

## SECOND DIVISION

[ G.R. No. 178296, January 12, 2011 ]

**THE HERITAGE HOTEL MANILA, ACTING THROUGH ITS OWNER,  
GRAND PLAZA HOTEL CORPORATION, PETITIONER, VS.  
NATIONAL UNION OF WORKERS IN THE HOTEL, RESTAURANT  
AND ALLIED INDUSTRIES-HERITAGE HOTEL MANILA  
SUPERVISORS CHAPTER (NUWHRAIN-HHMSC), RESPONDENT.**

### D E C I S I O N

**NACHURA, J.:**

Before the Court is a petition for review on *certiorari* of the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated May 30, 2005 and Resolution dated June 4, 2007. The assailed Decision affirmed the dismissal of a petition for cancellation of union registration filed by petitioner, Grand Plaza Hotel Corporation, owner of Heritage Hotel Manila, against respondent, National Union of Workers in the Hotel, Restaurant and Allied Industries-Heritage Hotel Manila Supervisors Chapter (NUWHRAIN-HHMSC), a labor organization of the supervisory employees of Heritage Hotel Manila.

The case stemmed from the following antecedents:

On October 11, 1995, respondent filed with the Department of Labor and Employment-National Capital Region (DOLE-NCR) a petition for certification election.<sup>[2]</sup> The Med-Arbitrator granted the petition on February 14, 1996 and ordered the holding of a certification election.<sup>[3]</sup> On appeal, the DOLE Secretary, in a Resolution dated August 15, 1996, affirmed the Med-Arbitrator's order and remanded the case to the Med-Arbitrator for the holding of a preelection conference on February 26, 1997. Petitioner filed a motion for reconsideration, but it was denied on September 23, 1996.

The preelection conference was not held as initially scheduled; it was held a year later, or on February 20, 1998. Petitioner moved to archive or to dismiss the petition due to alleged repeated non-appearance of respondent. The latter agreed to suspend proceedings until further notice. The preelection conference resumed on January 29, 2000.

Subsequently, petitioner discovered that respondent had failed to submit to the Bureau of Labor Relations (BLR) its annual financial report for several years and the list of its members since it filed its registration papers in 1995. Consequently, on May 19, 2000, petitioner filed a Petition for Cancellation of Registration of respondent, on the ground of the non-submission of the said documents. Petitioner prayed that respondent's Certificate of Creation of Local/Chapter be cancelled and its name be deleted from the list of legitimate labor organizations. It further requested the suspension of the certification election proceedings.<sup>[4]</sup>

On June 1, 2000, petitioner reiterated its request by filing a Motion to Dismiss or Suspend the [Certification Election] Proceedings,<sup>[5]</sup> arguing that the dismissal or suspension of the proceedings is warranted, considering that the legitimacy of respondent is seriously being challenged in the petition for cancellation of registration. Petitioner maintained that the resolution of the issue of whether respondent is a legitimate labor organization is crucial to the issue of whether it may exercise rights of a legitimate labor organization, which include the right to be certified as the bargaining agent of the covered employees.

Nevertheless, the certification election pushed through on June 23, 2000. Respondent emerged as the winner.<sup>[6]</sup>

On June 28, 2000, petitioner filed a Protest with Motion to Defer Certification of Election Results and Winner,<sup>[7]</sup> stating that the certification election held on June 23, 2000 was an exercise in futility because, once respondent's registration is cancelled, it would no longer be entitled to be certified as the exclusive bargaining agent of the supervisory employees. Petitioner also claimed that some of respondent's members were not qualified to join the union because they were either confidential employees or managerial employees. It then prayed that the certification of the election results and winner be deferred until the petition for cancellation shall have been resolved, and that respondent's members who held confidential or managerial positions be excluded from the supervisors' bargaining unit.

Meanwhile, respondent filed its Answer<sup>[8]</sup> to the petition for the cancellation of its registration. It averred that the petition was filed primarily to delay the conduct of the certification election, the respondent's certification as the exclusive bargaining representative of the supervisory employees, and the commencement of bargaining negotiations. Respondent prayed for the dismissal of the petition for the following reasons: (a) petitioner is estopped from questioning respondent's status as a legitimate labor organization as it had already recognized respondent as such during the preelection conferences; (b) petitioner is not the party-in-interest, as the union members are the ones who would be disadvantaged by the non-submission of financial reports; (c) it has already complied with the reportorial requirements, having submitted its financial statements for 1996, 1997, 1998, and 1999, its updated list of officers, and its list of members for the years 1995, 1996, 1997, 1998, and 1999; (d) the petition is already moot and academic, considering that the certification election had already been held, and the members had manifested their will to be represented by respondent.

Citing *National Union of Bank Employees v. Minister of Labor, et al.*<sup>[9]</sup> and *Samahan ng Manggagawa sa Pacific Plastic v. Hon. Laguesma*,<sup>[10]</sup> the Med-Arbiter held that the pendency of a petition for cancellation of registration is not a bar to the holding of a certification election. Thus, in an Order<sup>[11]</sup> dated January 26, 2001, the Med-Arbiter dismissed petitioner's protest, and certified respondent as the sole and exclusive bargaining agent of all supervisory employees.

Petitioner subsequently appealed the said Order to the DOLE Secretary.<sup>[12]</sup> The appeal was later dismissed by DOLE Secretary Patricia A. Sto. Tomas (DOLE Secretary Sto. Tomas) in the Resolution of August 21, 2002.<sup>[13]</sup> Petitioner moved for

reconsideration, but the motion was also denied.<sup>[14]</sup>

In the meantime, Regional Director Alex E. Maraan (Regional Director Maraan) of DOLE-NCR finally resolved the petition for cancellation of registration. While finding that respondent had indeed failed to file financial reports and the list of its members for several years, he, nonetheless, denied the petition, ratiocinating that freedom of association and the employees' right to self-organization are more substantive considerations. He took into account the fact that respondent won the certification election and that it had already been certified as the exclusive bargaining agent of the supervisory employees. In view of the foregoing, Regional Director Maraan--while emphasizing that the non-compliance with the law is not viewed with favor--considered the belated submission of the annual financial reports and the list of members as sufficient compliance thereof and considered them as having been submitted on time. The dispositive portion of the decision<sup>[15]</sup> dated December 29, 2001 reads:

**WHEREFORE**, premises considered, the instant petition to delist the National Union of Workers in the Hotel, Restaurant and Allied Industries-Heritage Hotel Manila Supervisors Chapter from the roll of legitimate labor organizations is hereby **DENIED**.

SO ORDERED.<sup>[16]</sup>

Aggrieved, petitioner appealed the decision to the BLR.<sup>[17]</sup> BLR Director Hans Leo Cacdac inhibited himself from the case because he had been a former counsel of respondent.

In view of Director Cacdac's inhibition, DOLE Secretary Sto. Tomas took cognizance of the appeal. In a resolution<sup>[18]</sup> dated February 21, 2003, she dismissed the appeal, holding that the constitutionally guaranteed freedom of association and right of workers to self-organization outweighed respondent's noncompliance with the statutory requirements to maintain its status as a legitimate labor organization.

Petitioner filed a motion for reconsideration,<sup>[19]</sup> but the motion was likewise denied in a resolution<sup>[20]</sup> dated May 30, 2003. DOLE Secretary Sto. Tomas admitted that it was the BLR which had jurisdiction over the appeal, but she pointed out that the BLR Director had voluntarily inhibited himself from the case because he used to appear as counsel for respondent. In order to maintain the integrity of the decision and of the BLR, she therefore accepted the motion to inhibit and took cognizance of the appeal.

Petitioner filed a petition for *certiorari* with the CA, raising the issue of whether the DOLE Secretary acted with grave abuse of discretion in taking cognizance of the appeal and affirming the dismissal of its petition for cancellation of respondent's registration.

In a Decision dated May 30, 2005, the CA denied the petition. The CA opined that the DOLE Secretary may legally assume jurisdiction over an appeal from the decision of the Regional Director in the event that the Director of the BLR inhibits

himself from the case. According to the CA, in the absence of the BLR Director, there is no person more competent to resolve the appeal than the DOLE Secretary. The CA brushed aside the allegation of bias and partiality on the part of the DOLE Secretary, considering that such allegation was not supported by any evidence.

The CA also found that the DOLE Secretary did not commit grave abuse of discretion when she affirmed the dismissal of the petition for cancellation of respondent's registration as a labor organization. Echoing the DOLE Secretary, the CA held that the requirements of registration of labor organizations are an exercise of the overriding police power of the State, designed for the protection of workers against potential abuse by the union that recruits them. These requirements, the CA opined, should not be exploited to work against the workers' constitutionally protected right to self-organization.

Petitioner filed a motion for reconsideration, invoking this Court's ruling in *Abbott Labs. Phils., Inc. v. Abbott Labs. Employees Union*,<sup>[21]</sup> which categorically declared that the DOLE Secretary has no authority to review the decision of the Regional Director in a petition for cancellation of union registration, and Section 4,<sup>[22]</sup> Rule VIII, Book V of the Omnibus Rules Implementing the Labor Code.

In its Resolution<sup>[23]</sup> dated June 4, 2007, the CA denied petitioner's motion, stating that the BLR Director's inhibition from the case was a peculiarity not present in the *Abbott* case, and that such inhibition justified the assumption of jurisdiction by the DOLE Secretary.

In this petition, petitioner argues that:

## I.

The Court of Appeals seriously erred in ruling that the Labor Secretary properly assumed jurisdiction over Petitioner's appeal of the Regional Director's Decision in the Cancellation Petition x x x.

- A. Jurisdiction is conferred only by law. The Labor Secretary had no jurisdiction to review the decision of the Regional Director in a petition for cancellation. Such jurisdiction is conferred by law to the BLR.
- B. The unilateral inhibition by the BLR Director cannot justify the Labor Secretary's exercise of jurisdiction over the Appeal.
- C. The Labor Secretary's assumption of jurisdiction over the Appeal without notice violated Petitioner's right to due process.

## II.

The Court of Appeals gravely erred in affirming the dismissal of the Cancellation Petition despite the mandatory and unequivocal provisions of the Labor Code and its Implementing Rules.<sup>[24]</sup>

The petition has no merit.

Jurisdiction to review the decision of the Regional Director lies with the BLR. This is clearly provided in the Implementing Rules of the Labor Code and enunciated by the Court in *Abbott*. But as pointed out by the CA, the present case involves a peculiar circumstance that was not present or covered by the ruling in *Abbott*. In this case, the BLR Director inhibited himself from the case because he was a former counsel of respondent. Who, then, shall resolve the case in his place?

In *Abbott*, the appeal from the Regional Director's decision was directly filed with the Office of the DOLE Secretary, and we ruled that the latter has no appellate jurisdiction. In the instant case, the appeal was filed by petitioner with the BLR, which, undisputedly, acquired jurisdiction over the case. Once jurisdiction is acquired by the court, it remains with it until the full termination of the case.<sup>[25]</sup>

Thus, jurisdiction remained with the BLR despite the BLR Director's inhibition. When the DOLE Secretary resolved the appeal, she merely stepped into the shoes of the BLR Director and performed a function that the latter could not himself perform. She did so pursuant to her power of supervision and control over the BLR.<sup>[26]</sup>

Expounding on the extent of the power of control, the Court, in *Araneta, et al. v. Hon. M. Gatmaitan, et al.*,<sup>[27]</sup> pronounced that, if a certain power or authority is vested by law upon the Department Secretary, then such power or authority may be exercised directly by the President, who exercises supervision and control over the departments. This principle was incorporated in the Administrative Code of 1987, which defines "supervision and control" as including the authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate.<sup>[28]</sup> Applying the foregoing to the present case, it is clear that the DOLE Secretary, as the person exercising the power of supervision and control over the BLR, has the authority to directly exercise the quasi-judicial function entrusted by law to the BLR Director.

It is true that the power of control and supervision does not give the Department Secretary unbridled authority to take over the functions of his or her subordinate. Such authority is subject to certain guidelines which are stated in Book IV, Chapter 8, Section 39(1)(a) of the Administrative Code of 1987.<sup>[29]</sup> However, in the present case, the DOLE Secretary's act of taking over the function of the BLR Director was warranted and necessitated by the latter's inhibition from the case and the objective to "maintain the integrity of the decision, as well as the Bureau itself."<sup>[30]</sup>

Petitioner insists that the BLR Director's subordinates should have resolved the appeal, citing the provision under the Administrative Code of 1987 which states, "in case of the absence or disability of the head of a bureau or office, his duties shall be performed by the assistant head."<sup>[31]</sup> The provision clearly does not apply considering that the BLR Director was neither absent nor suffering from any disability; he remained as head of the BLR. Thus, to dispel any suspicion of bias, the DOLE Secretary opted to resolve the appeal herself.

Petitioner was not denied the right to due process when it was not notified in