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Accordingly, accused-appellant Enrico Mirondo *y* Izon is **ACQUITTED** on reasonable doubt.

The Director of the Bureau of Corrections is directed to cause the immediate release of the accused-appellant, unless the latter is being lawfully held for another cause and to inform the Court of the date of his release or reason for his continued confinement, within five (5) days from notice.

SO ORDERED.

Brion (Acting Chairperson),[*] *Peralta,*[**] *del Castillo,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 211145. October 14, 2015]

SAMAHAN NG MANGGAGAWA SA HANJIN SHIPYARD rep. by its President, ALFIE ALIPIO, *petitioner*, *vs*. **BUREAU OF LABOR RELATIONS, HANJIN HEAVY INDUSTRIES AND CONSTRUCTION CO., LTD. (HHIC-PHIL.),** *respondents*.

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; LABOR ORGANIZATION; RIGHT TO SELF-ORGANIZATION INCLUDES THE RIGHT FORM AND JOIN A UNION, WORKERS' ASSOCIATION AS WELL AS LABOR-MANAGEMENT COUNCILS; DISCUSSED.—

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[*] Per Special Order No. 2222, dated September 29, 2015.

[**] Per Special Order No. 2223, dated September 29, 2015.

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More often than not, the right to self-organization connotes unionism. Workers, however, can also form and join a workers' association as well as labor-management councils *(LMC)*. Expressed in the highest law of the land is the right of all workers to self-organization. x x x As Article 246 (now 252) of the Labor Code provides, the right to self-organization includes the right to form, join or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection. This is in line with the policy of the State to foster the free and voluntary organization of a strong and united labor movement as well as to make sure that workers participate in policy and decision-making processes affecting their rights, duties and welfare. The right to form a union or association or to self-organization comprehends two notions, to wit: (a) the liberty or freedom, that is, the absence of restraint which guarantees that the employee may act for himself without being prevented by law; and (b) the power, by virtue of which an employee may, as he pleases, join or refrain from joining an association.

2. ID.; ID.; ID.; LABOR ORGANIZATION, DEFINED; RIGHTS OF LABOR ORGANIZATION.— In view of the revered right of every worker to self-organization, the law expressly allows and even encourages the formation of labor organizations. A labor organization is defined as "any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment." A labor organization has two broad rights: (1) to bargain collectively and (2) to deal with the employer concerning terms and conditions of employment. To bargain collectively is a right given to a union once it registers itself with the DOLE. Dealing with the employer, on the other hand, is a generic description of interaction between employer and employees concerning grievances, wages, work hours and other terms and conditions of employment, even if the employees' group is not registered with the DOLE.

3. ID.; ID.; ID.; UNION DISTINGUISHED FROM WORKERS' ASSOCIATION; A WORKERS' ASSOCIATION OR ORGANIZATION DOES NOT ALWAYS HAVE TO BE A LABOR UNION AND EMPLOYER-EMPLOYEE

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COLLECTIVE INTERACTIONS ARE NOT ALWAYS COLLECTIVE BARGAINING.— A union refers to any labor organization in the private sector organized for collective bargaining and for other legitimate purpose, while a workers' association is an organization of workers formed for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining. Many associations or groups of employees, or even combinations of only several persons, may qualify as a labor organization yet fall short of constituting a labor union. While every labor union is a labor organization, not every labor organization is a labor union. The difference is one of organization, composition and operation. Collective bargaining is just one of the forms of employee participation. Despite so much interest in and the promotion of collective bargaining, it is incorrect to say that it is the device and no other, which secures industrial democracy. It is equally misleading to say that collective bargaining is the end-goal of employee representation. Rather, the real aim is **employee participation** in whatever form it may appear, bargaining or no bargaining, union or no union. Any labor organization which may or may not be a union may deal with the employer. This explains why a workers' association or organization does not always have to be a labor union and why employer-employee collective interactions are not always collective bargaining.

4. ID.; ID.; ID.; THE EXISTENCE OF EMPLOYER-EMPLOYEE RELATIONSHIP IS NOT MANDATORY IN THE FORMATION OF WORKERS' ASSOCIATION, AS THE LAW SIMPLY REQUIRES THAT THE MEMBERS OF THE WORKERS' ASSOCIATION SHARE THE SAME INTEREST.— To further strengthen employee participation, Article 255 (now 261) of the Labor Code mandates that workers shall have the right to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form LMCs. A cursory reading of the law demonstrates that a common element between unionism and the formation of LMCs is the existence of an employer-employee relationship. Where neither party is an employer nor an employee of the other, no duty to bargain collectively would exist. In the same manner, expressed in Article 255 (now 261) is the requirement that such workers

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be employed in the establishment before they can participate in policy and decision making processes. In contrast, the existence of employer-employee relationship is not mandatory in the formation of workers' association. What the law simply requires is that the members of the workers' association, at the very least, share the same interest. The very definition of a workers' association speaks of "mutual aid and protection."

5. **ID.; ID.; ID.; THE RIGHT TO FORM OR JOIN A LABOR ORGANIZATION NECESSARILY INCLUDES THE RIGHT TO REFUSE OR REFRAIN FROM EXERCISING THE SAID RIGHT, JUST AS NO ONE SHOULD BE DENIED THE EXERCISE OF A RIGHT GRANTED BY LAW, SO ALSO, NO ONE SHOULD BE COMPELLED TO EXERCISE SUCH A CONFERRED RIGHT.—** [T]he Court cannot sanction the opinion of the CA that Samahan should have formed a union for purposes of collective bargaining instead of a workers' association because the choice belonged to it. The right to form or join a labor organization necessarily includes the right to refuse or refrain from exercising the said right. It is self-evident that just as no one should be denied the exercise of a right granted by law, so also, no one should be compelled to exercise such a conferred right. Also inherent in the right to self-organization is the right to choose whether to form a union for purposes of collective bargaining or a workers' association for purposes of providing mutual aid and protection. The right to self-organization, however, is subject to certain limitations as provided by law. For instance, the Labor Code specifically disallows managerial employees from joining, assisting or forming any labor union. Meanwhile, supervisory employees, while eligible for membership in labor organizations, are proscribed from joining the collective bargaining unit of the rank and file employees. Even government employees have the right to self-organization. It is not, however, regarded as existing or available for purposes of collective bargaining, but simply for the furtherance and protection of their interests.

6. **ID.; ID.; ID.; THE OPTION TO FORM OR JOIN A UNION OR A WORKERS' ASSOCIATION LIES WITH THE WORKERS THEMSELVES, AND WHETHER THEY HAVE DEFINITE EMPLOYERS OR NOT.—** Hanjin posits that the members of Samahan have definite employers, hence,

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they should have formed a union instead of a workers' association. The Court disagrees. There is no provision in the Labor Code that states that employees with definite employers may form, join or assist unions only. x x x [T]here is nothing in the x x x implementing rules which provides that workers, with definite employers, cannot form or join a workers' association for mutual aid and protection. Section 2 of Rule II of Department Order No. 40-03 Series of 2003 even broadens the coverage of workers who can form or join a workers' association. Thus, the Court agrees with Samahan's argument that the right to form a workers' association is not exclusive to ambulant, intermittent and itinerant workers. The option to form or join a union or a workers' association lies with the workers themselves, and whether they have definite employers or not.

7. **ID.; ID.; ID.; MISREPRESENTATION, TO BE A GROUND FOR THE CANCELLATION OF THE CERTIFICATE OF REGISTRATION OF A LABOR ORGANIZATION , MUST BE DONE MALICIOUSLY AND DELIBERATELY AND THE MISTAKES APPEARING IN THE APPLICATION OR ATTACHMENTS MUST BE GRAVE OR REFER TO SIGNIFICANT MATTERS.—** In this case, Samahan's registration was cancelled not because its members were prohibited from forming a workers' association but because they allegedly committed misrepresentation for using the phrase, "*KAMI, ang mga Manggagawa sa HANJIN Shipyard*." Misrepresentation, as a ground for the cancellation of registration of a labor organization, is committed "in connection with the adoption, or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, the list of members who took part in the ratification of the constitution and by-laws or amendments thereto, and those in connection with the election of officers, minutes of the election of officers, and the list of voters, x x x." x x x. [T]he Court concludes that misrepresentation, to be a ground for the cancellation of the certificate of registration, must be done maliciously and deliberately. Further, the mistakes appearing in the application or attachments must be grave or refer to significant matters. The details as to how the alleged fraud was committed must also be indubitably shown. The records of this case reveal no deliberate or malicious intent to commit

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misrepresentation on the part of Samahan. The use of such words "*KAMI, ang mga Manggagawa sa HANJIN Shipyard"* in the preamble of the constitution and by-laws did not constitute misrepresentation so as to warrant the cancellation of Samahan's certificate of registration. Hanjin failed to indicate how this phrase constitutes a malicious and deliberate misrepresentation. Neither was there any showing that the alleged misrepresentation was serious in character. Misrepresentation is a devious charge that cannot simply be entertained by mere surmises and conjectures. Even granting arguendo that Samahan's members misrepresented themselves as employees or workers of Hanjin, said misrepresentation does not relate to the adoption or ratification of its constitution and by-laws or to the election of its officers.

8. ID.; ID.; ID.; THE CHANGE OF NAME OF A LABOR ORGANIZATION SHALL NOT AFFECT ITS LEGAL PERSONALITY AND ALL THE RIGHTS AND OBLIGATIONS OF A LABOR ORGANIZATION UNDER ITS OLD NAME SHALL CONTINUE TO BE EXERCISED BY THE LABOR ORGANIZATION UNDER ITS NEW NAME; REMOVAL OF THE WORDS "HANJIN SHIPYARD" FROM THE ASSOCIATION'S NAME DOES NOT INFRINGE ITS RIGHT TO SELF-ORGANIZATION IN CASE AT BAR.— As there is no provision under our labor laws which speak of the use of name by a workers' association, the Court refers to the Corporation Code, which governs the names of juridical persons. Section 18 thereof provides: No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is **identical** or **deceptively** or **confusingly similar** to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing laws. When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name. The policy underlying the prohibition in Section 18 against the registration of a corporate name which is "identical or deceptively or confusingly similar" to that of any existing corporation or which is "patently deceptive" or "patently confusing" or "contrary to existing laws," is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations

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and duties, and the reduction of difficulties of administration and supervision over corporations. For the same reason, it would be misleading for the members of Samahan to use "Hanjin Shipyard" in its name as it could give the wrong impression that all of its members are employed by Hanjin. Further, Section 9, Rule IV of D.O. No. 40-03, Series of 2003 explicitly states: The change of name of a labor organization shall not affect its legal personality. All the rights and obligations of a labor organization under its old name shall continue to be exercised by the labor organization under its new name. Thus, in the directive of the BLR removing the words "Hanjin Shipyard," no abridgement of Samahan's right to self-organization was committed.

APPEARANCES OF COUNSEL

Virginia Lacsa Suarez for petitioner.
Christian Abello for private respondent.

D E C I S I O N

MENDOZA, *J.*:

The right to self-organization is not limited to unionism. Workers may also form or join an association for mutual aid and protection and for other legitimate purposes.

This is a petition for review on *certiorari* seeking to reverse and set aside the July 4, 2013 Decision[1] and the January 28, 2014 Resolution[2] of the Court of Appeals *(CA)* in CA-G.R. SP No. 123397, which reversed the November 28, 2011 Resolution[3] of the Bureau of Labor Relations *(BLR)* and reinstated the April 20, 2010 Decision[4] of the Department of Labor and Employment

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[1] *Rollo* pp. 22-30; penned by Associate Justice Hakim S. Abdulwahid, with Associate Justice Marlene Gonzales-Sison and Associate Justice Edwin D. Sorongon, concurring.

[2] *Id*. at 32.

[3] CA *rollo,* pp. 118-123.

[4] *Id*. at 86-91.

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(DOLE) Regional Director, cancelling the registration of Samahan ng Manggagawa sa Hanjin Shipyard *(Samahan)* as a worker's association under Article 243 (now Article 249) of the Labor Code.

The Facts

On February 16, 2010, Samahan, through its authorized representative, Alfie F. Alipio, filed an application for registration[5] of its name "*Samahan ng Mga Manggagawa sa Hanjin Shipyard"* with the DOLE. Attached to the application were the list of names of the association's officers and members, signatures of the attendees of the February 7, 2010 meeting, copies of their Constitution and By-laws. The application stated that the association had a total of 120 members.

On February 26, 2010, the DOLE Regional Office No. 3, City of San Fernando, Pampanga *(DOLE-Pampanga),* issued the corresponding certificate of registration[6] in favor of Samahan.

On March 15, 2010, respondent Hanjin Heavy Industries and Construction Co., Ltd. Philippines *(Hanjin),* with offices at Greenbeach 1, Renondo Peninsula, Sitio Agustin, Barangay Cawag, Subic Bay Freeport Zone, filed a petition[7] with DOLE-Pampanga praying for the cancellation of registration of Samahan's association on the ground that its members did not fall under any of the types of workers enumerated in the second sentence of Article 243 (now 249).

Hanjin opined that only ambulant, intermittent, itinerant, rural workers, self-employed, and those without definite employers may form a workers' association. It further posited that one third (1/3) of the members of the association had definite employers and the continued existence and registration of the association would prejudice the company's goodwill.

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[5] *Id*. at 31.

[6] *Id*. at 61.

[7] *Id*. at 62-68.

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On March 18, 2010, Hanjin filed a supplemental petition,[8] adding the alternative ground that Samahan committed a misrepresentation in connection with the list of members and/or voters who took part in the ratification of their constitution and by-laws in its application for registration. Hanjin claimed that Samahan made it appear that its members were all qualified to become members of the workers' association.

On March 26, 2010, DOLE-Pampanga called for a conference, wherein Samahan requested for a 10-day period to file a responsive pleading. No pleading, however, was submitted. Instead, Samahan filed a motion to dismiss on April 14, 2010.[9]

The Ruling of the DOLE Regional Director

On April 20, 2010, DOLE Regional Director Ernesto Bihis ruled in favor of Hanjin. He found that the preamble, as stated in the Constitution and By-Laws of Samahan, was an admission on its part that all of its members were employees of Hanjin, to wit:

> *KAMI, ang mga Manggagawa sa HANJIN Shipyard (SAMAHAN) ay naglalayong na isulong ang pagpapabuti ng kondisyon sa paggawa at katiyakan sa hanapbuhay sa pamamagitan ng patuloy na pagpapaunlad ng kasanayan ng para sa mga kasapi nito. Naniniwala na sa pamamagitan ng aming mga angking lakas, kaalaman at kasanayan ay aming maitataguyod at makapag-aambag sa kaunlaran ng isang lipunan. Na mararating at makakamit ang antas ng pagkilala, pagdakila at pagpapahalaga sa mga tulad naming mga manggagawa.*
>
> xxx xxx xxx[10]

The same claim was made by Samahan in its motion to dismiss, but it failed to adduce evidence that the remaining 63 members were also employees of Hanjin. Its admission bolstered Hanjin's claim that Samahan committed misrepresentation in its application for registration as it made an express representation that all of

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[8] *Id*. at 69-75.

[9] *Id*. at 87.

[10] *Id*. at 53.

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its members were employees of the former. Having a definite employer, these 57 members should have formed a labor union for collective bargaining.[11] The dispositive portion of the decision of the Dole Regional Director, reads:

> WHEREFORE, premises considered, the petition is hereby GRANTED. Consequently, the Certificate of Registration as Legitimate Workers Association (LWA) issued to the SAMAHAN NG MGA MANGGAGAWA SA HANJIN SHIPYARD (SAMAHAN) with Registration Numbers RO300-1002-WA-009 dated February 26, 2010 is hereby CANCELLED, and said association is dropped from the roster of labor organizations of this Office.
>
> SO DECIDED.[12]

The Ruling of the Bureau of Labor Relations

Aggrieved, Samahan filed an appeal[13] before the BLR, arguing that Hanjin had no right to petition for the cancellation of its registration. Samahan pointed out that the words "Hanjin Shipyard," as used in its application for registration, referred to a workplace and not as employer or company. It explained that when a shipyard was put up in Subic, Zambales, it became known as Hanjin Shipyard. Further, the remaining 63 members signed the *Sama-Samang Pagpapatunay* which stated that they were either working or had worked at Hanjin. Thus, the alleged misrepresentation committed by Samahan had no leg to stand on.[14]

In its Comment to the Appeal,[15] Hanjin averred that it was a party-in-interest. It reiterated that Samahan committed misrepresentation in its application for registration before DOLE Pampanga. While Samahan insisted that the remaining 63 members were either working, or had at least worked in Hanjin,

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[11] *Id*. at 86-91.

[12] *Id*. at 91.

[13] *Id*. at 92-100.

[14] *Id*. at 97.

[15] *Id*. at 101-114.

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only 10 attested to such fact, thus, leaving its 53 members without any workplace to claim.

On September 6, 2010, the BLR granted Samahan's appeal and reversed the ruling of the Regional Director. It stated that the law clearly afforded the right to self-organization to all workers including those without definite employers.[16] As an expression of the right to self-organization, industrial, commercial and self-employed workers could form a workers' association if they so desired but subject to the limitation that it was only for mutual aid and protection.[17] Nowhere could it be found that to form a workers' association was prohibited or that the exercise of a workers' right to self-organization was limited to collective bargaining.[18]

The BLR was of the opinion that there was no misrepresentation on the part of Samahan. The phrase, "*KAMI, ang mga Manggagawa sa Hanjin Shipyard,*" if translated, would be: "We, the workers at Hanjin Shipyard." The use of the preposition "at" instead of "of" would indicate that "Hanjin Shipyard" was intended to describe a place.[19] Should Hanjin feel that the use of its name had affected the goodwill of the company, the remedy was not to seek the cancellation of the association's registration. At most, the use by Samahan of the name "Hanjin Shipyard" would only warrant a change in the name of the association.[20] Thus, the dispositive portion of the BLR decision reads:

WHEREFORE, the appeal is hereby GRANTED. The Order of DOLE Region III Director Ernesto C. Bihis dated 20 April 2010 is REVERSED and SET ASIDE.

Accordingly, Samahan ng mga Manggagawa sa Hanjin Shipyard shall remain in the roster of legitimate workers' association.[21]

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[16] *Id*. at 121.

[17] *Id*. at 122.

[18] *Id*. at 121.

[19] *Id*.

[20] *Id*. at 123.

[21] *Id*.

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On October 14, 2010, Hanjin filed its motion for reconsideration.[22]

In its Resolution,[23] dated November 28, 2011, the BLR affirmed its September 6, 2010 Decision, but directed Samahan to remove the words "Hanjin Shipyard" from its name. The BLR explained that the Labor Code had no provision on the use of trade or business name in the naming of a worker's association, such matters being governed by the Corporation Code. According to the BLR, the most equitable relief that would strike a balance between the contending interests of Samahan and Hanjin was to direct Samahan to drop the name "Hanjin Shipyard" without delisting it from the roster of legitimate labor organizations. The *fallo* reads:

> WHEREFORE, premises considered, our Decision dated 6 September 2010 is hereby AFFIRMED with a DIRECTIVE for SAMAHAN to remove "HANJIN SHIPYARD" from its name.
>
> SO RESOLVED.[24]

Unsatisfied, Samahan filed a petition for *certiorari*[25] under Rule 65 before the CA, docketed as CA-G.R. SP No. 123397.

In its March 21, 2012 Resolution,[26] the CA dismissed the petition because of Samahan's failure to file a motion for reconsideration of the assailed November 28, 2011 Resolution.

On April 17, 2012, Samahan filed its motion for reconsideration[27] and on July 18, 2012, Hanjin filed its comment[28] to oppose the same. On October 22, 2012, the CA issued a

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[22] *Id*. at 124-140.

[23] *Id*. at 29-30.

[24] *Id*. at 30.

[25] *Id*. at 3-21.

[26] *Id*. at 144-145.

[27] *Id.* at 148-151.

[28] *Id*. at 159-163.

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resolution granting Samahan's motion for reconsideration and reinstating the petition. Hanjin was directed to file a comment five (5) days from receipt of notice.[29]

On December 12, 2012, Hanjin filed its comment on the petition,[30] arguing that to require Samahan to change its name was not tantamount to interfering with the workers' right to self-organization.[31] Thus, it prayed, among others, for the dismissal of the petition for Samahan's failure to file the required motion for reconsideration.[32]

On January 17, 2013, Samahan filed its reply.[33]

On March 22, 2013, Hanjin filed its memorandum.[34]

The Ruling of the Court of Appeals

On July 4, 2013, the CA rendered its decision, holding that the registration of Samahan as a legitimate workers' association was contrary to the provisions of Article 243 of the Labor Code.[35] It stressed that only 57 out of the 120 members were actually working in Hanjin while the phrase in the preamble of Samahan's Constitution and By-laws, "*KAMI, ang mga Manggagawa sa Hanjin Shipyard,*" created an impression that all its members were employees of HHIC. Such unqualified manifestation which was used in its application for registration, was a clear proof of misrepresentation which warranted the cancellation of Samahan's registration.

It also stated that the members of Samahan could not register it as a legitimate worker's association because the place where Hanjin's industry was located was not a rural area. Neither

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[29] *Id*. at 167-168.

[30] *Id*. at 183-222.

[31] *Id*. at 192.

[32] *Id*. at 220.

[33] *Id*. at 238-242.

[34] *Id*. at 246-267.

[35] *Id*. at 279.

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was there any evidence to show that the members of the association were ambulant, intermittent or itinerant workers.[36]

At any rate, the CA was of the view that dropping the words "Hanjin Shipyard" from the association name would not prejudice or impair its right to self-organization because it could adopt other appropriate names. The dispositive portion reads:

> WHEREFORE, the petition is DISMISSED and the BLR's directive, ordering that the words "Hanjin Shipyard" be removed from petitioner association's name, is AFFIRMED. The Decision dated April 20, 2010 of the DOLE Regional Director in Case No. R0300-1003-CP-001, which ordered the cancellation of petitioner association's registration is REINSTATED.
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> SO ORDERED.[37]

Hence, this petition, raising the following

ISSUES

I. THE COURT OF APPEALS SERIOUSLY ERRED IN FINDING THAT SAMAHAN CANNOT FORM A WORKERS' ASSOCIATION OF EMPLOYEES IN HANJIN AND INSTEAD SHOULD HAVE FORMED A UNION, HENCE THEIR REGISTRATION AS A WORKERS' ASSOCIATION SHOULD BE CANCELLED.

II. THE COURT OF APPEALS SERIOUSLY ERRED IN ORDERING THE REMOVAL/DELETION OF THE WORD *"HANJIN"* IN THE NAME OF THE UNION BY REASON OF THE COMPANY'S PROPERTY RIGHT OVER THE COMPANY NAME "HANJIN."[38]

Samahan argues that the right to form a workers' association is not exclusive to intermittent, ambulant and itinerant workers. While the Labor Code allows the workers "to form, join or assist labor organizations of their own choosing" for the purpose of collective bargaining, it does not prohibit them from forming

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[36] *Id*. at 278.

[37] *Rollo,* pp. 29-30.

[38] *Id*. at 12.

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a labor organization simply for purposes of mutual aid and protection. All members of Samahan have one common place of work, Hanjin Shipyard. Thus, there is no reason why they cannot use "Hanjin Shipyard" in their name.[39]

Hanjin counters that Samahan failed to adduce sufficient basis that all its members were employees of Hanjin or its legitimate contractors, and that the use of the name "Hanjin Shipyard" would create an impression that all its members were employess of HHIC.[40]

Samahan reiterates its stand that workers with a definite employer can organize any association for purposes of mutual aid and protection. Inherent in the workers' right to self-organization is its right to name its own organization. Samahan referred "Hanjin Shipyard" as their common place of work. Therefore, they may adopt the same in their association's name.[41]

The Court's Ruling

The petition is partly meritorious.

Right to self-organization includes right to form a union, workers' association and labor management councils

More often than not, the right to self-organization connotes unionism. Workers, however, can also form and join a workers' association as well as labor-management councils *(LMC)*. Expressed in the highest law of the land is the right of all workers to self-organization. Section 3, Article XIII of the 1987 Constitution states:

Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. **It shall guarantee**

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[39] *Id*. at 15.

[40] Comment, *id*. at 50-73.

[41] Reply, *id*. at 96-102.

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the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. xxx

[Emphasis Supplied]

And Section 8, Article III of the 1987 Constitution also states:

Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

In relation thereto, Article 3 of the Labor Code provides:

Article 3. *Declaration of basic policy*. The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers. **The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.**

[Emphasis Supplied]

As Article 246 (now 252) of the Labor Code provides, the right to self-organization includes the right to form, join or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose for their mutual aid and protection. This is in line with the policy of the State to foster the free and voluntary organization of a strong and united labor movement as well as to make sure that workers participate in policy and decision-making processes affecting their rights, duties and welfare.[42]

The right to form a union or association or to self-organization comprehends two notions, to wit: (a) the liberty or freedom, that is, the absence of restraint which guarantees that the employee may act for himself without being prevented by law; and (b)

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[42] Article 211 (now 217), Labor Code of the Philippines.

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the power, by virtue of which an employee may, as he pleases, join or refrain from joining an association.[43]

In view of the revered right of every worker to self-organization, the law expressly allows and even encourages the formation of labor organizations. A labor organization is defined as "any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment."[44] A labor organization has two broad rights: (1) to bargain collectively and (2) to deal with the employer concerning terms and conditions of employment. To bargain collectively is a right given to a union once it registers itself with the DOLE. Dealing with the employer, on the other hand, is a generic description of interaction between employer and employees concerning grievances, wages, work hours and other terms and conditions of employment, even if the employees' group is not registered with the DOLE.[45]

A union refers to any labor organization in the private sector organized for collective bargaining and for other legitimate purpose,[46] while a workers' association is an organization of workers formed for the mutual aid and protection of its members or for any legitimate purpose other than collective bargaining.[47]

Many associations or groups of employees, or even combinations of only several persons, may qualify as a labor organization yet fall short of constituting a labor union. While every labor union is a labor organization, not every labor

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[43] *Knitjoy Mfg., Inc. v. Ferrer-Calleja*, G.R. No. 81883, September 23, 1992, 214 SCRA 174.

[44] Article 218 (g), Labor Code of the Philippines.

[45] Azucena, *The Labor Code with Comments and Cases*, Volume 2, p. 127 (1996); Pascual, *Labor Relations Law*, pp. 35-36.

[46] Section 1 (zz), Omnibus Rules Implementing the Labor Code.

[47] Section 1 (ccc), Omnibus Rules Implementing the Labor Code.

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organization is a labor union. The difference is one of organization, composition and operation.[48]

Collective bargaining is just one of the forms of employee participation. Despite so much interest in and the promotion of collective bargaining, it is incorrect to say that it is the device and no other, which secures industrial democracy. It is equally misleading to say that collective bargaining is the end-goal of employee representation. Rather, the real aim is **employee participation** in whatever form it may appear, bargaining or no bargaining, union or no union.[49]Any labor organization which may or may not be a union may deal with the employer. This explains why a workers' association or organization does not always have to be a labor union and why employer-employee collective interactions are not always collective bargaining.[50]

To further strengthen employee participation, Article 255 (now 261)[51] of the Labor Code mandates that workers shall

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[48] Azucena, p. 13, *The Labor Code with Comments and Cases*, Volume 2, 7th Edition, 2010.

[49] Azucena, p. 417, *The Labor Code with Comments and Cases*, Volume 2, 7th Edition, 2010.

[50] *Supra* note 45.

[51] Article 255. Exclusive bargaining representation and workers' participation in policy and decision-making. The labor organization designated or selected by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of the employees in such unit for the purpose of collective bargaining. However, an individual employee or group of employees shall have the right at any time to present grievances to their employer.

Any provision of law to the contrary notwithstanding, workers shall have the right, subject to such rules and regulations as the Secretary of Labor and Employment may promulgate, to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form labor-management councils: Provided, That the representatives of the workers in such labor-management councils shall be elected by at least the majority of all employees in said establishment.

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have the right to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form LMCs.

A cursory reading of the law demonstrates that a common element between unionism and the formation of LMCs is the existence of an employer-employee relationship. Where neither party is an employer nor an employee of the other, no duty to bargain collectively would exist.[52] In the same manner, expressed in Article 255 (now 261) is the requirement that such workers be employed in the establishment before they can participate in policy and decision making processes.

In contrast, the existence of employer-employee relationship is not mandatory in the formation of workers' association. What the law simply requires is that the members of the workers' association, at the very least, share the same interest. The very definition of a workers' association speaks of "mutual aid and protection."

Right to choose whether to form or join a union or workers' association belongs to workers themselves

In the case at bench, the Court cannot sanction the opinion of the CA that Samahan should have formed a union for purposes of collective bargaining instead of a workers' association because the choice belonged to it. The right to form or join a labor organization necessarily includes the right to refuse or refrain from exercising the said right. It is self-evident that just as no one should be denied the exercise of a right granted by law, so also, no one should be compelled to exercise such a conferred right.[53] Also inherent in the right to self-organization is the right

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[52] *Allied Free Workers Union v. Compania Maritima*, 19 Phil. 258, 278-279 (1967). (Azucena 351)

[53] *Reyes v. Trajano*, 209 Phil. 484, 489 (1992).

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to choose whether to form a union for purposes of collective bargaining or a workers' association for purposes of providing mutual aid and protection.

The right to self-organization, however, is subject to certain limitations as provided by law. For instance, the Labor Code specifically disallows managerial employees from joining, assisting or forming any labor union. Meanwhile, supervisory employees, while eligible for membership in labor organizations, are proscribed from joining the collective bargaining unit of the rank and file employees.[54] Even government employees have the right to self-organization. It is not, however, regarded as existing or available for purposes of collective bargaining, but simply for the furtherance and protection of their interests.[55]

Hanjin posits that the members of Samahan have definite employers, hence, they should have formed a union instead of a workers' association. The Court disagrees. There is no provision in the Labor Code that states that employees with definite employers may form, join or assist unions only.

The Court cannot subscribe either to Hanjin's position that Samahan's members cannot form the association because they are not covered by the second sentence of Article 243 (now 249), to wit:

Article 243. *Coverage and employees' right to self-organization.* All persons employed in commercial, industrial and agricultural enterprises and in religious, charitable, medical, or educational institutions, whether operating for profit or not, shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of collective bargaining. **Ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers may form labor organizations for their mutual aid and protection.** (As amended by Batas Pambansa Bilang 70, May 1, 1980)

[Emphasis Supplied]

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[54] Section 2, Rule 2, Department Order No. 40-03, Series of 2003.

[55] *Arizala v. Court of Appeals*, 267 Phil. 615, 629 (1990).

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Further, Article 243 should be read together with Rule 2 of Department Order *(D.O.)* No. 40-03, Series of 2003, which provides:

RULE II

COVERAGE OF THE RIGHT TO SELF-ORGANIZATION

Section 1. Policy. — It is the policy of the State to promote the free and responsible exercise of the right to self-organization through the establishment of a simplified mechanism for the speedy registration of labor unions and workers associations, determination of representation status and resolution of inter/intra-union and other related labor relations disputes. Only legitimate or registered labor unions shall have the right to represent their members for collective bargaining and other purposes. Workers' associations shall have the right to represent their members for purposes other than collective bargaining.

Section 2. Who may join labor unions and workers' associations. — All persons employed in commercial, industrial and agricultural enterprises, including employees of government owned or controlled corporations without original charters established under the Corporation Code, as well as employees of religious, charitable, medical or educational institutions whether operating for profit or not, shall have the right to self-organization and to form, join or assist labor unions for purposes of collective bargaining: provided, however, that supervisory employees shall not be eligible for membership in a labor union of the rank-and-file employees but may form, join or assist separate labor unions of their own. Managerial employees shall not be eligible to form, join or assist any labor unions for purposes of collective bargaining. Alien employees with valid working permits issued by the Department may exercise the right to self-organization and join or assist labor unions for purposes of collective bargaining if they are nationals of a country which grants the same or similar rights to Filipino workers, as certified by the Department of Foreign Affairs.

For purposes of this section, any employee, whether employed for a definite period or not, shall beginning on the first day of his/her service, be eligible for membership in any labor organization.

All other workers, including ambulant, intermittent and other workers, the self-employed, rural workers and those without any

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definite employers may form labor organizations for their mutual aid and protection and other legitimate purposes **except collective bargaining.**

[Emphases Supplied]

Clearly, there is nothing in the foregoing implementing rules which provides that workers, with definite employers, cannot form or join a workers' association for mutual aid and protection. Section 2 thereof even broadens the coverage of workers who can form or join a workers' association. Thus, the Court agrees with Samahan's argument that the right to form a workers' association is not exclusive to ambulant, intermittent and itinerant workers. The option to form or join a union or a workers' association lies with the workers themselves, and whether they have definite employers or not.

No misrepresentation on the part of Samahan to warrant cancellation of registration

In this case, Samahan's registration was cancelled not because its members were prohibited from forming a workers' association but because they allegedly committed misrepresentation for using the phrase, "*KAMI, ang mga Manggagawa sa HANJIN Shipyard*."

Misrepresentation, as a ground for the cancellation of registration of a labor organization, is committed "in connection with the adoption, or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, the list of members who took part in the ratification of the constitution and by-laws or amendments thereto, and those in connection with the election of officers, minutes of the election of officers, and the list of voters, xxx."[56]

In *Takata Corporation v. Bureau of Relations,*[57] the DOLE Regional Director granted the petition for the cancellation of

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[56] Section 3, Rule XIV, Department Order No. 40-03, Series of 2003.

[57] G.R. No. 196276, June 4, 2014, 725 SCRA 61-76.

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certificate of registration of Samahang Lakas Manggagawa sa Takata *(Salamat)* after finding that the employees who attended the organizational meeting fell short of the 20% union registration requirement. The BLR, however, reversed the ruling of the DOLE Regional Director, stating that petitioner Takata Corporation *(Takata)* failed to prove deliberate and malicious misrepresentation on the part of respondent Salamat. Although Takata claimed that in the list of members, there was an employee whose name appeared twice and another was merely a project employee, such facts were not considered misrepresentations in the absence of showing that the respondent deliberately did so for the purpose of increasing their union membership. The Court ruled in favor of Salamat.

In *S.S. Ventures International v. S.S. Ventures Labor Union*,[58] the petition for cancellation of certificate of registration was denied. The Court wrote:

> **If the union's application is infected by falsification and like serious irregularities**, especially those appearing on the face of the application and its attachments, **a union should be denied recognition as a legitimate labor organization**. Prescinding from these considerations, the issuance to the Union of Certificate of Registration No. RO300-00-02-UR-0003 necessarily implies that its application for registration and the supporting documents thereof are prima facie free from any vitiating irregularities. Another factor which militates against the veracity of the allegations in the *Sinumpaang Petisyon* is the lack of **particularities on how, when and where respondent union perpetrated the alleged fraud on each member**. Such details **are crucial for in the proceedings for cancellation of union registration on the ground of fraud or misrepresentation**, what needs to be established is that the specific act or omission of the union deprived the complaining employees-members of their right to choose.
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> [Emphases Supplied]

[58] 581 Phil. 405 (2008).

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Based on the foregoing, the Court concludes that misrepresentation, to be a ground for the cancellation of the certificate of registration, must be done maliciously and deliberately. Further, the mistakes appearing in the application or attachments must be grave or refer to significant matters. The details as to how the alleged fraud was committed must also be indubitably shown.

The records of this case reveal no deliberate or malicious intent to commit misrepresentation on the part of Samahan. The use of such words "*KAMI, ang mga Manggagawa sa HANJIN Shipyard"* in the preamble of the constitution and by-laws did not constitute misrepresentation so as to warrant the cancellation of Samahan's certificate of registration. Hanjin failed to indicate how this phrase constitutes a malicious and deliberate misrepresentation. Neither was there any showing that the alleged misrepresentation was serious in character. Misrepresentation is a devious charge that cannot simply be entertained by mere surmises and conjectures.

Even granting arguendo that Samahan's members misrepresented themselves as employees or workers of Hanjin, said misrepresentation does not relate to the adoption or ratification of its constitution and by-laws or to the election of its officers.

Removal of the word "Hanjin Shipyard" from the association's name, however, does not infringe on Samahan's right to self-organization

Nevertheless, the Court agrees with the BLR that "Hanjin Shipyard" must be removed in the name of the association. A legitimate workers' association refers to an association of workers organized for mutual aid and protection of its members or for any legitimate purpose other than collective bargaining registered with the DOLE.[59] Having been granted a certificate of registration,

[59] Section 1(ff), Rule 1, Department Order No. 40-03, Series of 2003.

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Samahan's association is now recognized by law as a legitimate workers' association.

According to Samahan, inherent in the workers' right to self-organization is its right to name its own organization. It seems to equate the dropping of words "Hanjin Shipyard" from its name as a restraint in its exercise of the right to self-organization. Hanjin, on the other hand, invokes that "Hanjin Shipyard" is a registered trade name and, thus, it is within their right to prohibit its use.

As there is no provision under our labor laws which speak of the use of name by a workers' association, the Court refers to the Corporation Code, which governs the names of juridical persons. Section 18 thereof provides:

> No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is **identical** or **deceptively** or **confusingly similar** to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing laws. When a change in the corporate name is approved, the Commission shall issue an amended certificate of incorporation under the amended name.
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> [Emphases Supplied]

The policy underlying the prohibition in Section 18 against the registration of a corporate name which is "identical or deceptively or confusingly similar" to that of any existing corporation or which is "patently deceptive" or "patently confusing" or "contrary to existing laws," is the avoidance of fraud upon the public which would have occasion to deal with the entity concerned, the evasion of legal obligations and duties, and the reduction of difficulties of administration and supervision over corporations.[60]

For the same reason, it would be misleading for the members of Samahan to use "Hanjin Shipyard" in its name as it could

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[60] *Lyceum of the Philippines v. Court of Appeals,* G.R. No. 101897, March 5, 1993, 219 SCRA 610, 615.

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give the wrong impression that all of its members are employed by Hanjin.

Further, Section 9, Rule IV of D.O. No. 40-03, Series of 2003 explicitly states:

> The change of name of a labor organization shall not affect its legal personality. All the rights and obligations of a labor organization under its old name shall continue to be exercised by the labor organization under its new name.

Thus, in the directive of the BLR removing the words "Hanjin Shipyard," no abridgement of Samahan's right to self-organization was committed.

WHEREFORE, the petition is **PARTIALLY GRANTED**. The July 4, 2013 Decision and the January 28, 2014 Resolution of the Court of Appeals are hereby **REVERSED** and **SET ASIDE**. The September 6, 2010 Resolution of the Bureau of Labor Relations, as modified by its November 28, 2011 Resolution, is **REINSTATED**.

SO ORDERED.

Brion[*] *(Acting Chairperson), Peralta,*[**] *del Castillo,* and *Leonen, JJ.,* concur.

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[*] Per Special Order No. 2222, dated September 29, 2015.

[**] Per Special Order No. 2223, dated September 29, 2015.