

FIRST DIVISION

[G. R. No. 146291, January 23, 2002]

**UNIVERSITY OF THE IMMACULATE CONCEPCION, INC.,
PETITIONER, VS. THE HON. SECRETARY OF LABOR AND
EMPLOYMENT, UNIVERSITY OF THE IMMACULATE CONCEPCION
TEACHING AND NON-TEACHING EMPLOYEES UNION-FFW,
RESPONDENTS.**

D E C I S I O N

PARDO, J.:

The Case

In this appeal *via certiorari*, petitioner seeks to set aside the decision of the Court of Appeals,^[1] which dismissed the University's petition and affirmed the orders of the Secretary of Labor and Employment^[2] directing the parties to execute a collective bargaining agreement embodying the dispositions therein and all items agreed upon by the parties, and ruling that the strike declared by the union on 20 January 1995 was valid.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"Petitioner (University of the Immaculate Concepcion, Inc.) is a non-stock, non-profit educational institution with campuses at Fr. Selga St., and Bonifacio St., Davao City. On two (2) occasions, specifically on May 14, 1994 and May 28, 1994, petitioner and the Union, through the auspices of the National Conciliation and Mediation Board (NCMB), met to negotiate a CBA.

"On June 20, 1994, the Union filed with the NCMB a Notice of Strike, the first in a series of three (3) notices of strike, alleging deadlock in the CBA negotiations and unfair labor practices on the part of the petition in the form of "*mass termination of teaching and non-teaching employees, interference with union activities, discrimination, and harassments.*" (Annex "8" of Annex "A", Petition). Petitioner denied the allegations in its Motion to Strike Out Notice of Strike (Annex "9" of Annex "A", Petition).

"During the parties' conciliation conference before the NCMB on July 20, 1994, petitioner and the Union reached an agreement on some issues. The salient portion of the minutes of the proceedings reads:

'I. ECONOMIC ISSUE

'The parties agree to the economic package to be granted to the workers as increase in the amount equivalent to:

'1st year: 75% of increment increase of Tuition Fees

'2nd year: 80% ---do----

'3rd year: 80% ---do----

'This settles the economic issue of this notice of strike.

'II. NON-ECONOMIC ISSUES:

'A. UNION RECOGNITION and SECURITY

'Agreement: Both Parties agreed on the following:

'1. That future employees hired after the signing of this CBA shall become members of the Union after having become regular employees.

'2. That provisions providing sanction will be removed.

'B. WORKING SCHEDULE

'Agreement: Both parties agree as follows:

'1. Item (b) is removed.

'2. Item (c) is adopted/agreed by the parties.

'C. SALARIES and WAGES:

'Agreement: Both parties agree as follows:

'1. There will be Rank and Tenure Committee which management will establish by department. In every committee, the union will be represented by 2-members who will be chosen by the union.

'On the coverage of the bargaining unit, further consultations will be made on the proposed exclusion of secretaries, registrar, accounting employees, guidance counselor.

'The parties agree to set another conference on July 26, 1994 at 9:00 A.M.' (Annex "16" of Annex "A", petition).

"In a subsequent conciliation conference of July 26, 1994, petitioner and the Union agreed to submit to voluntary arbitration the issue concerning the exclusion of confidential employees from the collective bargaining unit. The minutes of that conference state:

'As a resolution to the issue left of the case, the parties agree that the positions which management sought to be excluded from the bargaining unit be submitted to Voluntary Arbitration.

'This case is deemed settled and closed' (Annex "17" of Annex "A", Petition).'

On November 8, 1994, the panel of voluntary arbitrators rendered a decision excluding the secretaries, registrars, cashiers, guidance counselors and the chief of the accounting department of the petitioner from the coverage of the bargaining unit (Annex "41" of Annex "A", Petition).

"Twenty (20) days later, or on November 28, 1994, petitioner presented to the Union a draft of the CBA. After a study thereof, the Union rejected the draft on the ground that the manner of computing the net incremental proceeds has yet to be agreed upon by the parties (Annexes "23", "23-A" and "24" of Annex "A", Petition).

"In its letter to the Union dated December 12, 1994, petitioner insists that the Union was bound to comply with the terms contained in the draft-CBA since said draft allegedly embodies all the items agreed upon by the parties during the conciliation sessions held by the NCMB (Annex "25" of Annex "A", Petition).

"On December 9, 1994, the Union filed its Second Notice of Strike with the NCMB, therein alleging bargaining deadlock on "allocation of 5% (CBA) and distribution/computation of 70% incremental proceeds (RA6728)", and unfair labor practice by the petitioner in the form of "harassments, union busting and correct implementation of COLA," (Annex "26-A" of Annex "A", Petition).

"On December 12, 1994, or barely three (3) days after the Union's filing of its Second Notice of Strike, petitioner terminated the employment of union member Gloria Bautista. Later, or on December 27, 1994, petitioner likewise terminated the employment of union board member Corazon Fernandez. (Comment, p. 8). As a consequence, Bautista and Fernandez filed their complaints for illegal dismissal before the Regional Arbitration Branch No. XI of the National Labor Relations Commission based in Davao City (Annex "28" of Annex "A", Petition; p. 5 of Annex "B", Petition).

"On January 4, 1995, petitioner filed with the NLRC Regional Arbitration Branch No. XI in Davao City a complaint against the Union and its officers for unfair labor practices based on the following grounds:

'(a) refusing to answer in writing, and within ten days required by law, [petitioner's] cba proposals;

'(b) refusing to bargain in good faith, by declaring a deadlock in the cba negotiations after just two days of negotiations, even if there were so many issues unresolved and still to be discussed at the bargaining table;

'(c) refusing to comply with its promise to submit the final

draft of the CBA agreed upon in the NCMB, and when presented by the draft prepared by the [petitioner], refusing to sign the same, on the ground that there was still a deadlock in the CBA negotiations, even if its notice of strike by reason of the CBA deadlock had already been 'settled and closed;

'(d) blatantly violating the aforesaid CBA, by resorting to another notice of strike, even if the aforesaid CBA includes a no strike, no lockout clause, a grievance procedure and voluntary arbitration of any grievance the union may have, thus directly circumventing the aforesaid procedures as regards the interpretation of the CBA and RA 6728 provisions on the net incremental proceeds of a tuition fee increase; and

'(e) blatantly violating the aforesaid CBA, by filing a complaint for illegal dismissal of Ms. Gloria Bautista in the Regional Arbitration Branch without resorting to the grievance procedure and voluntary arbitration in the CBA.' (Annex 29 of Annex "A" of Petition).

"The complaint, docketed as NLRC Case No. RAB-XI-01, was elevated by the NLRC Regional Arbitration Branch to the Secretary of Labor (Annex "29" of Annex "A", Petition).

"The conciliation conference called by the NCMB on January 4, 1995 failed to bridge the differences between the parties. Thereafter, the NCMB in Region XI conducted a strike-vote balloting, the outcome of which reveals that majority of the union members voted in favor of the holding of a strike. True enough, on January 20, 1995, the Union went on strike.

"Three days later, or on January 23, 1995, the Secretary of Labor issued an order assuming jurisdiction over the labor dispute which was docketed as OS-AJ-003-95. Dispositively, the order reads:

'WHEREFORE, ABOVE PREMISES CONSIDERED, and pursuant to Article 263 (g) of the Labor Code, as amended, this Office hereby assumes jurisdiction over the entire labor dispute at University of the Immaculate Concepcion College.

'Accordingly, all workers are directed to return to work within twenty-four (24) hours upon receipt of this Order and for management to accept them back under the same terms and conditions prior to the strike.

'Parties are further directed to cease and desist from committing any or all acts that might exacerbate the situation.

'Finally, the parties are hereby directed to submit their respective position papers within ten (10) days from receipt hereof.

'SO ORDERED.' (Annex "G" to private respondent's COMMENT.)

"In time, the Union filed a Motion for Reconsideration of the aforementioned order to seek a categorical declaration from the Secretary that the return-to-work order also covered Bautista and Fernandez inasmuch as the two (2) were dismissed during the pendency of the notice of strike.

"Before the Labor Secretary could act on the motion, petitioner suspended five (5) union members for failing to report to work within the period specified by the Secretary of Labor. Petitioner, invoking the ruling of the voluntary arbitrators that certain classes of employees cannot be a part of the bargaining unit, also terminated the employment of twelve union members – supposedly holders of confidential positions – for refusing to resign from the Union.

"On March 10, 1995, the Union filed its Third Notice of Strike, therein alleging mass termination of employees, continuous intimidation of union members and defiance by the petitioner of the January 23, 1995 Order of the Secretary of Labor.

"On March 28, 1995, the respondent Secretary of Labor issued an order resolving the issues raised by the Union in its Motion for Reconsideration and Notice of Strike. Dispositively, the order reads:

'WHEREFORE, THE ABOVE-PREMISES CONSIDERED, the directives contained in the order dated 23 January 1995 is hereby reiterated.

'The notice of strike filed on 10 March 1995, is hereby consolidated with the dispute subject of the above Order.

'The effects of the suspension and termination of the following union members:

- | | |
|-----------------------|-----------------------|
| 1. Agapito Renomeron | 8. Jovita Mamburan |
| 2. Rodolfo Andon | 9. Alma Villacarlos |
| 3. Delfa Diapuez | 10. Josie Boston |
| 4. Melanie de la Rosa | 11. Paulina Palma Gil |
| 5. Angelina Abadilla | 12. Gemma Galope |
| 6. Leilan Concon | 13. Leah Cruza |
| 7. Mary Ann de Ramos | 14. Zenaida Canoy |

are hereby suspended pending determination of the legality thereof by this Office. Accordingly, they should likewise be accepted back to work under the same terms and conditions prevailing prior to the work stoppage.

'SO ORDERED.' (see pp. 5-6 of Annex "B", Petition)