Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

DE OCAMPO MEMORIAL SCHOOLS, INC.,
Petitioner,

-versus-

BIGKIS MANGGAGAWA SA DE OCAMPO MEMORIAL SCHOOL, INC.,
Respondent.

G.R. No. 192648

Present:

VELASCO, JR., *J.*, *Chairperson,*
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, *JJ.*

Promulgated:

March 15, 2017
Mis DCBatt

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D E C I S I O N

JARDELEZA, *J.*:

This is a Petition for Review on *Certiorari*[1] assailing the Court of Appeals (CA) Decision[2] dated July 15, 2009 and the Resolution[3] dated June 21, 2010 (assailed Decision). The assailed Decision affirmed the Decision[4] dated December 29, 2004 of the Bureau of Labor Relations (BLR), Department of Labor and Employment (DOLE) in Case No. BLR-A-C-75-8-24-04, *In Re: Petition for Cancellation of Union Registration of Bigkis Manggagawa sa De Ocampo Memorial School, Inc., - Lakas Union Registration Number (NCR-12-CC-002-2003).*

I

De Ocampo Memorial Schools, Inc. (De Ocampo) is a domestic corporation duly-organized and existing under the laws of the Philippines. It has two main divisions, namely: De Ocampo Memorial Medical Center

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1 *Rollo*, pp. 13-82.
2 *Id.* at 84-98. Penned by Associate Justice Priscilla J. Baltazar-Padilla, with Associate Justice Mariano C. Del Castillo (now a Member of this Court) and Associate Justice Monina Arevalo-Zenarosa, concurring.
3 *Id.* at 100-101.
4 *Id.* at 155-158.

(DOMMC), its hospital entity, and the De Ocampo Memorial Colleges (DOMC), its school entity.[5]

On September 26, 2003, Union Registration No. NCR-UR-9-3858-2002 was issued in favor of *Bigkis Manggagawa sa* De Ocampo Memorial Medical Center – LAKAS (BMDOMMC).[6]

Later, on December 5, 2003, *Bigkis Manggagawa sa* De Ocampo Memorial School, Inc. (BMDOMSI) was issued a Union Registration/Certificate of Creation of Local Chapter No. NCR-12-CC-002-2003 and declared a legitimate labor organization.[7]

On March 4, 2004, De Ocampo filed a Petition for Cancellation of Certificate of Registration[8] with the Department of Labor and Employment - National Capital Region (DOLE-NCR). It sought to cancel the Certificate of Registration of BMDOMSI on the following grounds: 1) misrepresentation, false statement and fraud in connection with its creation and registration as a labor union as it shared the same set of officers and members with BMDOMMC; 2) mixed membership of rank-and-file and managerial/supervisory employees; and 3) inappropriate bargaining unit.[9]

On April 13, 2004, De Ocampo filed a Supplemental Petition,[10] informing the DOLE-NCR of the cancellation of the Certificate of Registration of BMDOMMC in Case No. NCR-OD-0307-009-LRD. It attached a copy of the Decision[11] of the DOLE-NCR dated March 3, 2004, which cancelled and struck off Union Registration No. NCR-UR-9-3858-2002 from the registry of legitimate labor organizations for being an inappropriate bargaining unit.[12]

On May 18, 2004, BMDOMSI filed its Comment-Opposition to Petition for Cancellation of Certificate of Registration and Supplemental Petition,[13] denying De Ocampo's allegations and claiming that the latter only wants to impede the formation of the union.

In a Decision[14] dated July 26, 2004, Acting Regional Director Ciriaco A. Lagunzad III of the DOLE-NCR ruled that BMDOMSI committed misrepresentation by *making it appear* that the bargaining unit is composed of faculty and technical employees. In fact, all the union officers and most of the members are from the General Services Division.[15] Furthermore, the

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5 *Id.* at 88.
6 *Id.*
7 *Rollo*, p. 183.
8 *Id.* at 160-182.
9 *Id.* at 164-165.
10 *Id.* at 85, 223-227.
11 *Id.* at 228-229.
12 *Id.* at 229.
13 *Id.* at 235-240.
14 *Id.* at 244-248.
15 *Id.* at 245.

members of the union do not share commonality of interest, as it is composed of academic and non-academic personnel.[16] The nature of work of the employees of the General Services Division, while falling within the category of non-academic personnel, differs from that of the other non-academic employees composed of clerks, messengers, *etc.*, since they also serve the hospital component of De Ocampo.[17]

BMDOMSI then filed an appeal to the BLR alleging that the union members are all employees of De Ocampo and that the bargaining unit it seeks to represent is appropriate.[18]

In a Decision[19] dated December 29, 2004, the BLR reversed the Regional Director's finding of misrepresentation, false statement or fraud in BMDOMSI's application for registration. According to the BLR, De Ocampo failed to adduce proof to support its allegation of mixed membership within respondent union.[20] Further, and contrary to De Ocampo's claim, records show that BMDOMSI stated in its application that its members are composed of rank-and-file employees falling under either faculty or technical occupational classifications.[21] The BLR also held that the existence of an inappropriate bargaining unit would not necessarily result in the cancellation of union registration, and the inclusion of a disqualified employee in a union is not a ground for cancellation.[22] Even if BMDOMSI shared the same set of officers and members of BMDOMMC, the latter had already been delisted on March 3, 2004 and there is no prohibition against organizing another union.[23]

De Ocampo filed a Petition for *Certiorari*[24] with the CA seeking to annul and set aside the BLR Decision as well as the Resolution[25] dated January 24, 2005 denying its motion for reconsideration.

The CA affirmed the Decision of the BLR. It ruled that there was no misrepresentation, false statement or fraud in the application for registration.

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16 *Id.* at 246.

17 *Id.* The dispositive portion reads:

WHEREFORE, premises considered, the Petition is **granted**. The registration of Bigkis Manggagawa sa De Ocampo Memorial School–LAKAS with Certificate of Creation No. NCR-12-CC-002-2003 is ordered cancelled and delisted from the rolls of legitimate labor organizations.

SO ORDERED. *Rollo*, p. 248.

18 *Id.* at 156.

19 *Supra* note 4.

20 *Rollo*, p. 157. The dispositive portion reads:

WHEREFORE, the appeal is **GRANTED** and the Decision dated 26 July 2004 is hereby **REVERSED** and **SET ASIDE**. Accordingly, Bigkis Manggagawa sa De Ocampo Memorial School-LAKAS with Certificate of Creation No. NCR-12-CC-002-2003 shall remain in the roster of legitimate labor organizations.

SO DECIDED. *Id.* at 158.

21 *Id.* at 156.

22 *Id.* at 157, citing *Tagaytay Highlands International Golf Club, Incorporated v. Tagaytay Highlands Employees Union-PTGWO*, G.R. No. 142000, January 22, 2003, 395 SCRA 699.

23 *Rollo*, p. 86.

24 *Id.* at 102-154.

25 *Id.* at 159.

The record shows that, as BMDOMSI had indicated, the bargaining unit as described is composed of rank-and-file employees with occupational classifications under technical and faculty.[26] The CA found that there could be no misrepresentation as the members appearing in the minutes of the general membership meeting, and the list of members who attended the meeting and ratified the union constitution and by-laws, are in truth employees of the school, though some service the hospital.[27] The CA also ruled that, other than De Ocampo's bare allegations, there was no proof of intent to defraud or mislead on the part of BMDOMSI. Hence, the charge of fraud, false statement or misrepresentation cannot be sustained.[28]

However, the CA observed that the members of the union, who are from academic, non-academic, and general services, do not perform work of the same nature, receive the same wages and compensation, nor share a common stake in concerted activities.[29] While these factors dictate the separation of the categories of employees for purposes of collective bargaining,[30] the CA reasoned that such lack of mutuality and commonality of interest of the union members is not among the grounds for cancellation of union registration under Article 239 of the Labor Code.[31]

De Ocampo filed a motion for reconsideration which was denied in the assailed Resolution dated June 21, 2010. Hence, this petition.

De Ocampo maintains that BMDOMSI committed misrepresentation and fraud in connection with its application, creation and registration. It intentionally suppressed the fact that at the time of its application, there was another union known as BMDOMMC, with whom they shared the same set of officers and members.[32] It was also made to appear that BMDOMMC is a labor union representing a separate bargaining unit whose personality, affairs and composition are unknown to BMDOMSI.[33] Lastly, BMDOMSI suppressed the fact that its members have no mutuality or commonality of interest as they belong to different work classifications, nature and designations.[34]

II

We deny the petition.

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26 *Id.* at 91.
27 *Id.* at 91-92.
28 *Id.* at 97.
29 *Id.* at 94.
30 *Id.* at 94-95.
31 *Id.* at 95-97. The dispositive portion reads as follows:
WHEREFORE, in view of the foregoing, the Decision dated December 29, 2004 and the Resolution dated January 24, 2004 (should be January 24, 2005) issued by the Bureau of Labor Relations, Department of Labor and Employment in Case No. BLR-A-C-75-8-24-04 (NCR-OD-0403-002-LRD) are **AFFIRMED**.
SO ORDERED. *Id.* at 97-98.
32 *Id.* at 36.
33 *Id.* at 37.
34 *Id.*

Article 247, previously Article 239 of the Labor Code[35] provides:

> Art. 247. *Grounds for Cancellation of Union Registration.* – The following may constitute grounds for cancellation of union registration:
>
> (a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification;
>
> (b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters;
>
> (c) Voluntary dissolution by the members.

For fraud and misrepresentation to constitute grounds for cancellation of union registration under the Labor Code, the nature of the fraud and misrepresentation must be **grave and compelling** enough to vitiate the consent of a majority of union members.[36]

De Ocampo insists that "by conveniently disregarding" BMDOMMC's existence during the filing of its application, despite having the same set of officers and members,[37] BMDOMSI "had misrepresented facts, made false statements and committed fraud in its application for union registration for alleging facts therein which they [know] or ought to have known to be false."[38]

We agree with the BLR and the CA that BMDOMSI did not commit fraud or misrepresentation in its application for registration. In the form "Report of Creation of Local Chapter"[39] filed by BMDOMSI, the applicant indicated in the portion "Description of the Bargaining Unit" that it is composed of "Rank and File" and under the "Occupational Classification," it marked "Technical" and "Faculty."

Further, the members appearing in the Minutes of the General Membership and the List of Workers or Members who attended the organizational meeting and adopted/ratified the Constitution and By-Laws are, as represented, employees of the school and the General Services Division, though some of the latter employees service the hospital.[40]

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35 DOLE, Department Advisory No. 01, Series of 2015, Renumbering of the Labor Code of the Philippines, as Amended.

36 *Mariwasa Siam Ceramics, Inc. v. Secretary of the Department of Labor and Employment*, G.R. No. 183317, December 21, 2009, 608 SCRA 706, 716.

37 *Rollo*, p. 46.

38 *Id.* at 44.

39 BLR records, p. 95.

40 *Rollo*, pp. 89-92.

Moreover, there is nothing in the form "Report of Creation of Local Chapter" that requires the applicant to disclose the existence of another union, much less the names of the officers of such other union. Thus, we cannot see how BMDOMSI made the alleged misrepresentation or false statements in its application.

De Ocampo likewise claims that BMDOMSI committed fraud and misrepresentation when it suppressed the fact that there exists "no mutuality and/or communality of interest"[41] of its members. This, De Ocampo asserts, is a ground for the cancellation of its registration.

We disagree.

While the CA may have ruled that there is no mutuality or commonality of interests among the members of BMDOMSI, this is not enough reason to cancel its registration. The only grounds on which the cancellation of a union's registration may be sought are those found in Article 247 of the Labor Code. In *Tagaytay Highlands International Golf Club Incorporated v. Tagaytay Highlands Employees Union-PTGWO*,[42] we ruled that "[t]he inclusion in a union of disqualified employees is not among the grounds for cancellation, unless such inclusion is due to misrepresentation, false statement or fraud under the circumstances enumerated in Sections (a) and (c) of Article [247] x x x of the Labor Code."[43] Thus, for purposes of de-certifying a union, it is not enough to establish that the rank-and-file union includes ineligible employees in its membership. Pursuant to paragraphs (a) and (b) of Article 247 of the Labor Code, it must be shown that there was misrepresentation, false statement or fraud in connection with: (1) the adoption or ratification of the constitution and by-laws or amendments thereto; (2) the minutes of ratification; (3) the election of officers; (4) the minutes of the election of officers; and (5) the list of voters.[44] Failure to submit these documents together with the list of the newly elected-appointed officers and their postal addresses to the BLR may also constitute grounds for cancellation, lack of mutuality of interests, however, is not among said grounds.[45]

The BLR and the CA's finding that the members of BMDOMSI are rank-and-file employees is supported by substantial evidence and is binding

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41 *Id.* at 60.

42 G.R. No. 142000, January 22, 2003, 395 SCRA 699.

43 *Id.* at 709. Italics omitted.

44 Art. 247. *Grounds for Cancellation of Union Registration.* – The following may constitute grounds for cancellation of union registration:

(a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification;

(b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters;

x x x

45 *Air Philippines Corporation v. Bureau of Labor Relations*, G.R. No. 155395, June 22, 2006, 492 SCRA 243, 249-250.

on this Court.[46] On the other hand, other than the allegation that BMDOMSI has the same set of officers with BMDOMMC and the allegation of mixed membership of rank-and-file and managerial or supervisory employees, De Ocampo has cited no other evidence of the alleged fraud and misrepresentation.

A final word. A party seeking the cancellation of a union's certificate of registration must bear in mind that:

> x x x [A] direct challenge to the legitimacy of a labor organization based on fraud and misrepresentation in securing its certificate of registration is a serious allegation which deserves careful scrutiny. Allegations thereof should be compounded with supporting circumstances and evidence. The records of the case are devoid of such evidence. Furthermore, this Court is not a trier of facts, and this doctrine applies with greater force in labor cases. Findings of fact of administrative agencies and quasi-judicial bodies, such as the BLR, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only great respect but even finality.[47]

WHEREFORE, the petition is hereby **DENIED** for lack of merit. The Decision of the Court of Appeals in CA-G.R. SP No. 89162 dated July 15, 2009 is **AFFIRMED**.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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[46] *Cosmos Bottling Corporation v. Nagrama, Jr.*, G.R. No. 164403, March 4, 2008, 547 SCRA 571, 584-587.

[47] *San Miguel Corporation Employees Union-Phil. Transport and General Workers Org. v. San Miguel Packaging Products Employees Union-Pambansang Diwa ng Manggagawang Pilipino*, G.R. No. 171153, September 12, 2007, 533 SCRA 125, 144.

LUCAS P. BERSAMIN
Associate Justice

BIENVENIDO L. REYES
Associate Justice

NOEL G. TIJAM
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY

MISAEL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division
APR 05 2017