

SMMI-KMM-KATIPUNAN AND ITS MEMBERS, EDUARDO D. CANDO, EDLYN CRISOSTOMO, HERMINIA REYES, PERLITA M. RAMOS, GELMA C. SANTOS, ROWENA DIMLA, MERLINDA ESGUERRA, AND NOVELYN S. SANTOS...

Ponente: GAERLAN, S.H., J.

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GAERLAN, S.H., J.:

Submitted for decision of this Court is the Petition for Certiorari[1] under Rule 65 of the Rules of Court filed by petitioners seeking the nullification of the Decision[2] of the National Labor Relations Commission (Fifth Division) dated 27 June 2011 in NLRC LAC No. 11-002885-10, which affirmed en toto the Decision[3] of the Honorable Labor Arbiter Mariano L. Bactin of NLRC Region III dated 23 September 2010, and its Resolution[4] dated 30 September 2011, which denied petitioners' Motion for Reconsideration.[5]

The facts of the case are as follows:

On 15 March 2010, petitioners filed a complaint for illegal dismissal, underpayment of wages, rest day, service incentive leave pay, regularization, damages and attorney's fees with the NLRC Region III against private respondent Marquee Mills Manufacturing, Inc. and its manager/owner, Mr. Jimmy Mo.

Efforts to bring herein parties to settle their dispute amicably among themselves failed, hence, they were required to submit their position paper and other responsive pleadings together with their evidence to support their respective claims and defenses.[6] After which, the case was considered submitted for decision.

On 23 September 2010, Honorable Labor Arbiter Mariano L. Bactin of NLRC RAB-III rendered a decision, which reads:

“WHEREFORE, premises considered, let this case be as it is hereby ordered DISMISSED with prejudice for lack of merit.

The money claims as well as their claims for damages and attorney's fees are likewise dismissed with prejudice for lack of legal and factual basis, thus, also lack merit.

SO ORDERED.“

On 02 November 2010, petitioners filed their appeal. This was denied by the NLRC in its Decision dated 27 June 2011 and affirmed en toto the decision of the Labor Arbiter, which reads:

“WHEREFORE, premises considered, the Appeal is DENIED for lack of merit. The Decision appealed from is AFFIRMED.

SO ORDERED.”

Subsequently, petitioners filed a motion for reconsideration, which was denied by the public respondent on 24 October 2011.

Aggrieved, petitioners now come to us via this Petition for Certiorari.

THE ISSUES

- WHETHER PETITIONERS WERE REGULAR EMPLOYEES OF PRIVATE RESPONDENT MARQUEE MILLS.
- WHETHER PETITIONERS WERE DENIED DUE PROCESS.
- WHETHER PETITIONERS WERE ILLEGALLY DISMISSAL.
- WHETHER PETITIONERS WERE ENTITLED TO THEIR MONEY CLAIMS IN THIS CASE INCLUDING MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.

OUR RULING

First, petitioners argue that they were indeed regular employees of private respondents because the purchase orders, which were never presented during the proceedings, cannot be likened to a contract for a particular or specific job.

We do not agree.

Article 280 of the Labor Code defines who are project employees in this wise:

Art. 280. Regular and casual employment. The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season. (Emphasis supplied.)

The principal test for determining whether particular employees are properly characterized as “project employees” as distinguished from “regular employees,” is whether or not the “project employees” were assigned to carry out a “specific project or undertaking,” the duration (and scope) of which were specified at the time the employees were engaged for that project.[7] A true project employee should be assigned to a project which begins and ends at determined or determinable times, and be informed thereof at the time of hiring.[8]

We find that the petitioners were project employees. This is evidenced by the Pagtatalaga sa Pamamasukan, the contract of employment which they entered into with private respondents upon hiring, wherein the position applied for, the specific project to be undertaken, the date of hiring, and the date of completion[9] were indicated.

Indubitably, they were indeed project employees having been hired to carry out a specific project or undertaking, the duration and scope of which were determined at the time of their hiring or engagement.

Being project employees, they cannot claim to have been denied due process and illegally dismissed since the completion or expiration of their contracts of employment terminates their employment.

Petitioners knew at the time they signed their contracts of employment the date of completion of the projects for which they were hired. Upon such completion, private respondents duly reported the termination of employment to the Department of Labor and Employment, as evidenced by the Establishment Employment Reports submitted in evidence.

As correctly observed by the NLRC, respondents have complied with the requirements of validly hiring project employees. The termination of herein petitioners from their work cannot be equated to dismissal because it was

merely by reason of the expiration of their contract. Anent the petitioners' claim for underpayment of wages, overtime pay, service incentive leave pay, and 13[th] month pay, the records reveal that they were actually receiving a salary of P294.00[10] per day. Private respondents were able to provide us with proof that they were exempt from compliance with the Wage Order Nos. RBIII-13 and RBIII-14.

Private respondents submitted the Decision of the Regional Tripartite Wages and Productivity Board No. 03, which approved their application for exemption under Wage Order No. RBIII-13[11] finding the company to have qualified for exemption as a garment exporter with at least fifty percent (50%) export sales and with a forward contract executed for twelve (12) months. They also furnished a copy of a similar decision,[12] which granted the employer full exemption from payment of the wage increase prescribed under Wage Order No. RBIII-14 for one year as a distressed establishment, after having registered a capital impairment of more than twenty percent (20%) for the years 2006 and 2007.

In view of the above exemptions presented, petitioners' claim for underpayment of wages, overtime pay, service incentive leave pay, and 13[th] month pay, therefore, have no leg to stand on.

Lastly, as to their claim for moral and exemplary damages and attorney's fees, the same cannot be granted for lack of basis both in fact and in law.

WHEREFORE, the appeal is hereby DENIED. The Decision appealed from is hereby AFFIRMED.

SO ORDERED.

Pizarro, N.B., Chairperson and [*]Galapate-Laguilles, Z.T., JJ., concur.

[*] Acting Junior Member, per Office Order No. 15-15-ABR, dated January 20, 2015.

[1] Rollo, pp. 3 – 27

[2] Rollo, pp. 51 – 56

[3] Rollo, pp. 104 – 115

[4] Rollo, pp. 28 – 34

[5] Rollo, pp. 35 – 50

[6] Rollo, p. 104

[7] *ALU-TUCP v. National Labor Relations Commission*, G.R. No. 109902, August 2, 1994, 234 SCRA 685.

[8] *Pedy Caseres and Andito Pael v. Universal Robina Sugar Milling Corporation and/or Resident Manager Rene Cabate*, G.R. No. 159343, September 28, 2007, citing *Olongapo Maintenance Services, Inc. v. Chantengco*, G.R. No. 156146, June 21, 2007.

[9] Rollo, p. 224

[10] Rollo, p. 238

[11] Rollo, pp. 140 – 142

[12] Rollo, pp. 143 – 144

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