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SECOND DIVISION

[G.R. No. L-44350. November 25, 1976]

U.E. AUTOMOTIVE EMPLOYEES AND WORKERS UNION-TRADE UNIONS OF THE PHILIPPINES AND ALLIED SERVICES, *petitioners, vs.* **CARMELO C. NORIEL, PHILIPPINE FEDERATION OF LABOR, AND U. E. AUTOMOTIVE MANUFACTURING CO., INC.,** *respondents.*

SYLLABUS

CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT OF WORKERS TO SELF-ORGANIZATION; RECOGNIZED; CASE AT BAR.— There is this excerpt from *Pan American World Airways, Inc. v. Pan American Employees Association*: 'There is both a constitutional and statutory recognition that laborers have the right to form unions to take care of their interests *vis-à-vis* their employees. Their freedom to form organizations would be rendered nugatory if they could not choose their own leaders to speak on their behalf and to bargain for them.' It cannot be otherwise, for the freedom to choose which labor organization to join is an aspect of the constitutional mandate of protection to labor. Prior to the Industrial Peace Act, there was a statute setting forth the guidelines for the registration of labor unions. As implied in *Manila Hotel Co. v. Court of Industrial Relations,* it was enacted pursuant to what is ordained in the Constitution. Thus in *Umali v. Lovina,* it was held that *mandamus* lies to compel the registration of a labor organization. There is this apt summary of what is signified in *Philippine Land Air-Sea Labor Union v. Court of Industrial Relations*, 'to allow a labor union to organize itself and acquire a personality distinct and separate from its members and to serve as an instrumentality to conclude collective bargaining agreements . . ..' It is not coincidence that in the first decision of this Court citing the Industrial Peace Act, *Pambujan United Mine Workers v. Samar Mining Company,* the role of a labor union as the agency for the expression of the collective will affecting its members both present the prospective, was stressed. That statute certainly was much more emphatic as to the vital aspect of such a right

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as expressly set forth in the policy of the law. What is more, there is in such enactment this categorical provision on the right of employees to self-organization: 'Employees shall have the right to self-organization and to form, join or assist labor organizations of their own choosing fro the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection.' The new Labor Code is equally explicit on the matter. Thus: 'The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work.'" So it should be in this case. In the absence of any fatal defect to the application for registration, there is no justification for withholding it from petitioner to enable it to exercise fully its constitutional right to freedom of association. In the alternative, the petition could very well be considered as having been filed by the parent labor federation. What is decisive is that the members of petitioner Union did exercise their fundamental right to self-organization and did win in a fair and honest election.

APPEARANCES OF COUNSEL

Tupaz & Associates for petitioners.

Acting Solicitor General Hugo E. Gutierrez, Jr., Assistant Solicitor General Reynato S. Puno and *Trial Attorney Joselito B. Floro* for respondent Carmelo C. Noriel.

Alejandro C. Villaviza for respondent Phil Federation of Labor.

Poblador, Nazareno, Azada, Tomacruz & Paredes for respondent Company.

D E C I S I O N

FERNANDO, *J.*:

It is a notable feature of our Constitution that freedom of association is explicitly ordained;[1] it is not merely derivative,

[1] According to Article IV, Section 7 of the Constitution: "The right to from associations or societies for purposes not contrary to law shall not

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peripheral or penumbral, as is the case in the United States.[2] It can trace its origin to the Malolos Constitution.[3] More specifically, where it concerns the expanded rights of labor under the present Charter, it is categorically made an obligation of the State to assure full enjoyment "of workers to self-organization [and] collective bargaining."[4] It would be to show less than full respect to the above mandates of the fundamental law, considering that petitioner union obtained the requisite majority at a fair and honest election, if it would not be recognized as the sole bargaining agent. The objection by respondent Director fins no support in the wording of the law. To sustain it, however, even on the assumption that it has merit, just because when petitioner asked for a certification election, there was lacking the three-day period under the Industrial Peace Act then in force[5] for it to be entitled to the rights and privileges of a labor

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be abridged." The very same language was used in Article III, Section 1, par. 6 of the 1935 Constitution.

[2] Cf. *National Association for the Advancement of Colored People v. Alabama,* 357 US 449 (1958); *Bates v. City of Little Rock,* 361 US 516 (1960); *National Association for the Advancement of Colored People v. Alabama,* 371 US 415 (1963).

[3] "Neither shall any Filipino," according to Article 20, par. 2 of the Malolos Constitution, be deprived of: "The right of joining any association for all objects of human life which may not be contrary to public morals; . . ."

[4] Article II, Section 9 of the Constitution reads in full: "The State shall afford protection to labor, promote full employment, and equality in 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. The State may provide for compulsory arbitration."

[5] According to Section 23, par. (8) of the Industrial Peace Act: "Any labor organization, association or union of workers duly organized for the material, intellectual and moral well-being of its members shall acquire legal personality and be entitled to all the rights and privileges granted by law to legitimate labor organizations within thirty days of filing with the office of the Secretary of Labor notice of its due organization and existence and the following documents, together with the amount of five pesos as registration . . ."

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organization, would be to accord priority to form over substance. Moreover, it was not denied that respondent Director of Labor Relations on January 2, 1975 certified that it was petitioner which should be "the sole and exclusive bargaining representative of all rank and file employees and workers of the U.E. Automotive Manufacturing, Inc."[6] He had no choice as the voting was 59 in favor of petitioner and 52 for private respondent Union. It would appear evident, therefore, that in the light of the constitutional provisions set forth above and with the present Labor Code, the certification and ordering the holding of a new election did amount to a grave abuse of discretion. That was to run counter to what the law commands.[7]

The facts are undisputed. The comment submitted by respondent Director Carmelo C. Noriel, through Acting Solicitor General Hugo E. Gutierrez, Jr. and Assistant Solicitor General Reynato S. Puno,[8] made it clear. There was, on August 15, 1974, a petition for certification election with the National Labor Relations Commission filed by petitioner. Thereafter, on August 26, 1974, private respondent Philippine Federation of Labor submitted a motion for intervention. Three conferences between such labor organizations resulted in an agreement to hold a consent election actually conducted on September 19, 1974 among the rank and file workers of respondent management firm. Petitioner obtained fifty-nine votes, with respondent union having only fifty-two votes in such consent election. There was, on September 19, 1874, a motion by petitioner to issue an order of certification duly granted on January 2, 1975 by respondent Director who did certify petitioner as the sole land exclusive collective bargaining representative of such rank and file employees of respondent firm. There was, however, a motion for reconsideration which was granted notwithstanding opposition by the union on January 22, 1975, setting aside the previous order certifying petitioner as the sole bargaining representative.

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[6] Petition, Annex G.

[7] Presidential Decree No. 442 (1974).

[8] Trial Attorney Joselito B. Floro assisted them.

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It is such an order sustaining a motion for reconsideration that resulted in this petition.[9]

The submission of respondent Director to sustain the validity of his order in the comment submitted on his behalf follows: "Petitioner union is not a legitimate labor organization. Section 2(f) of Republic Act Number 875 defines a legitimate labor organization as any labor organization *registered* by the Department of Labor. Petitioner union is *not duly registered* with the Department of Labor. The records of the Labor Registration Division of the Bureau of Labor Relations, Department of Labor show that the application for registration of petitioner union was filed therein on July 19, 1974. Petitioner union filed a petition for certification on August 15, 1974 or merely after a period of twenty-seven (27) days. Section 23(b) of Republic Act Number 875 explicitly provides, thus: 'Any labor organization, association or union of workers duly organized for the material, intellectual and moral well-being of the members shall acquire legal personality and be entitled to all the rights and privileges *within thirty days* of filing with Office of the Secretary of Labor notice of its due application and existence and the following documents, together with the amount of five pesos as registration fee, except as provided in paragraph "d" of this section (italics supplied).' It is clear therefore that the petition for certification election was filed *before* the expiration of the period of thirty (30) days. It is futile therefore for the petitioner to claim that it has already legal personality and is entitled to all the rights and privileges granted by law to legitimate labor organizations by virtue of Section 23(b) of Republic Act Number 875."[10] As noted at the outset, such an argument rests on an infirm and shaky foundation. It definitely runs counter to what this Court has held and continues to hold in a number of cases in accordance with the constitutional freedom of association, more specifically, where labor is concerned, to the fundamental rights of self-organization. Hence the merit in the present petition.

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[9] Comment of respondent Carmelo C. Noriel, 1-4.

[10] *Ibid*, 4-5.

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1. There is pertinence to this excerpt from a recent decision, *Federacion Obrera de la Industria Tabaquera v. Noriel*;[11] "Clearly, what is at stake is the constitutional right to freedom of association on the part of employees. Petitioner labor union was in the part of employees. Petitioner labor union was in the past apparently able to enlist the Corporation. Thereafter, a number of such individuals joined private respondent labor union. That is a matter clearly left to their sole uncontrolled judgment. There is this excerpt from *Pan American World Airways, Inc. v. Pan American Employees Association*: "There is both a constitutional and statutory recognition that laborers have the right to form unions to take care of their interests *vis-a-vis* their employees. Their freedom to form organizations would be rendered nugatory if they could not choose their own leaders to speak on their behalf and to bargain for them.' It cannot be otherwise, for the freedom to choose which labor organization to join is an aspect of the Industrial Peace Act, there was a statute setting forth the guidelines for the registration of labor unions. As implied in *Manila Hotel Co. v. Court of Industrial Relations,* it was enacted pursuant to what is ordained in the Constitution. Thus in *Umali v. Lovina,* it was held that *mandamus* lies to compel the registration of a labor organization. There is this apt summary of what is signified in *Philippine Land-Air-Sea Labor Union v. Court of Industrial Relations*, 'to allow a labor union to organize itself and acquire a personality distinct and separate from its members and to serve as an instrumentality to conclude collective bargaining agreements . . .' It is no coincidence that in the first decision of this Court citing the industrial Peace Act, *Pambujan United Mine Workers v. Samar Mining Company,* the role of a labor union as the agency for the expression of the collective will affecting its members both present and prospective, was stressed. That statute certainly was much more emphatic as to the vital aspect of such a right as expressly set forth in the policy of the law. What is more, there is in such enactment this categorical provision on the right of employees to self-organization and to form, join or assist

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[11] L-41937, July 6, 1976.

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labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection.' The new Labor Code is equally explicit on the matter. Thus: 'The State shall assure the rights of workers of self-organization, collective bargaining, security of tenure and just and humane conditions of work.'"[12]

2. The matter received further elaboration in the Federation Obrera decision in these words: "It is thus of the very essence of the regime of industrial democracy sought to be attained through the collective bargaining process that there be no obstacle to the freedom identified with the exercise of the right to self-organization. Labor is to be represented by a union that can express its collective will. In the event, and this is usually the case, that there is more than one such group fighting for that privilege, a certification election must be conducted. That is the teaching of a recent decision under the new Labor Code, *United Employees Union of Gelmart Industries v. Noriel.* There is this relevant except: "The institution of collective bargaining is, to recall Cox, a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management, make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be represented by a labor organization of their choice. Thus may be discerned how crucial is a certification election. So our decisions from the case of *PLDT Employees Union v. PLDT Co. Free Telephone Workers Union* to the latest, *Philippine Communications, Electronics & Electricity Workers' Federation (PCWF) v. Court of Industrial Relations*, have made clear.' An even later pronouncement in *Philippine Association of Free Labor*

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[12] *Ibid. The Pan American World Airways* decision, promulgated in 1969, is reported in 27 SCRA 1202; *Manila Hotel Co.* in 80 Phil. 145 (1948); *Umali* in 86 Phil. 313 (1950); *Philippine Land-Air-Sea Labor Union* in 93 Phil 747 (1953); *Pambujan United Mine Workers* in 94 Phil. 932 (1954).

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Unions v. Bureau of Labor Relations, speaks similarly; 'Petitioner thus appears to be woefully lacking in awareness of the significance of a certification election for the collective bargaining process. It is the fairest and most effective way of determining which labor organization can truly represent the working force. It is a fundamental postulate that the will of the majority, if given expression in an honest election with freedom on the part of the voters to make their choice, is controlling. No better advice can assure the institution of industrial democracy with the two parties to a business enterprise, management and labor, establishing a regime of self-rule.'"[13]

3. Deference to the above principles so often reiterated in a host of decisions ought to have exerted a compelling force on respondent Director of Labor Relations. As a matter of fact, that appeared to be the case. He did certify on January 2, 1975 that petitioner should be "the sole and exclusive collective bargaining representative of all rank-and-file employees and workers of the UE Automotive Manufacturing, Inc."[14] The voting, have been 59 in favor of petitioner and 52 for private respondent Union, had to be respected. Had he stood firm, there would have been no occasion for the *certiorari* petition. He did, however, have a change of mind. On February 24, 1975, he set aside such certification. In his comment, earlier referred to, he would predicate this turnabout on the Union lacking the three-day period before filing the petition for certification under the appropriate provision of the Industrial Peace Act then in force. That could be an explanation, but certainly not a justification. It would amount, to use a phrase favored by Justice Cardozo, to a stultification of a constitutional right.

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[13] *Ibid.* The *P.L.D.T. Employees Union* case, a 1955 decision, is reported in 97 Phil. 424 and *Philippine Communications,* promulgated in 1974, in 56 SCRA 480. The latter made reference to twelve other decisions starting from *Standard Cigarette Workers Union* in 101 Phil. 126 (1957) to *Federation of Free Workers v. Paredes,* 54 SCRA 75 (1973). *Philippine Association of Free Labor Unions v. Bureau of Labor Relations* was handed down January 27, 1976 and reported in 69 SCRA 132.

[14] Petition, Annex G.

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4. The excuse offered for the action taken place lacks any persuasive force. It may even be looked upon as insubstantial, not to say flimsy. The law is quite clear; the expression is *within* thirty days, not *after* thirty days. Even if meritorious, however, it can be disregarded under the maxim *de minimis non curat lex.*[15] Then, too, the weakness of such a pretext is made apparent by the well-settled principle in the Philippines that where it concerns the weight to be accorded to the wishes of the majority as expressed in an election conducted fairly and honestly, certain provisions that may be considered mandatory before the voting takes place becomes thereafter merely directory in order that the wishes of the electorate prevail.[16] The indefensible character of the order of February 24, 1975 setting aside the previous order certifying to petitioner as the exclusive bargaining representative becomes truly apparent.

5. Nor is the different outcome called for just because at the time of the challenged order, there was as yet no registration of petitioner Union. If at all, that is a circumstance far from flattering as far as the Bureau of Labor Relations is concerned.

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[15] Cf. *Tumey v. State of Ohio,* 273 US 510 (1927); *Burns v. De Bakey,* La. App. 186 So. 374 (1939); *Smith Oil and Refining Co. v. Department of Finance,* 21 NE 2d 292 (1939); *Bristol Myers Co. v. Lit Bros.*, 6 A2d 843 (1939); *Pompton Stationery Corporation v. Passaic County News Co.*, 21 A. 2d 849 (1941); *Philips v. Coreen,* 155 SW2d 841 (1941); *Schwartz v. Essex County Board of Taxation,* 28 A2d 482 (1942); *Mitchell v. Littlejohn Transp. Co.*, 10 So 2d 651 (1942); *Lunsden v. Erstine,* 172 SW 2d 409 (1943) *Thompson v. Pollack,* 53 NE 2d 737 (1944); *Buettner v. Polar Bar Ice Cream Co.*, 17 So 2d 486 (1944); *Reeves v. Jackson,* 184 SW 2d 256 (1944); *Denison West Twenty-Fifth St. Imp. Co. v. Great Atlantic & Pacific Tea Co.*, 69 NE 3rd 79 (1946).

[16] Cf. *Valenzuela v. de Jesus,* 42 Phil. 428 (1921); *De los Angeles v. Rodriguez*, 46 Phil. 595 (1924); *De Guzman v. Board of Canvassers*, 48 Phil. 211 (1925); *Kiamzon v. Ojeda*, 54 Phil. 775 (1930); *Nico v. Blanco,* 81 Phil. 213 (1948); *Illescas v. Court of Appeals,* 94 Phil. 215 (1953); *Canceran v. Comelec*, 107 Phil. 607 (1960); *Collado v. Alonzo,* L-23637, Dec. 24, 1965, 15 SCRA 562; *Medenilla v. Kayanan,* L-28448, July 30, 1971, 40 SCRA 154.

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It must be remembered that as admitted in the comment of respondent Director, the application for registration was filed on July 19, 1974. The challenged order was issued seven months later. There is no allegation that such application suffered from any infirmity. Moreover, if such were the case, the attention of petitioner should have been called so that it could be corrected. Only thus may the right to association be accorded full respect. As far back as *Umali v. Lovina*,[17] a 1950 decision, it was held by this Court that under appropriate circumstances, *mandamus* lies to compel registration. There is, in addition, a letter signed by a certain Jesus C. Cuenca, who identified himself as the Acting Registrar of Labor Organizations, stating that this Office "has taken due note of your letter of July 25, 1974 informing us that this union has been accepted by the Federation as local chapter No. 580."[18] When it is taken into consideration that the Bureau of Labor Relations itself had allowed another labor union not registered but affiliated with the same Federation to be entitled to the rights of a duly certified labor organization, there would appear clearly an element of arbitrariness in the actuation of respondent Director.[19] It is likewise impressed with a character of a denial of equal protection. Lastly, this Court, in *Nationalista Party v. Bautista*,[20] where one of the defenses raised is lack of capacity of petitioner as a juridical person entitled to institute proceedings, after holding that it was entitled to the remedy of prohibition sought, allowed it either to amend its petition so as to substitute a juridical person, or to show that it is entitled to institute such proceeding. So it should be in this case. In the absence of any fatal defect to the application for registration, there is no justification for withholding it from petitioner to enable it to exercise fully its constitutional right to freedom of association. In the alternative, the petition could very well be considered as having been filed by the parent

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[17] 86 Phil. 313.

[18] Petition, Annex K.

[19] *Ibid*, par. (l), 7.

[20] 85 Phil. 101 (1949).

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labor federation. What is decisive is that the members of petitioner Union did exercise their fundamental right to self-organization and did win in a fair and honest election.

WHEREFORE, the writ of prohibition is granted, the challenged order of February 24, 1975 setting aside the certification is nullified and declared void, and the previous order of January 2, 1975 certifying to petitioner Union as the 'sole and exclusive collective bargaining representative of all rank and file employees and workers of the U.E. Automotive Manufacturing Company, Inc.," declared valid and binding. Whatever other rights petitioner Union may have under the present Labor Code should likewise be accorded recognition by respondent Director of the Bureau of Labor Relations. This decision is immediately executory. No costs.

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

SECOND DIVISION

[G.R. No. L-25777. November 26, 1976]

ASUNCION MENESES VDA. DE CATINDIG, *petitioner-appellant, vs.* **The Heirs of CATALINA ROQUE, namely, ESCOLASTICO CERVANTES, LEONCIA CERVANTES and EMERENCIANA CERVANTES, represented by her guardian *ad litem*, DAMASO SANTOS; CARLOS KATIPUNAN; Heirs of JORGE KATIPUNAN; Heirs of ROBERTO ROQUE, namely, MAGDALENA, GORGONIA and ELISA, all surnamed ROQUE; INES ROQUE; Heirs of BARBARA ROQUE VILLANUEVA, namely MERCEDES VILLANUEVA FAJARDO, VENANCIA VILLANUEVA, LIGAYA VILLANUEVA, PEDRO VILLANUEVA, PABLO VILLANUEVA, LEONILA**