

FIRST DIVISION

[G.R. No. 115077, April 18, 1997]

**PROGRESSIVE DEVELOPMENT CORPORATION-PIZZA HUT,
PETITIONER, VS. HON. BIENVENIDO LAGUESMA, IN HIS
CAPACITY AS UNDERSECRETARY OF LABOR, AND
NAGKAKAISANG LAKAS NG MANGGAGAWA (NLM)-KATIPUNAN,
RESPONDENTS.
D E C I S I O N**

KAPUNAN, J.:

On July 9, 1993, Nagkakaisang Lakas ng Manggagawa (NLM)-Katipunan (respondent Union) filed a petition for certification election with the Department of Labor (National Capital Region) in behalf of the rank and file employees of the Progressive Development Corporation (Pizza Hut) docketed as NCR Case No. NCR-OD-M-9307-020.^[1]

Petitioner filed on August 20, 1993, a verified Motion to Dismiss the petition alleging fraud, falsification and misrepresentation in the respondent Union's registration making it void and invalid. The motion specifically alleged that: a) respondent Union's registration was tainted with false, forged, double or multiple signatures of those who allegedly took part in the ratification of the respondent Union's constitution and by-laws and in the election of its officers that there were two sets of supposed attendees to the alleged organizational meeting that was alleged to have taken place on June 26, 1993; that the alleged chapter is claimed to have been supported by 318 members when in fact the persons who actually signed their names were much less; and b) while the application for registration of the charter was supposed to have been approved in the organizational meeting held on June 27, 1993, the charter certification issued by the federation KATIPUNAN was dated June 26, 1993 or one (1) day prior to the formation of the chapter, thus, there were serious falsities in the dates of the issuance of the charter certification and the organization meeting of the alleged chapter.

Citing other instances of misrepresentation and fraud, petitioner, on August 29, 1993, filed a Supplement to its Motion to Dismiss,^[2] claiming that:

1) Respondent Union alleged that the election of its officers was held on June 27, 1993; however, it appears from the documents submitted by respondent union to the BIR-DOLE that the Union's constitution and by-laws were adopted only on July 7, 1993, hence, there was no bases for the supposed election of officers on June 27, 1993 because as of this date, there existed no positions to which the officers could be validly elected;

2) Voting was not conducted by secret ballot in violation of Article 241, section (c) of the Labor Code;

3) The Constitution and by Laws submitted in support of its petition were not properly acknowledged and notarized.^[3]

On August 30, 1993, petitioner filed a Petition^[4] seeking the cancellation of the Union's registration on the grounds of fraud and falsification, docketed as BIR Case No. 8-21-83.^[5] Motion was likewise filed by petitioner with the Med-Arbiter requesting suspension of proceedings in the certification election case until after the prejudicial question of the Union's legal personality is determined in the proceedings for cancellation of registration.

However, in an Order dated September 29, 1993,^[6] Med-Arbiter Rasidali C. Abdullah directed the holding of a certification election among petitioner's rank and file employees. The Order explained:

x x x Sumasaklaw sa Manggagawa ng Pizza Hut is a legitimate labor organization in contemplation of law and shall remain as such until its very charter certificate is canceled or otherwise revoked by competent authority. The alleged misrepresentation, fraud and false statement in connection with the issuance of the charter certificate are collateral issues which could be properly ventilated in the cancellation proceedings.

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On appeal to the office of the Secretary of Labor, Labor Undersecretary Bienvenido E. Laguesma in a Resolution dated December 29, 1993^[8] denied the same.

A motion for reconsideration of the public respondent's resolution was denied in his Order^[9] dated January 27, 1994, hence, this special civil action for certiorari under Rule 65 of the Revised Rules of Court where the principal issue raised is whether or not the public respondent committed grave abuse of discretion in affirming the Med-Arbiter's order to conduct a certification election among petitioner's rank and file employees, considering that: (1) respondent Union's legal personality was squarely put in issue; (2) allegations of fraud and falsification, supported by documentary evidence were made; and (3) a petition to cancel respondent Union's registration is pending with the regional office of the Department of Labor and Employment.^[10]

We grant the petition.

In the public respondent's assailed Resolution dated December 29, 1993, the suggestion is made that once a labor organization has filed the necessary documents and papers and the same have been certified under oath and attested to, said organization necessarily becomes clothed with the character of a legitimate labor organization. The resolution declares:

Records show that at the time of the filing of the subject petition on 9 July 1993 by the petitioner NLM-KATIPUNAN, for and in behalf of its local affiliate Sumasaklaw sa Manggagawa ng Pizza Hut, the latter has been clothed with the status and/or character of a legitimate labor organization. This is so, because on 8 July 1993, petitioner submitted to the Bureau of Labor Relations (BLR), this Department, the following

documents: Charter Certificate, Minutes of the Organizational Meeting, List of Officers, and their respective addresses, financial statement, Constitution and By-Laws (CBL, and the minutes of the ratification of the CBL). Said documents (except the charter certificate) are certified under oath and attested to by the local union's Secretary/Treasurer and President, respectively.

As to the contention that the certification election proceedings should be suspended in view of the pending case for the cancellation of the petitioner's certificate of registration, let it be stressed that the pendency of a cancellation case is not a ground for the dismissal or suspension of a representation proceedings considering that a registered labor organization continues to be a legitimate one entitled to all the rights appurtenant thereto until a final valid order is issued canceling such registration.^[11]

In essence, therefore, the real controversy in this case centers on the question of whether or not, after the necessary papers and documents have been filed by a labor organization, recognition by the Bureau of Labor Relations merely becomes a ministerial function.

We do not agree.

In the first place, the public respondent's views as expressed in his December 29, 1993 Resolution miss the entire point behind the nature and purpose of proceedings leading to the recognition of unions as legitimate labor organizations. Article 234 of the Labor Code provides:

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.

A more than cursory reading of the aforecited provisions clearly indicates that the requirements embodied therein are intended as preventive measures against the commission of fraud. After a labor organization has filed the necessary papers and documents for registration, it becomes mandatory for the Bureau of Labor Relations

to check if the requirements under Article 234 have been sedulously complied with. If its application for registration is vitiated by falsification and serious irregularities, especially those appearing on the face of the application and the supporting documents, a labor organization should be denied recognition as a legitimate labor organization. And if a certificate of recognition has been issued, the propriety of the labor organization's registration could be assailed directly through cancellation of registration proceedings in accordance with Articles 238 and 239 of the Labor Code, or indirectly, by challenging its petition for the issuance of an order for certification election.

These measures are necessary - and may be undertaken simultaneously - if the spirit behind the Labor Code's requirements for registration are to be given flesh and blood. Registration requirements specifically 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 use the labor organization for illegitimate ends.^[12] Such requirements are a valid exercise of the police power, because the activities in which labor organizations, associations and unions of workers are engaged directly affect the public interest and should be protected.^[13]

Thus, in *Progressive Development Corporation vs. Secretary of Labor and Employment*,^[14] we held:

The controversy in this case centers on the requirements before a local or chapter of a federation may file a petition for certification election and be certified as the sole and exclusive bargaining agent of the petitioner's employees.

x x x

But while Article 257 cited by the Solicitor General directs the automatic conduct of a certification election in an unorganized establishment, it also requires that the petition for certification election must be filed by a legitimate labor organization. xxx

x x x

xxx. 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 or 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.

x x x

xxx. It is not this Court's function to augment the requirements prescribed by law in order to make them wiser or to allow greater protection to the workers and even