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[G.R. No. L-49677. May 4, 1989]

TRADE UNIONS OF THE PHILIPPINES AND ALLIED SERVICES, *petitioner, vs.* **NATIONAL HOUSING CORPORATION and ATTY. VIRGILIO SY, as Officer-in-Charge of the Bureau of Labor Relations,** *respondents.*

SYLLABUS

1. ADMINISTRATIVE LAW; CIVIL SERVICE LAW; COVERS ONLY GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS WITH ORIGINAL OR LEGISLATIVE CHARTERS. — The civil service now covers only government-owned or controlled corporations with original or legislative charters, that is those created by an act of Congress or by special law, and not those incorporated under and pursuant to a general legislation. The situations sought to be avoided by the 1973 Constitution and expressed by this Court in the *National Housing Corporation* case x x x appear relegated to relative insignificance by the 1987 Constitutional provision that the Civil Service embraces government-owned or controlled corporations *with original charters* and therefore, by clear implication, the Civil Service does *not* include government-owned or controlled corporations which are organized as subsidiaries of government-owned or controlled corporations under the general corporation law."

2. CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT TO SELF-ORGANIZATION; RECOGNIZED AND GRANTED TO EMPLOYEES IN BOTH THE GOVERNMENTAL AND THE PRIVATE SECTORS. — The workers or employees of NHC undoubtedly have the right to form unions or employees' organizations. The right to unionize or to form organizations is now explicitly recognized and granted to employees in both the governmental and the private sectors. The Bill of Rights provides that "(t)he 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." This guarantee is reiterated in the second paragraph of Section 3, Article XIII, on Social Justice and Human

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Rights, which mandates that the State "shall guarantee 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. x x x" Specifically with respect to government employees, the right to unionize is recognized in Paragraph (5), Section 2, Article IX B which provides that "(t)he right to self-organization shall not be denied to government employees."

3. **LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; CERTIFICATION ELECTION; NATIONAL HOUSING CORPORATION, BEING A GOVERNMENT-OWNED AND/OR CONTROLLED CORPORATION WITHOUT AN ORIGINAL CHARTER, HOLDING OF A CERTIFICATION ELECTION AMONG ITS WORKERS, WITHOUT IMPEDIMENT.** — There is, therefore, no impediment to the holding of a certification election among the workers of NHC for it is clear that they are covered by the Labor Code, the NHC being a government-owned and/or controlled corporation without an original charter. Statutory implementation of the last-cited section of the Constitution is found in Article 244 of the Labor Code, as amended by Executive Order No. 111.

4. **ID.; ID.; ID.; DISTINCTION BETWEEN THE TWO TYPES OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS RENDERED ACADEMIC BY SUBSEQUENT STATUTORY DEVELOPMENTS.** — The records do not show that supervening factual events have mooted the present action. It is meet, however, to also call attention to the fact that, insofar as certification elections are concerned, subsequent statutory developments have rendered academic even the distinction between the two types of government-owned or controlled corporations and the laws governing employment relations therein, as hereinbefore discussed. For, whether the employees of NHC are covered by the Labor Code or by the civil service laws, a certification election may be conducted.

5. **ID.; ID.; ID.; DETERMINATION OF THE EXCLUSIVE BARGAINING REPRESENTATIVE AMONG EMPLOYEES IN CORPORATIONS AND ENTITIES COVERED BY THE LABOR CODE.** — For employees in corporations and entities covered by the Labor Code, the determination of the exclusive bargaining representative is particularly governed by Articles 255 to 259

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of said Code. Article 256 provides for the procedure when there is a representation issue in organized establishments, while Article 257 covers unorganized establishments. These Labor Code provisions are fleshed out by Rules V to VII, Book V of the Omnibus Implementing Rules.

6. **ADMINISTRATIVE LAW; CIVIL SERVICE; GUIDELINES FOR THE EXERCISE OF THEIR RIGHT TO ORGANIZE COVERED UNDER EXECUTIVE ORDER NO. 180.** — With respect to other civil servants, that is, employees of all branches, subdivisions, instrumentalities and agencies of the government including government-owned or controlled corporations with original charters and who are, therefore, covered by the civil service laws, the guidelines for the exercise of their right to organize is provided for under Executive Order No. 180. Chapter IV thereof, consisting of Sections 9 to 12, regulates the determination of the "sole and exclusive employees' representative."

APPEARANCES OF COUNSEL

Bonifacio V. Tupaz for petitioner.
The Government Corporate Counsel for respondent NHC.
Raul E. Espinosa for intervenor PACIWU.

D E C I S I O N

REGALADO, *J.*:

The employees of the public sector comprise the largest bloc of workers in our national work force. Governmental bureaucracy is continually being reorganized to cope with the growing complexity of the problems and needs of political and administrative governance. As the increase in the number of government employees grows apace, the need to enhance their welfare correspondingly becomes more imperative. While it may be assumed that the Government is exerting efforts to advance the interests of its employees, it is quite understandable that the employees themselves should actively seek arrangements whereby they can participate more meaningfully in management and employment relationships. There is, thus, a proliferation of

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unions or employees' organizations, each seeking concomitant representational recognition.

The antecedent facts which led to the filing of this special civil action for *certiorari* are clear and undisputed. The juridical status and relevant circumstances of respondent corporation have been established in a case of illegal dismissal filed against it, as previously decided by the Court and hereinafter discussed. However, submitted this time for Our resolution is a controversy on the propriety of and requirements for certification elections in government-owned or controlled corporations like the respondent.

Respondent National Housing Corporation (hereinafter referred to as NHC) is a corporation organized in 1959 in accordance with Executive Order No. 399, otherwise known as the Uniform Charter of Government Corporations, dated January 1, 1951. Its shares of stock are and have been one hundred percent (100%) owned by the Government from its incorporation under Act 1459, the former corporation law. The government entities that own its shares of stock are the Government Service Insurance System, the Social Security System, the Development Bank of the Philippines, the National Investment and Development Corporation and the People's Homesite and Housing Corporation.[1] Petitioner Trade Unions of the Philippines and Allied Services (TUPAS, for brevity) is a legitimate labor organization with a chapter in NHC.

On July 13, 1977, TUPAS filed a petition for the conduct of a certification election with Regional Office No. IV of the Department of Labor in order to determine the exclusive bargaining representative of the workers in NHC. It was claimed that its members comprised the majority of the employees of the corporation.[2] The petition was dismissed by med-arbiter Eusebio M. Jimenez in an order, dated November 7, 1977, holding

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[1] *Rollo*, 191; *National Housing Corporation vs. Juco, et al.*, 134 SCRA 172 (1985).

[2] *Ibid.*, 14; Annex A.

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that NHC "being a government-owned and/or controlled corporation its employees/workers are prohibited to form, join or assist any labor organization for purposes of collective bargaining pursuant to Section 1, Rule II, Book V of the Rules and Regulations Implementing the Labor Code."[3]

From this order of dismissal, TUPAS appealed to the Bureau of Labor Relations[4] where, acting thereon in BLR Case No. A-984-77 (RO4-MED-1090-77), Director Carmelo C. Noriel reversed the order of dismissal and ordered the holding of a certification election.[5] This order was, however, set aside by Officer-in-Charge Virgilio S.J. Sy in his resolution of November 21, 1978[6] upon a motion for reconsideration of respondent NHC.

In the instant petition for *certiorari*, TUPAS seeks the reversal of the said resolution and prays that a certification election be held among the rank and file employees of NHC.

In retrospect, it will be recalled that in a former case of illegal dismissal involving the same respondent corporation,[7] We had ruled that the employees of NHC and of other government owned or controlled corporations were governed by civil service laws, rules and regulations pursuant to the 1973 Constitution which provided that "the civil service embraces every branch, agency, subdivision and instrumentality of the government, including government-owned or controlled corporations."[8]

It was therein stressed that to allow subsidiary corporations to be excluded from the civil service laws would be to permit the circumvention or emasculation of the above-quoted constitutional provision. As perceptively analyzed therein, "(i)t would be possible for a regular ministry of government to create

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[3] *Ibid.*, 20, Annex B.

[4] *Ibid.*, 21, Annex C.

[5] *Ibid.*, 27, Annex D.

[6] *Ibid.*, 31, Annex E.

[7] *National Housing Corporation vs. Juco, et al., ante.*

[8] Sec. 1, Art. XII B.

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a host of subsidiary corporations under the Corporation Code funded by a willing legislature. A government-owned corporation could create several subsidiary corporations. These subsidiary corporations would enjoy the best of two worlds. Their officials and employees would be privileged individuals, free from the strict accountability required by the Civil Service Decree and the regulations of the Commission on Audit. Their incomes would not be subject to the competitive restraints of the open market nor to the terms and conditions of civil service employment."

The rule, however, was modified in the 1987 Constitution, the corresponding provision whereof declares that "(t)he civil service embraces all branches, subdivisions, instrumentalities and agencies of the government, including government-owned or controlled corporations with original charters."[9]

Consequently, the civil service now covers only government-owned or controlled corporations with original or legislative charters, that is those created by an act of Congress or by special law, and not those incorporated under and pursuant to a general legislation. As We recently held —

"x x x, the situations sought to be avoided by the 1973 Constitution and expressed by this Court in the *National Housing Corporation* case x x x appear relegated to relative insignificance by the 1987 Constitutional provision that the Civil Service embraces government-owned or controlled corporations *with original charters* and therefore, by clear implication, the Civil Service does *not* include government-owned or controlled corporations which are organized as subsidiaries of government-owned or controlled corporations under the general corporation law."[10]

While the aforecited cases sought different reliefs, that is, reinstatement consequent to illegal dismissal, the same *lis mota*

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[9] Section 2 (1), Art. IX B.

[10] *National Service Corporation, et al. vs. The Hon. Third Division, National Labor Relations Commission, etc., et al.*, G.R. No. 69870, Nov. 29, 1988; see also *Bliss Development Corporation vs. National Labor Relations Commission, et al.*, G.R. No. 82824, Resolution, Jan. 18, 1989.

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determinative of the present special civil action was involved therein.

The workers or employees of NHC undoubtedly have the right to form unions or employees' organizations. The right to unionize or to form organizations is now explicitly recognized and granted to employees in both the governmental and the private sectors. The Bill of Rights provides that "(t)he 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."[11]

This guarantee is reiterated in the second paragraph of Section 3, Article XIII, on Social Justice and Human Rights, which mandates that the State "shall guarantee 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. x x x."

Specifically with respect to government employees, the right to unionize is recognized in Paragraph (5), Section 2, Article IX B[12] which provides that "(t)he right to self-organization shall not be denied to government employees." The rationale of and justification for this innovation which found expression in the aforesaid provision was explained by its proponents, as follows:

"x x x The government is in a sense the repository of the national sovereignty and, in that respect, it must be held in reverence if not in awe. It symbolizes the unity of the nation, but it does perform a mundane task as well. It is an employer in every sense of the word except that terms and conditions of work are set forth through a Civil Service Commission. The government is the biggest employer in the Philippines. There is an employer-employee relationship and we all know that the accumulated grievances of several decades are now beginning to explode in our faces among government workers who feel that the rights afforded by the Labor Code, for example, to workers in the private sector have been effectively denied to workers in government in what looks like a grotesque, (sic) a caricature of the

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[11] Sec. 8, Art. III, 1987 Constitution.

[12] Constitutional Commissions; B. The Civil Service Commission.

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equal protection of the laws. For example, x x x there were many occasions under the old government when wages and cost of living allowances were granted to workers in the private sector but denied to workers in the government for some reason or another, and the government did not even state the reasons why. The government employees were being discriminated against. As a general rule, the majority of the world's countries now entertain public service unions. What they really add up to is that the employees of the government form their own association. Generally, they do not bargain for wages because these are fixed in the budget but they do acquire a forum where, among other things, professional and self-development is (sic) promoted and encouraged. They also act as watchdogs of their own bosses so that when graft and corruption is committed, generally, it is the unions who are no longer afraid by virtue of the armor of self-organization that become the public's own allies for detecting graft and corruption and for exposing it. x x x"[13]

There is, therefore, no impediment to the holding of a certification election among the workers of NHC for it is clear that they are covered by the Labor Code, the NHC being a government-owned and/or controlled corporation without an original charter. Statutory implementation of the last-cited section of the Constitution is found in Article 244 of the Labor Code, as amended by Executive Order No. 111, thus:

"*Right of employees in the public service.* — Employees of the government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law."

The records do not show that supervening factual events have mooted the present action. It is meet, however, to also call attention to the fact that, insofar as certification elections are concerned, subsequent statutory developments have rendered academic even the distinction between the two types of government-owned or controlled corporations and the laws governing employment relations therein, as hereinbefore discussed. For, whether the employees of NHC are covered

[13] Records of the Constitutional Commission, Vol. I, 567.

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by the Labor Code or by the civil service laws, a certification election may be conducted.

For employees in corporations and entities covered by the Labor Code, the determination of the exclusive bargaining representative is particularly governed by Articles 255 to 259 of said Code. Article 256 provides for the procedure when there is a representation issue in organized establishments, while Article 257 covers unorganized establishments. These Labor Code provisions are fleshed out by Rules V to VII, Book V of the Omnibus Implementing Rules.

With respect to other civil servants, that is, employees of all branches, subdivisions, instrumentalities and agencies of the government including government-owned or controlled corporations with original charters and who are, therefore, covered by the civil service laws, the guidelines for the exercise of their right to organize is provided for under Executive Order No. 180. Chapter IV thereof, consisting of Sections 9 to 12, regulates the determination of the "sole and exclusive employees' representative." Under Section 12, "where there are two or more duly registered employees' organizations in the appropriate organizational unit, the Bureau of Labor Relations shall, upon petition, order the conduct of certification election and shall certify the winner as the exclusive representative of the rank-and-file employees in said organizational unit."

Parenthetically, note should be taken of the specific qualification in the Constitution that the State "shall guarantee the rights of all workers to self-organization, collective bargaining, and peaceful concerted activities, including the right to strike *in accordance with law*" and that "(t)hey shall also participate in policy and decision-making processes affecting their rights and benefits *as may be provided by law.*"[14] (Italics supplied.)

ON THE FOREGOING CONSIDERATIONS, the assailed resolution of the Bureau of Labor Relations, dated November 21, 1978, is *ANNULLED* and *SET ASIDE* and the

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[14] Sec. 3 (2nd par.), Art. XIII.

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conduct of a certification election among the affected employees of respondent National Housing Corporation in accordance with the rules therefor is hereby *GRANTED*.

SO ORDERED.

Fernan, C. J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Sarmiento, Cortés, Griño-Aquino, and *Medialdea, JJ.*, concur.

Gancayco, J., on leave.

SECOND DIVISION

[G.R. No. 55336. May 4, 1989]

BENJAMIN VALLANGCA, RODOLFO VALLANGCA and ALFREDO VALLANGCA, *petitioners, vs.* **HON. COURT OF APPEALS and NAZARIO RABANES,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; JUDGMENT; *RES JUDICATA*; REQUISITES. — In an impressive line of cases, the requisites for *res judicata* have long been established. They are: (a) that there be an earlier final judgment; (b) that the court which rendered it had jurisdiction over the subject matter and the parties; (c) that it is a judgment on the merits; and (d) that there is between the first and the second actions, identity of parties, subject matter and causes of action. When the issue of *res judicata* is raised, at least two (2) actions before a competent court are necessarily involved; one, still pending and the other, already decided with finality. It is the final judgment that ends the controversy and precludes a re-litigation of the same causes of action.