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or *reclusion perpetua* are vested by the Constitution and Judiciary Act within the exclusive appellate jurisdiction of this Court[3]) is of the opinion that the penalty of death or life imprisonment should be imposed, it shall refrain from rendering (entering) judgment and shall forthwith certify the case to the Supreme Court for final determination as if the case had been brought before the Supreme Court on appeal.

However, since this Court by a majority vote in the said case of *Daniel* has overruled this long standing doctrine and would now require the Court of Appeals to "render judgment expressly and explicitly imposing the penalty of either death or *reclusion perpetua* as the circumstances warrant, refrain from entering judgment and forthwith certify the case and elevate the entire record thereof to this Court for review" and such majority vote has prevailed to now, I am constrained to defer thereto and concur in the result.

FIRST DIVISION

[G.R. No. L-48192. March 30, 1979]

ARSENIO REYES, R. ZINGAPAN, E. SERRANO, P. SISON, L. MENDOZA, F. PEREZ, O. CRUZ, E. BAUTISTA, H. ANGCIANGCO, G. SANTOS, R. PINEDA, J. LLENAS, R. VALDEZEO, C. HERNAL, S. TRIPOLI, D. TRINE, P. MAGAT, N. NATAGOC, J. SASIS AND CRISPA-FLORO WORKERS' ASSN., *petitioners, vs.* **THE HONORABLE BLAS OPLE, CARMELO C. NORIEL and ROMEO A. YOUNG and NAFLU,** *respondents.*

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[3] Art. X, Sec. 5, sub-par. (2) (d), 1973 Constitution, Art. VIII, Sec. 2 (4) 1935 Constitution; and Section 17 of the Judiciary Act, (RA 296).

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SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; LABOR UNION; UNREGISTERED LABOR UNION LACKS THE PERSONALITY OF A LABOR ORGANIZATION. — Respondents' dismissal of petitioners protest on the ground that the local union's disaffiliation from its mother federation had not yet been formalized and therefore lacks the personality of a labor organization is correct. Petitioners were well of the calling of the certification election for determining the union chosen by the workers themselves to represent them as their bargaining representative but limited themselves to sending letters to the Bureau of Labor Relations asking for "leave to intervene" and that "pending resolution of our intervention, may we request that this issue be deferred" and another letter alleging that they had disaffiliated CFWA from the mother federation TUPAS. Respondents had properly ruled that disaffiliated from TUPAS, CFWA had no personality not having been duly registered as such, hence, they cannot be held to have acted with grave abuse of discretion.

2. ID.; ID.; CERTIFICATION ELECTION; WORKERS ENTITLED TO CHOOSE THEIR COLLECTIVE BARGAINING REPRESENTATIVE. — The Court has consistently favored and upheld the holding of certification elections for the workers themselves to elect the union that the majority may choose as their bargaining representative or if they wish, to vote that there be no union.

APPEARANCES OF COUNSEL

B.R. de Luna & Associates for petitioners.
Office of the Solicitor General for respondents.

D E C I S I O N

TEEHANKEE, *J.*:

The Court finds without merit the protest of petitioners against the holding and results of the certification election held in December, 1977 whereby the National Federation of Labor Unions (NAFLU) was certified as the sole and exclusive

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bargaining agent of the workers with the employer P. Floro & Sons, Inc. and therefore elected officers of the union Crispa Floro Workers Association (CFWA) in a "much delayed election of union officers on August 9, 1977" the outcome of which "was finally determined" only on November 22, 1977, due to an intra-union dispute among the workers-members aspiring to the leadership of the union (CFWA) — which then was officially affiliated with the Trade Unions of the Philippines and Allied Services (TUPAS).

The individual petitioners, as alleged in their petition, were declared the duly elected officers of the union Crispa Floro Workers Association (CFWA) in a "much delayed election of union officers on August 9, 1977" the outcome of which "was finally determined" only on November 22, 1977, due to an intra-union dispute among the workers-members aspiring to the leadership of the union (CFWA) — which then was officially affiliated with the Trade Unions of the Philippines and Allied Services (TUPAS)

On September 1, 1977, however, upon petition of the CFWA-TUPAS (at the instance of petitioners' opponents), the Bureau of Labor Relations called for a certification election at the employer company, P. Floro & Sons, Inc. Many pre-election conferences in the months of September to November, 1977 were held and all interested unions were allowed to intervene and the lists of voters-workers were agreed upon. The certification election was held on December 6, 1977 with no union emerging with a clear majority, as follows:

"1)	NAFLU	554
2)	CRISPA FLORO WORKERS ASSOCIATION-TUPAS	1
3)	FEDERATION OF FREE WORKERS (FFW)	524
4)	NATIONAL UNION OF GARMENT, *TEXTILE, CORDAGE & ALLIED* WORKERS OF THE PHIL. (GATCORD)	2

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5)	PLUM FEDERATION OF INDUSTRIAL & AGRARIAN WORKERS	136
6)	NO UNION	7
7)	SPOILED	29
	TOTAL	1,253"

Petitioners Reyes, *et al.*, under CFWA which they had disaffiliated from TUPAS and the PLUM both filed protests to set aside the election results. In the questioned Resolution of December 12, 1977, respondent Bureau of Labor Relations Director Carmelo C. Noriel dismissed the protests holding insofar as petitioners Reyes, *et al.* were concerned that their move to disaffiliate from the mother federation (TUPAS) had not been formalized beforehand, that they could not utilize just the name of Crispa Floro Workers Association which was not registered by itself and did not have the required personality of a labor organization and that they and their supporters could have duly intervened in the elections "still under aegis of the CFWA-TUPAS," as follows:

"Anent Reyes *et al.*'s assertion of grave abuse of discretion, the same may have been given credence, if they had been possessed of the requisite personality to intervene. Apparently, the Med-Arbiter's inaction on their move to intervene was a tacit recognition of the fact that Reyes, *et al.*'s group, in utilizing the name of Crispa Floro Workers Association, was not yet possessed of the required personality of a legitimate labor organization. This is so, as officially, Crispa Floro Workers Association is still an affiliate of the Trade Unions of the Philippines and Allied Services (TUPAS), one of the intervenors in the instant case. Their move to disaffiliate from the mother federation was sad to state, never formalized beforehand. What is apparent from the record of this case, is an unfortunate intra-union squabble among two sets of officers, one group headed by Reyes, *et al.* and another group of defeated officers, the one advocating disaffiliation from the mother federation and the other eventually supporting the other intervenor unions in this case. Officially therefore, as there is no formal disaffiliation made, the herein aggrupation which is shown to be just a set of newly elected officers without any noticeable union members supporting them, could have

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only intervened still under the aegis of the Crispa Floro Workers Association-TUPAS. To have procrastinated on the holding of the certification election by mere reason of this unfortunate incident that happened in one of the intervenor unions, would have equally deprived the others of their legitimate right to represent the already restive workers at the aforementioned corporation. This Office chose the latter alternative. It could not have done otherwise."[1]

Respondent Noriel accordingly ordered the holding of a run-off election on December 14, 1977 between the two unions that had gathered the top two places at which the NAFLU emerged with 664 votes as the winner of an absolute majority of the 1,253 votes cast (with FFW receiving 566 votes and 23 votes declared spoiled) and was subsequently certified on December 20, 1977 as the exclusive bargaining representative of all the workers of the employer company.

Hence, this petition filed on May 5, 1978 after petitioners had failed to obtain reconsideration from respondents Noriel and Ople as Secretary (now Minister) of Labor.

The correctness of respondents' questioned actions was confirmed at the hearing held by the Court on March 2, 1979 and respondents cannot be held to have acted with grave abuse of discretion. Petitioners were well aware of the calling of the certification election for determining the union chosen by the workers themselves to represent them as their bargaining representative but limited themselves to sending letters to the Bureau of Labor Relations, one on November 23, 1977 asking for "leave to intervene" and that "pending resolution of our intervention, may we request that this issue be deferred" and another letter on November 28, 1977 alleging that they had disaffiliated CFWA from the mother federation TUPAS. Respondents had properly ruled that disaffiliated from TUPAS, CFWA had no personality, not having been duly registered as such. The certification of July 25, 1978 to this effect issued by the Bureau of Labor Relations and submitted by the Solicitor

[1] *Rollo*, p. 23.

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General on behalf of respondents public officials clearly bears this out, thus:

"This is to certify that based on the records of this Office, CRISPA-FLORO WORKERS ASSOCIATION is not a registered labor organization. However, CRISPA-FLORO WORKERS ASSOCIATION-TUPAS was registered in this Office on 14 February 1974 and was issued Registration Certification No. (Fed-404)-7184-IP-129."[2]

That the elections were held peacefully and orderly is not questioned by petitioners. The Court has consistently favored and upheld the holding of certification elections for the workers themselves to elect the union that the majority may choose as their bargaining representative or if they wish, to vote that there be no union. Their plea that another certification election be held at which they may duly take part would be but a futile exercise in the light of the results which were highlighted by the lack of any noticeable support for them by the rank and file, as well as by their admission at the hearing that the winner and certified union, the NAFLU, enjoys the workers' full support, having signed up more than a thousand of them as members.

ACCORDINGLY, the petition is dismissed and the restraining order issued on May 17, 1978 is lifted effective immediately. No costs.

Makasiar, Fernandez, Guerrero, De Castro, and *Melencio Herrera, JJ.*, concur.

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[2] *Rollo*, p. 78.