

**GUINNUX INTERIORS, INC.AND/OR GABRIEL OLIVES, RAMON
CARREON, FRED NERIT AND CIRILO CORBELLA, PETITIONERS, VS.
THE NATIONAL LABOR RELATIONS COMMISSION (SECOND
DIVISION) AND ROMEO...**

G.R. No. 115569. May 27, 1997

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for certiorari seeking to nullify the National Labor Relations Commission's decision dated September 30, 1993, which reversed the decision of the Labor Arbiter dated May 10, 1993, and its resolution dated April 7, 1994, which denied petitioners' motion for reconsideration.

As disclosed from the pleadings of the parties, the following facts are established.

Petitioner company (QII) is engaged in the furniture and interior design business. Private respondents Reynaldo Cagsawa and Romeo Balais were employed as laborers of QII on February 7, 1990, and June 20, 1990, respectively with the task of sanding, varnishing and installing furnitures.

Sometime in September 1990, QII was awarded the "SKYLAND PLAZA PROJECT," which was estimated to be completed within 120 days after its receipt of the downpayment. Private respondents were assigned in this project to do "finishing touches" and occasional installation on the furnitures.

On December 31, 1991, however, Balais was dismissed by QII because the project was already nearing completion and he was not a regular employee. Cagsawa, on the other hand, was dismissed on March 19, 1992 on the same ground. Hence, on July 21, 1992, they filed a complaint against QII for illegal dismissal, underpayment of wages, 13th month pay, service incentive leave pay, with a prayer for moral and exemplary damages with the Arbitration Branch of the NLRC. On May 10, 1993, Labor Arbiter Jovencio Mayor dismissed the complaint for lack of merit on the ground that as project employees, private respondents can be separated from service after the completion of the project.

On appeal, the NLRC reversed the findings of the Labor Arbiter, rendered a new judgment declaring that private respondents have attained the status of regular employees and that their subsequent dismissal was illegal under the circumstances, and ordered QII to reinstate them to their former positions without loss of seniority rights and with full back wages. As stated at the outset, QII's motion for reconsideration was later denied by the NLRC for lack of merit.

In this petition, QII alleges that the NLRC gravely abused its discretion when it annulled and set aside the Labor Arbiter's decision and thereafter ruled that private respondents were illegally dismissed from employment in spite of the existence of evidence that they were project employees and, thus, dismissable upon completion of the particular project for which they were hired.

The NLRC's order of reinstatement with back wages is also being assailed.

The crux of the dispute is whether private respondents are project or regular employees, as defined by law.

A cursory reading of these issues reveals that they are factual in nature, involving as they do the appreciation of evidence presented before the NLRC and, as such, are entitled to respect and finality.[1] In the case at bar, we found no cogent reason to deviate from these policy rulings, as petitioner failed to convince us that the findings of the National Labor Relations Commission reversing the Labor Arbiter's decision are capricious or arbitrary.

QII argues that no substantial evidence was presented by private respondents to bolster their claim that they are regular employees. Since they were hired for a specific project, the completion of such project was a sufficient cause for their dismissal.

It is well-settled that a project employee is one whose "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." [2] A close and thorough scrutiny of the records would readily reveal that private respondents were not informed by the QII of the duration and scope of the undertaking for which their services were required. Neither is there any proof that the period of such engagement was specified other than the self-serving contention of QII that private respondents should have known that their employment status was coterminous with the project. QII could have easily presented an employment contract to show that private respondents were hired only for a specific project or undertaking, but they failed to do so.

In addition, private respondents were engaged in four other projects where no separate contract of employment was entered into between them and QII.

QII also argues that private respondents were hired only as trainees, who were really intended to be assigned to the Skyland Plaza Project.[3]

We are not impressed. Even QII admitted that the tasks of the private respondents are "sanding," "varnishing" and "molding" of furnitures, duties which do not require special skill or training. The ten-month "training period" and three-month "training period" prior to the commencement of the Skyland Plaza Project are too long a time for such a simple job.

It is also worth mentioning that, however menial private respondents' tasks were, they were still "necessary or desirable in the usual business or trade" of QII, since finishing touches, such as "sanding," "varnishing" and "molding," are indispensable in a furniture business. These are the very same duties they performed in the other four projects contracted by QII.

Consequently, since private respondents were tasked to undertake activities usually desirable or necessary in the usual business of QII, and such service was rendered for almost two years, the ineluctable conclusion is that they have attained the status of regular employees.

WHEREFORE, in view of the foregoing, the instant petition for certiorari is DISMISSED and the assailed decision and resolution of the NLRC are hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Regalado, (Chairman), Puno, Mendoza, and Torres, Jr., JJ., concur.

* This should be read as Quinnux.

[1] *San Miguel Corporation v. NLRC*, 255 SCRA 580 (1996); *Garcia v. NLRC*, 224 SCRA 399 (1993).

[2] Article 280 of the Labor Code, as amended; *Cosmos Bottling Corporation v. NLRC*, 255 SCRA 358 (1996).

[3] *Rollo*, pp. 20-21.

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