

## SECOND DIVISION

[ G.R. No. 119675, November 21, 1996 ]

**REPUBLIC PLANTERS BANK GENERAL SERVICES EMPLOYEES  
UNION – NATIONAL ASSOCIATION OF TRADE UNIONS,  
PETITIONER, VS. BIENVENIDO LAGUESMA AND REPUBLIC  
PLANTERS BANK, RESPONDENTS.**

### D E C I S I O N

**PUNO, J.:**

Republic Planters bank General Services Employees Union-National Association of Trade Unions (petitioner) seeks to annul the resolution rendered by Undersecretary Bienvenido Laguesma, dismissing its petition for certification election for lack of merit.

The facts show that on January 21, 1991, petitioner filed a petition for certification election to determine the sole and exclusive bargaining representative of all **regular** employees **outside** the bargaining unit of Republic Planters Bank.<sup>[1]</sup> The proposed bargaining unit is composed of clerks, messengers, janitors, plumbers, telex operators, mailing and printing personnel, drivers, mechanics and computer personnel. Allegedly, these employees are regular employees but are considered as contractual employees by private respondent bank. They are excluded from the existing collective bargaining agreement between private respondent and Republic Planters Bank Employees Union (RPBEU), the duly certified bargaining representative of the regular employees of private respondent.

Private respondent filed its position paper and moved to dismiss the petition for certification election. Firstly, it contended that petitioner union is comprised of some thirty (30) employees of Superior Maintenance Services, Inc. (SMSI)<sup>[2]</sup> who are assigned to the bank as messengers and janitors under a Contract of Services. The other employees in the proposed bargaining unit are employed on "contractual basis" and are not members of petitioner. Secondly, it stressed the existence of a bargaining unit represented by Republic Planters Bank Employees Union (RPBEU). Thirdly, it alleged that the petition failed to state the number of employees in the proposed bargaining unit and there is no prior determination that the members of petitioner are employees of private respondent.

Petitioner opposed the motion to dismiss and averred that the proposed unit is not part of the existing bargaining unit. Petitioner further argued that some of its members had been in the employ of private respondent for more than six (6) months. Allegedly, they perform services that are necessary and desirable to the usual business operations of private respondent. As to its members performing janitorial and messengerial services for private respondent, petitioner contended that Superior Maintenance Services, Inc. (SMSI) is engaged in 'labor-only' contracting.

Med-Arbiter Anastacio Bactin dismissed the petition for certification election on the ground that there is already a certified bargaining agent representing the appropriate bargaining unit within private respondent. Thus, if qualified, the employees who were excluded from the existing collective bargaining agreement may join the existing bargaining unit in accord with the one-union, one-company policy of the Department of Labor and Employment. The dispositive portion of the Med-Arbiter's Order<sup>[3]</sup> states:

"WHEREFORE, premises considered, the petition for certification election is hereby DISMISSED for lack of legal basis.

"The employees who are rendering services to the respondent Bank as clerks, messengers, plumbers, teles operators, mailing and printing personnel, drivers, mechanics, and computer personnel are hereby DECLARED as employees Republic Planters Bank. Since they are employees of the bank, they may join the existing bargaining agent of the rank and file employees of the respondent bank.

"However, the janitors who are tasked to clean the premises of the bank are classified as employees of Superior Maintenance Services, Incorporated since their job is not related to the main business of the respondent bank.

"SO ORDERED."

Private respondent interposed an appeal protesting the finding of employer-employee relationship. On December 21, 1992, Undersecretary Bienvenido Laguesma reversed the Order of the Med-arbiter.<sup>[4]</sup>

Petitioner filed a Motion for Reconsideration.<sup>[5]</sup> It submitted additional documentary evidence prepared by some of the contractual employees, namely, Concepcion L. Garcia (messenger), Noel Guevarra (machine operator), Consuelo David (clerk typist), Maria Trinita M. Samson ((clerk typist), and Rodelio Tabernilla (messenger).<sup>[6]</sup>

Private respondent opposed the motion for reconsideration on the ground that the documents submitted for the first time on appeal are inadmissible in evidence. The documents were also denounced as self-serving.

On May 10, 1993, Undersecretary Laguesma modified the December 21, 1992 Resolution, thus:

"WHEREFORE, the questioned Order is hereby modified by declaring that Concepcion L. Garcia, Noel Gavarra, Consuelo David, Maria Trinita M. Samson, and Rodelio Tabernilla are regular employees of respondent bank and therefore, part of the existing rank and file unit.

"SO ORDERED."

Both parties moved for reconsideration of the May 10, 1993 Order. Petitioner sought a ruling that the other workers in the proposed bargaining unit should also