Corporation (BUKLOD) as the sole certified bargaining agent.

Petitioner further asserts that the Undersecretary of Labor committed grave abuse