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SECOND DIVISION

[G.R. No. L-48367. January 16, 1979]

ASSOCIATED TRADE UNIONS-ATU (ATU-KILUSAN), *petitioner, vs.* **HON. CARMELO C. NORIEL, in his capacity as Director of THE BUREAU OF LABOR RELATIONS, DEPARTMENT OF LABOR, FEDERATION OF FREE WORKERS (SYNTHETIC MARKETING AND INDUSTRIAL CORPORATION CHAPTER), AND SYNTHETIC MARKETING AND INDUSTRIAL CORPORATION,** *respondents.*

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; CERTIFICATION ELECTION; PURPOSE.** — It is the clear intendment of the New Labor Code to facilitate the holding of a certification election, the democratic means to ascertain in a manner definitive and certain which labor organization will be chosen to represent the workers in a collective bargaining unit.

2. **ID.; ID.; ID.; CONTRACT-BAR RULE DOES NOT APPLY TO THE CASE AT BAR.** — The renewed collective bargaining agreement cannot constitute a bar to the instant petition for certification election where the said collective bargaining agreement was certified after the instant petition for certification had been filed by herein respondent union, and its certification was conditioned upon the fact that there was no pending petition for certification election with the Bureau of Labor Relations; and where the new collective bargaining agreement was entered into during the lifetime of the old collective bargaining agreement.

3. **ID.; ID.; ID.; PREMATURE RENEWAL OF COLLECTIVE BARGAINING AGREEMENT TO AVOID CERTIFICATION ELECTION, VIOLATIVE OF EMPLOYEE'S RIGHT TO SELF-ORGANIZATION.** — Where management and petitioner proceeded with such indecent haste in renewing their collective bargaining agreement way ahead of the "sixty-day freedom

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period" in their obvious desire to frustrate the will of the rank-and-file employees in selecting their collective bargaining representative, to countenance such actuation would be violative of the employees' constitutional right to self-organization.

APPEARANCES OF COUNSEL

Quintin B. Muning for petitioner.
Romeo P. Torres for respondent Federation, etc.
Simeon D. Canlas for respondent Corporation.
Solicitor General Estelito P. Mendoza, Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz for Public respondent.

D E C I S I O N

FERNANDO, *J.*:

Apparently mindful of the state of the law on the subject, petitioner Union, in this *certiorari* proceeding, took pains in a rather elaborate pleading to justify its claim that there was a denial of procedural due process when respondent Director of the Bureau of Labor Relations affirmed the actuation of a Med-Arbiter ordering a certification election,[1] Its labored effort, as will be shown, was none too successful. It did try to impress on this Court that the Med-Arbiter was quite arbitrary in granting respondent Union's plea for a certification election alleging that there was neither "prior inquiry nor investigation of whatever kind."[2] There was nothing in the order of such official, annexed to its petition, that would support such contention.[3] Moreover, its main reliance was the operation of a contract-bar rule, but unfortunately for petitioner, the Med-Arbiter ascertained that petitioner Union, without waiting for the expiration of the existing

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[1] The Federation of Free Workers and the Synthetic Marketing and Industrial Corporation are the private respondents.

[2] Petition, par. 6.

[3] *Ibid.*, par. 6, Annex E.

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contract, and with the end in view of avoiding a certification election, was able to persuade management to renew it.[4] It ought not to have been surprised, therefore, when respondent Director affirmed the order holding of a certification election on appeal and at the same time decertified the new collective bargaining contract which was tainted by pre-maturity and, therefore, not entitled to respect.

The Comment of the public respondent, filed by Solicitor General Estelito P. Mendoza,[5] objectively clarified the relevant facts in the following manner: "On September 13, 1977, the local chapter of the Federation of Free Workers (Synthetic Marketing and Industrial Corporation Chapter) filed a petition for certification election among the regular rank-and-file employees of the Synthetic Marketing and Industrial Corporation. The petition alleged, among others, that it commands the great majority of the rank-and-file employees of the bargaining unit, and that more than 30% of the total work force supported its petition, attaching the signatures of said union members. The petition admitted the existence of another union in the establishment, the Associated Trade Unions (ATU-KILUSAN) and the existence of a CBA to expire on October 31, 1977. It was further alleged that there has been no certification election in the company for the last twelve months preceding the filing of the petition. Both the Company and the Associated Trade Unions opposed the petition on the ground that it is contract-barred by virtue of the existence of a duly registered CBA with the BLR entered into between parties on May 10, 1977. Petitioning union, on the other hand, assailed the validity of the said CBA on the ground that the same had been executed five (5) months and twenty-one (21) days prior to the expiration of the old CBA which was supposed to expired October 31, 1977 and was not ratified by members of the bargaining unit. On January 9, 1977, the Med-Arbiter assigned to the case issued

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[4] *Ibid.*

[5] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.

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an Order calling for a certification election * * *. From the aforesaid Order of the Arbiter, the Associated Trade Unions (ATU-KILUSAN) appealed to the Bureau of Labor Relations. In a resolution dated May 29, 1978, BLR Director Carmelo C. Noriel affirmed the Order of the Med-Arbiter calling for an election, at the same time setting aside its certification of the CBA concluded between the Synthetic Marketing and Industrial Corporation and the Associated Trade Unions * * *. Not satisfied with the last-mentioned resolution of the BLR Director, the Associated Trade Unions (ATU-KILUSAN) filed the instant petition for review with prayer for preliminary injunction."[6]

The lack of merit of this petition is thus quite manifest. It calls for dismissal.

1. It is true that where the challenged order of labor, officials could be shown to be tainted by unfairness or arbitrariness, whether in the procedural or substantive sense, a due process question arises. Clearly, then, the corrective power of this Tribunal to assure that an administrative agency adheres to such cardinal primary right[7] comes into play. It is equally undeniable that this Court has never allowed itself to be a party to any scheme, however ingeniously devised, to thwart the clear intendment of the New Labor Code[8] facilitate the holding of a certification election, the democratic means to ascertain in a manner definitive and certain which labor organization will be chosen to represent the workers in a collective bargaining unit. It is quite futile then for petitioner Union to hope that this Tribunal, contrary to a long line of decisions[9] notable for their

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[6] Comment, 1-3.

[7] Cf. *Ang Tibay v. Court*, 69 Phil. 635, 642 (1940).

[8] Presidential Decree No. 442.

[9] Cf. *Federation Obrera v. Noriel*, L-41937, July 6, 1976, 72 SCRA 24; *UE Automotive Employees and Workers Union-Trade Unions of the Philippines and Allied Services v. Noriel*, L-44350, Nov. 25, 1976, 74 SCRA 72; *Philippine Labor Alliance Council v. Bureau of Labor Relations*, L-41288, Jan. 31, 1977, 74 SCRA 162; *Today's Knitting Free Workers Union*

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unanimity, would now gratify an aspiration devoid of legitimacy. It ought to have been cautioned likewise by a realization that the matter sought to be litigated as to the requisite number of signatures being factual, its chances of having a determination by the administrative agency concerned were less than minimal.[10]

2. The point was likewise made that the contract-bar rule would preclude a certification election. That was to ignore the decertification of the collèctive bargaining agreement which was hastily and prematurely entered into precisely for the purpose of avoiding the holding of the certification election. This aspect of the case was extensively gone into in the Comment Solicitor General Mendoza. Thus: "The only issue to be determined in the instant case is whether or not the renewed CB forged between the respondent company and petitioner union constitutes a bar to the holding of a certification election. The record shows that the old CBA of petitioner ATU-KILUSAN with respondent Synthetic Marketing and Industrial Corporation was to expire on October 31, 1977. However, 5 months and 21 days before its expiry date, or on May 10, 1977, ATU-KILUSAN renewed the same with the consent and collaboration of management, The renewed CBA was then submitted to the Bureau of Labor Relations for certification on July 8, 1977, or approximately 3 months prior to the expiration of the outgoing CBA. In the

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v. Noriel, L-45057, Feb. 28, 1977, 75 SCRA 450; *Benguet Exploration Miner's Union v. Noriel*, L-44110, March 29, 1977, 76 SCRA 107; *Kapisanan v. Noriel*, L-45475, June 20, 1977, 77 SCRA 414; *Rowell Labor Union-Trade Unions of the Philippines v. Ople*, L-52270, July 29, 1977, 78 SCRA 166; *Vassar Industries Employees Union v. Estrella*, L-44652, March 31, 1978; *National Mines and Allied Workers Union v. Luna*, L-46722, June 15, 1978, *General Textiles Allied Workers Association v. Director of Bureau of Labor Relations*, July 31, 1973; *Scout Ramos Albano Memorial College v. Noriel*, L-48347, October 3, 1978.

[10] Cf. *Antipolo Highway Lines v. Inciong*, L-38532, June 27, 1975, 64 SCRA 441; *Jacqueline Industries v. National Labor Relations Commission*, L-37034, Aug. 29, 1975, 66 SCRA 397; *Federacion Obrera v. Noriel*, L-41937, July 6, 1976, 72 SCRA 24; *Kapisanan ng mga Manggagawa v. Noriel*, L-45475, June 20, 1977, 77 SCRA 414; *Monark International, Inc. v. Noriel*, L-47570-71, May 11, 1978.

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meantime, on September 13, 1977 (48 days before the expiration of the old CBA on October 31, 1977), a petition for certification election was filed by respondent union, the Federation of Free Workers. Meanwhile, the renewed CBA between petitioner ATU-KILUSAN and respondent company was certified on October 3, 1977 or twenty-eight days before their old CBA was to expire. From the foregoing it is quite obvious that the renewed CBA cannot constitute a bar to the instant petition for certification election. In the first place, the said CBA was certified after the instant petition for certification had been filed by herein respondent union, and its certification was conditioned upon the fact that there was no pending petition for certification election with the Bureau of Labor Relations * * *. In the second place, the new CBA which was to expire on October 31, 1977. Hence, said new CBA was not yet in existence when the instant petition for certification election was filed on September 13, 1977. Said new CBA was to become effective on November 1, 1977 after the old CBA expires on October 31, 1977, and this, if no representation issue had arisen in the meantime, which is not the case. Clearly, therefore, the contract-bar rule does not apply to the case at bar. Finally, it is undubitably clear from the facts heretofore unfolded that management and petitioner herein proceeded with such indecent haste in renewing their CBA way ahead of the 'sixty-day freedom period' in their obvious desire to frustrate the will of the rank-and file employees in selecting their collective bargaining representative. To countenance the actuation of the company and the petitioner herein would be violative of the employees' constitutional right to organization.[11]

WHEREFORE, the instant petition is dismissed for lack of merit. The temporary restraining order issued by resolution of this Court of August 7, 1978 is hereby lifted and declared to be of no force and effect. The certification election should be conducted as soon as possible. No costs.

Barredo, Antonio, Aquino, Concepcion Jr., and *Santos, JJ.*, concur.

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[11] *Ibid.*, 3-5.