

ARMANDO P. BAUTISTA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION HI-TRONIC IMPORT MARKETING, FONSTY SIAO, AND ALFREDO PUNZALAN, RESPONDENTS.

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

This is a Petition for Certiorari[1] under Rule 65 of the Rules of Court assailing the Resolutions dated 15 April 2014[2] and 30 May 2014[3] both issued by the Public Respondent National Labor Relations Commission (NLRC), in NLRC LAC No. 03-000817-14 [8] (NLRC NCR Case No. 05-07270-13), the respective decretal portions of which read:

15 April 2014 Resolution:

“WHEREFORE, premises considered, complainant's appeal is DENIED.

The Decision of the Labor Arbiter is AFFIRMED.

SO ORDERED.”

30 May 2014 Resolution:

“WHEREFORE, in view of the foregoing, the instant Motion is hereby DENIED for lack of merit.

SO ORDERED.”

THE FACTS

On 17 May 2013, Petitioner Armando P. Bautista filed a Complaint for Illegal Dismissal[4] (with claim for damages and attorney's fees) before the Labor Arbiter against Private Respondents Hi-Tronic Import Marketing, Fonsty Siao, and Alfredo Punzalan.

In his Position Paper,[5] Petitioner averred:

“1. On 10 December 2011, complainant Armando P. Bautista was hired by the respondents as varnisher/retoucher of door and jamb. The doors of the respondents are delivered and attached to their clients' condo units. Complainant was assigned to several places such as Belton Place, EPG Bldg., North Belton Park, Park Terraces and other buildings that are located at Ayala, Makati;

2. Complainant's schedule of work is from Monday to Saturday from seven o'clock in the morning until four o'clock in the afternoon (7:00 a.m. To 4:00 p.m.). For the eight (8) hours working shift, complainant receives Four Hundred and Fifty Six Pesos (P456.00) per day;

3. (O)n 12 April 2013, complainant went to DZMM in order to seek for advice and to air his grievances as well because of the respondent's (failure) to pay him holiday pay and 13[th] month pay. The DZMM referred him to NLRC and there, complainant asked for (a) conference under SENA. Thereafter, on 30 April 2013, the foreman Roberto Celis informed the complainant as well as other employees that it would be their last day in

ERG Building and instruct(ed) them to wait for the call of the management for their next work schedule. On 02 May 2013, complainant learned that his other co-employees were called back for work except him. The complainant believes that the respondents never gave him work because of the SENA proceedings. On 15 May 2013, complainant agreed to settle with the respondents in the amount of P10,000.00 with respect to his overtime pay, holiday pay, and 13th month pay. Complainant was made to sign a Release, Waiver, and Quitclaim but he maintains and insists that what was agreed upon was only with respect to overtime pay, 13th month pay and holiday pay. It was clear when he asked the hearing officer that he can still file illegal dismissal even if he signed the same.

4. Thereafter complainant never heard again from the respondents. Feeling aggrieved by his situation, the complainant decided to institute the above-captioned complaint before this Honorable Office.”

Private Respondents denied the allegations of Petitioner and, in their Position Paper,[6] countered:

“2. Hi-Tronic Import Marketing is engaged in supplying and installation of fully-painted wood door(s). The employees that perform activities necessary in the usual business of Hi-Tronic are installers and carpenters. However, in case of damaged doors, paint retoucher is being hired (sic) on a case to case basis;

3. In one of the projects of Hi-Tronic in Eton Residence Greenbelt, complainant was commissioned to do retouch. Armando Bautista was hired by the foreman on site considering the need to do retouch paint;

4. After the project, Armando Bautista was paid his due. He was then called in case there is a need for him and if he is near the place of the project of Hi-Tronic;

5. Sometime in April 2013, complainant filed a complaint before the NCR Arbitration Branch against the herein respondent;

6. Just to buy peace and to extend assistance to the complainant, a compromise was reached and the complainant executed a “Release, Waiver, and Quitclaim xxx;

xxx xxx xxx

8. Complainant was not dismissed by the respondent. His job as painter is still being sought by respondent considering that there are times that retouch paint should be made;

9. Considering that now is the rainy season, there is not much project to install doors and repairs or repaint are very seldom considering that the imported doors are in good condition when they (were) delivered or imported. When the damaged is too much, (sic) the doors are being returned to the supplier. (sic) That is the reason, complainant is being hired (sic) only when the need arises xxx.”

On 17 February 2014, the Labor Arbiter rendered its Decision[7] which dismissed Petitioner's Complaint.

Petitioner elevated the case to the NLRC. On 15 April 2014, The Commission a quo rendered the first assailed Resolution which affirmed the 17 February 2014 ruling of the Labor Arbiter.

Petitioner seasonably filed a Motion for Reconsideration but the same was denied by the NLRC on 30 May 2014 in its second assailed Resolution.

Hence, this Petition.

ISSUE

Petitioner cites this lone issue in his Petition for Certiorari:

“WHETHER THE PUBLIC RESPONDENT COMMISSION (NLRC) ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT THERE WAS NO ILLEGAL DISMISSAL.”

THIS COURT'S RULING

Petitioner bewails the Commission a quo's issuance of the 15 April 2014 and 30 May 2014 Resolutions which dismissed Petitioner's Complaint for Illegal Dismissal and subsequently declared him as a project employee. Petitioner contends:

“(P)etitioner's position was reasonably connected with the private respondents' business, which is the installation of doors. The petitioner was tasked with retouching the paint, varnishing the door, as well as providing assistance during installation. Clearly, his job had a reasonable connection with and vital to the nature of respondents' business. Moreover, he worked for the private respondents for more than one (1) year, as evidenced by his Daily Time Records for 2011 until 2013. His continuous employment, therefore, signifies that he was a regular and not merely a project employee.”

The Private Respondents posit otherwise, thus:

“(P)etitioner was not illegally dismissed considering that he was a project employee engaged to perform services for Hi-Tronic with respect to Eton Project whose duration of employment is co-terminus with the completion of the same. Hence, after the Eton Project was completed, the Petitioner cannot oblige Hi-Tronic to continue to hire him as it would be extremely burdensome for the former, which, like him, depends on the availability of the projects, if it would have to carry him as a permanent employee and pay him wages even if there are no projects for him to work on.”

We resolve.

Art. 280 of the Labor Code defines regular, project and casual employment as follows:

"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 services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists."

Proceeding therefrom, an employment is considered regular when the activities performed by the employee are usually necessary or desirable in the usual business or trade of the employer even if the parties enter into an agreement stating otherwise. Excluded thereto are (1) the so-called "project employment," the termination of which is more or less determinable at the time of employment, such as those connected with a particular construction project; and (2) seasonal employment, which by its nature is limited for only the duration of that season. Nevertheless, any employee who has rendered at least one (1) year of service, whether continuous or intermittent, with respect to the activity he performed and while such activity actually exists, must generally be deemed regular.[8]

Following Article 280, whether one is employed as a project employee or not would depend on whether he was hired to carry out a "specific project or undertaking." [9] Another factor that may be considered is the reasonable connection between the particular activity undertaken by the employee in relation to the usual trade or business of the employer; if without specifying the duration and scope, the work to be undertaken is usually necessary or

desirable in the usual business or trade of the employer, then it is regular employment and not just "project" or "casual" employment.

Thus, the nature of one's employment does not depend on the will or word of the employer nor on the procedure of hiring and the manner of designating the employee, but on the nature of the activities to be performed by the employee, considering the employer's nature of business[10] and the duration and scope of the work to be done.

In *ALU-TUCP vs. NLRC*,[11] the Supreme Court discussed two types of projects, viz:

In the realm of business and industry, we note that project could refer to one or the other of at least two (2) distinguishable types of activities. Firstly, a project could refer to a particular job or undertaking that is within the regular or usual business of the employer company, but which is distinct and separate, and identifiable as such, from the other undertakings of the company. Such job or undertaking begins and ends at determined or determinable times.

The term project could also refer to, secondly, a particular job or undertaking that is not within the regular business of the corporation. Such a job or undertaking must also be identifiably separate and distinct from the ordinary or regular business operations of the employer. The job or undertaking also begins and ends at determined or determinable times xxx."

Petitioner's job as a painter falls in the second type of project employment stated above.

Hi-Tronic Import Marketing, where Petitioner was employed from 10 December 2011 to 30 April 2013, or more or less sixteen (16) months, is engaged in supplying and installation of fully painted imported doors to its clients. Because some doors get damaged along the way, the Private Respondents hired herein Petitioner, among others, to have the said doors revarnished/repainted before installation.

Petitioner was hired for a specific project that was not within the regular business of Hi-Tronic Import Marketing, Fonsty Siao, and Alfredo Punzalan. Private Respondents are not engaged in the business of repainting doors. Although the activity was necessary to enable the said Private Respondents to continue supplying imported doors which are acceptable to the company's clients, the necessity for revarnishing and/or repainting arises only when the paint or varnish of a particular door gets damaged while in transit. Clearly, the job of Petitioner is separate and distinct from the usual, ordinary or regular business operations of Private Respondents, which is supplying imported doors to their clientele. Simply put, Petitioner was a project employee and not a regular employee of Private Respondents.[12]

Furthermore, as a project employee, Petitioner's employment is dependent on the completion of the specific project where he was assigned to. Inasmuch as his work in the Eton Residence Greenbelt (ERG) Building (his last place of assignment) had already been completed, his employment had likewise ended. As correctly stated by both the Labor Arbiter and the NLRC, the termination of the work at ERG Building and Petitioner's failure to be assigned to another project is not tantamount to illegal dismissal.

At any rate, it appears from the records that Petitioner had already signed a Release, Waiver and Quicclaim[13] dated 15 May 2013, the contents of which read:

"KNOW ALL MEN BY THESE PRESENTS:

That I, Armando Bautista, xxx acknowledge receipt of the sum of Ten Thousand Pesos (P10,000.00) from Jezzel Agalon, Representative of Hi-Tronic Import Marketing in full payment and final settlement of my overtime pay, holiday pay, and 13th month pay due to me or which may be due to me arising from my past and present employment with Hi-Tronic Import Marketing under the law or under any existing agreement with respect thereto, as well as any and all claims of whatever kind and nature.

In consideration of said payment, I do hereby quitclaim, release, discharge and waive any and all actions of whatever nature, expected, real or apparent, which I may have against the said company, its directors, officers, employees, agents and clients by reason of or arising from my employment with the company. I will institute no labor action against the said company, its directors, officers, employees, agents and clients in relation to the above claims. Any and all actions which I may have commenced either solely in my name or jointly with others before any board, bureau, court, or tribunal against the said company xxx are hereby deemed and considered voluntary withdrawn by me and I will no longer testify or continue to prosecute said action(s).

I declare that I have read this document and have fully understood its contents xxx” (Emphasis supplied)

At this juncture it must be stressed that not all quitclaims are invalid per se or against public policy. A quitclaim is invalid or contrary to public policy only: (1) where there is clear proof that the waiver was wrangled from an unsuspecting or gullible person; or (2) where the terms of settlement are unconscionable on their face. In instances of invalid quitclaims, the law steps in to annul the questionable waiver. Indeed, there are legitimate waivers that represent the voluntary and reasonable settlements of laborers' claims that should be respected by the Court as the law between the parties. Where the party has voluntarily made the waiver, with a full understanding of its terms as well as its consequences, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking, and may not later be disowned simply because of a change of mind.[14] A waiver is essentially contractual.

Withal, there is no proof that the said Release, Waiver, and Quitclaim was wrangled to an unsuspecting or gullible person. Neither is there any showing that the terms of the settlement is unconscionable on its face. For that matter, the validity of the quitclaim was not even questioned by Petitioner in the instant Petition for Certiorari. For all intents and purposes, the Release, Waiver, and Quitclaim is binding on the parties herein, and the same precludes the Petitioner from raising the issue of the validity of his purported dismissal before this Court.

All told, the Petition fails.

WHEREFORE, the Petition for Certiorari is DISMISSED and the Resolutions dated 15 April 2014 and 30 May 2014 both issued by the National Labor Relations Commission are hereby AFFIRMED.

SO ORDERED.

De Leon, M.M., Chairperson and Antonio-Valenzuela, N.G., JJ., concur.

[1] Rollo, pp. 02-22

[2] Id., pp. 105-112

[3] Id., pp. 131-133

[4] Id., pp. 47-48

[5] Id., pp. 38-46

[6] Id., pp. 57-60

[7] Id., pp. 74-78

[8] See *San Miguel Corp. v. NLRC* (G.R. No. 125606, 07 October 1998)

[9] See *Jimenez v. NLRC*, 256 SCRA 84 (1996); *Madlos v. NLRC*, 254 SCRA 248 (1996); *Tanala v. NLRC*, 252 SCRA 314 (1996)

[10] L.T Datu and Co. Inc. v. NLRC, 253 SCRA 440 (1996); Raycor Aircontrol Systems, Inc. v. NLRC, 261 SCRA 589 (1996)

[11] 234 SCRA 678 (1994) at 685

[12] See Cosmos Bottling Co. v. NLRC, 255 SCRA 358 (1996)

[13] Id., pp. 61-62

[14] Coats Manila Bay, Inc. v. Ortega, (G.R. No. 172628, 13 February 2009)

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