

FIRST DIVISION

[G.R. No. 170007, April 07, 2014]

**TABANGAO SHELL REFINERY EMPLOYEES ASSOCIATION,
PETITIONER, VS. PILIPINAS SHELL PETROLEUM CORPORATION,
RESPONDENT.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This an appeal from the Decision^[1] dated August 8, 2005 of the Court of Appeals in CA-G.R. SP No. 88178 dismissing the petition for *certiorari* of the petitioner Tabangao Shell Refinery Employees Association.

The origins of the controversy

In anticipation of the expiration on April 30, 2004 of the 2001-2004 Collective Bargaining Agreement (CBA) between the petitioner and the respondent Pilipinas Shell Petroleum Corporation, the parties started negotiations for a new CBA. After several meetings on the ground rules that would govern the negotiations and on political items, the parties started their discussion on the economic items on July 27, 2004, their 31st meeting. The union proposed a 20% annual across-the-board basic salary increase for the next three years that would be covered by the new CBA. In lieu of the annual salary increases, the company made a counter-proposal to grant all covered employees a lump sum amount of P80,000.00 yearly for the three-year period of the new CBA.^[2]

The union requested the company to present its counter-proposal in full detail, similar to the presentation by the union of its economic proposal. The company explained that the lump sum amount was based on its affordability for the corporation, the then current salary levels of the members of the union relative to the industry, and the then current total pay and benefits package of the employees. Not satisfied with the company's explanation, the union asked for further justification of the lump sum amount offered by the company. When the company refused to acknowledge any obligation to give further justification, the union rejected the company's counter-proposal and maintained its proposal for a 20% annual increase in basic pay for the next three years.^[3]

On the 39th meeting of the parties on August 24, 2004, the union lowered its proposal to 12% annual across-the-board increase for the next three years. For its part, the company increased its counter-proposal to a yearly lump sum payment of P88,000.00 for the next three years. The union requested financial data for the manufacturing class of business in the Philippines. It also requested justification for the company's counter-offer. In response, the company stated that financial measures for Tabangao were available in the refinery scorecard regularly cascaded

by the management to the employees. The company reiterated that its counter-offer is based on its affordability for the company, comparison with the then existing wage levels of allied industry, and the then existing total pay and benefits package of the employees. The company subsequently provided the union with a copy of the company's audited financial statements.^[4]

However, the union remained unconvinced and asked for additional documents to justify the company's counter-offer. The company invited the attention of the union to the fact that additional data, such as the refinery performance scorecard, were available from the refinery's website and shared network drives. The company also declared that the bases of its counter-offer were already presented to the union and contained in the minutes of previous meetings. The union thereafter requested for a copy of the comparison of the salaries of its members and those from allied industries. The company denied the request on the ground that the requested information was entrusted to the company under a confidential agreement. Alleging failure on the part of the company to justify its offer, the union manifested that the company was bargaining in bad faith.^[5] The company, in turn, expressed its disagreement with the union's manifestation.^[6]

On the parties' 41st meeting held on September 2, 2004, the company proposed the declaration of a deadlock and recommended that the help of a third party be sought. The union replied that they would formally answer the proposal of the company a day after the signing of the official minutes of the meeting. On that same day, however, the union filed a Notice of Strike in the National Conciliation and Mediation Board (NCMB), alleging bad faith bargaining on the part of the company. The NCMB immediately summoned the parties for the mandatory conciliation-mediation proceedings but the parties failed to reach an amicable settlement.^[7]

Assumption of Jurisdiction by the Secretary of Labor and Employment

On September 16, 2004, during the cooling off period, the union conducted the necessary strike vote. The members of the union, who participated in the voting, unanimously voted for the holding of a strike. Upon being aware of this development, the company filed a Petition for Assumption of Jurisdiction with the Secretary of Labor and Employment.^[8] The petition was filed pursuant to the first paragraph of Article 263(g) of the Labor Code which provides:

ART. 263. *Strikes, picketing, and lockouts.* – x x x

x x x x

(g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the

employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure the compliance with this provision as well as with such orders as he may issue to enforce the same.

The company's petition for assumption of jurisdiction was docketed as OSEC-AJ-0033-04/NCMB-RBIV-LAG-NS-09-048-04.

In an Order^[9] dated September 20, 2004, the then Secretary of Labor and Employment, Patricia Sto. Tomas, granted the petition of the company. The Secretary of Labor and Employment took notice of the Notice of Strike filed by the union in the NCMB which charged the company with unfair labor practice consisting of bad faith in bargaining negotiations. The Secretary of Labor and Employment also found that the intended strike would likely affect the company's capacity to provide petroleum products to the company's various clientele, including the transportation sector, the energy sector, and the manufacturing and industrial sectors. The Secretary of Labor and Employment further observed that a strike by the union would certainly have a negative impact on the price of commodities. Convinced that such a strike would have adverse consequences on the national economy, the Secretary of Labor and Employment ruled that the labor dispute between the parties would cause or likely to cause a strike in an industry indispensable to the national interest. Thus, the Secretary of Labor and Employment assumed jurisdiction over the dispute of the parties. The dispositive portion of the Order dated September 20, 2004 reads:

WHEREFORE, considering the foregoing premises, this Office hereby **assumes jurisdiction** over the labor dispute between the **TABANGAO SHELL REFINERY EMPLOYEES ASSOCIATION and the PILIPINAS SHELL PETROLEUM CORPORATION**, pursuant to Article 263 (g) of the Labor Code, as amended.

Accordingly, any form of concerted action, whether actual or intended, is hereby enjoined. Parties are directed to maintain the status quo existing at the time of service of this Order. They are also ordered not to commit any act that may exacerbate the situation.

However, if at the time of service of this Order a strike has already commenced, the employees are directed to immediately return to work within twenty-four (24) hours from receipt thereof. In such case[,] the employer shall, without unnecessary delay, resume operations and readmit all workers under the same terms and conditions prevailing before the strike.

To expedite the resolution of this dispute, the parties are directed to submit in three ^[3] copies, their respective Position Paper on the economic issues and those raised in the Notice of Strike, docketed as NCMB-RBIV-LAG-NS-09-048-04. It must be submitted **personally** to this Office **within seven [7] calendar days** from receipt of this Order.

Another **three [3] calendar days** from receipt of the other party's position paper shall be allowed for the personal filing or submission of their respective Comment and Reply thereon. Service of position papers together with annexes, affidavits and other papers accompanying the same should be done personally. If service by registered mail cannot be avoided, it should follow the mandate of Article 263 of the Labor Code and shall be deemed complete upon the expiration of **five (5) calendar days** from mailing. After said period[,], the allowed time for filing of Reply shall start, after which, the case shall be deemed submitted for resolution.

The Company is ordered to attach the following documents to its position paper, to assist this Office in the prompt resolution of this case:

a] Complete Audited Financial Statements for the past five **[5]** years certified as to its completeness by the Chief Financial Comptroller or Accountant, as the case may be[;]

SEC stamped COMPLETE audited Financial Statements shall include the following:

1. Independent Auditor's opinion
2. Comparative Balance Sheet
3. Comparative Income Statement
4. Comparative Cash Flows
5. Notes to the Financial Statements as required by SEC

b] Projected Financial Statements of the Company FOR THE NEXT THREE **[3]** YEARS (Balance Sheets, Income Statements, Cash Flow, and Appropriate notes to such projected [F]inancial Statements);

c] CBA history as to all the economic issues;

d] Cost estimates of its final offer on the specific CBA issues;

e] A separate itemized summary of the Management Offer and the Union demands with [the] following format:

| Description of Demands | Existing CBA | Union Demands | Management Offer |
|------------------------|--------------|---------------|------------------|
| 1. | | | |
| 2. | | | |

The Union is directed to provide a copy of their last CBA, an itemized summary of its CBA demands, as well as a computation of their cost[s] that require resolution in triplicate copies using the same format stated above.

No petition, pleading or any opposition thereto shall be acted upon by this Office, without proof of its service to the adverse party/parties.

In the interest of speedy labor justice, this Office will entertain no motion

for extension or postponement.

The urgency of the need to rule on this case is only in faithful adherence to the following provision of **Article 263 paragraph (i) of the Labor Code**, as follows:

"The Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall decide or resolve the dispute within thirty (30) calendar days from the date of the assumption of jurisdiction or the certification or submission of the dispute, as the case may be. x x x"

The appropriate police authority is hereby deputized to enforce this Order if it turns out that within twenty-four (24) hours from service hereof, there appears a refusal by either or both parties to comply herewith.^[10]

The Secretary of Labor and Employment denied the motion for reconsideration of the union in a Resolution dated October 6, 2004. The union's second motion for reconsideration was denied in a Resolution dated December 13, 2004.^[11]

Petition for certiorari in the Court of Appeals

The union thereafter filed a petition for *certiorari*,^[12] docketed as CA-G.R. SP No. 88178, in the Court of Appeals on January 13, 2005. The union alleged in its petition that the Secretary of Labor and Employment acted with grave abuse of discretion in grossly misappreciating the facts and issue of the case. It contended that the issue is the unfair labor practice of the company in the form of bad faith bargaining and not the CBA deadlock. Anchoring its position on item 8 of what the parties agreed upon as the ground rules that would govern the negotiations, the union argued that, at the time the Order dated September 20, 2004 was issued, there was no CBA deadlock on account of the union's non-conformity with the declaration of a deadlock, as item 8 of the said ground rules provided that a "deadlock can only be declared upon mutual consent of both parties." Thus, the Secretary of Labor and Employment committed grave abuse of discretion when she assumed jurisdiction and directed the parties to submit position papers even on the economic issues.^[13]

The Court of Appeals found the position of the union untenable. It cited this Court's ruling in *St. Scholastica's College v. Torres*^[14] that the authority of the Secretary of Labor and Employment under Article 263(g) of the Labor Code to assume jurisdiction over a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to national interest includes questions and controversies arising from the said dispute, including cases over which the Labor Arbiter has exclusive jurisdiction. Applying *St. Scholastica's College*, the Court of Appeals found that the 2004 CBA Official Minutes of the Meetings show that the union and the company were already discussing the economic issues when the union accused the company of bargaining in bad faith. As such, the Secretary of Labor and Employment had the authority to take cognizance of the economic issues, which