

**ALCATEL PHILIPPINES, INC., AND YOLANDA DELOS REYES,
PETITIONERS, VS. RENE R. RELOS, RESPONDENT.***G.R. No. 164315. July 03, 2009*

Ponente: CARPIO, J.

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Before the Court is a petition for review[1] of the 31 March 2004 Decision[2] and 14 June 2004 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 75965. In its 31 March 2004 Decision, the Court of Appeals set aside the 20 February 2002 Decision[4] of the National Labor Relations Commission (NLRC) and reinstated the 24 September 1998 Decision[5] of the Labor Arbiter which declared respondent Rene R. Relos (respondent) a regular employee of petitioner Alcatel Philippines, Inc. (Alcatel). In its 14 June 2004 Resolution, the Court of Appeals denied the motion for reconsideration of Alcatel and petitioner Yolanda Delos Reyes (petitioner Delos Reyes).

The Facts

Alcatel is a domestic corporation primarily engaged in the business of installation and supply of telecommunications equipment. Petitioner Delos Reyes was a former Administrative Officer of Alcatel.

On 4 January 1988, Alcatel offered respondent "temporary employment as Estimator/Draftsman - Civil Works to assist in the preparation of manholes and conduit design for the proposal preparation for PLDT X-5 project for the period 4 January 1988 to 28 February 1988." [6] On 1 March 1988, Alcatel again offered respondent "temporary employment as Estimator/Draftsman to assist in the PLDT's X-4 IOT project for the period 1 March 1988 to 30 April 1988." [7]

Subsequently, Alcatel undertook the PLDT 1342 project (project) which involved the installation of microwave antennas and towers in Eastern Visayas and Eastern Mindanao for the Philippine Long Distance Company. On 1 February 1991, Alcatel offered respondent "temporary employment as Civil Works Inspector, to assist in the implementation of the PLDT 1342 Project, for the period 1 February 1991 to 31 March 1991." [8] Upon the expiration of his contract, respondent was again offered temporary employment this time as Civil Works Engineer from 1 April 1991 to 30 September 1991. [9] Respondent was offered temporary employment in the same capacity five more times from 1 October 1991 to 31 July 1992. [10] Then, on 1 August 1992, Alcatel hired respondent as "project employee for the PLDT 1342 project to work as Civil Engineer from the period of 1 August 1992 to 31 July 1993." [11] Alcatel renewed respondent's contract twice from 1 August 1993 to 31 December 1993. [12] In a letter dated 22 December 1993, [13] Alcatel informed respondent that the civil works portion of the project was near completion; however, the remaining works encountered certain delays and had not been completed as scheduled. Alcatel then extended respondent's employment for another three months or until 31 March 1994. Thereafter, Alcatel employed respondent as a Site Inspector until 31 December 1995. [14]

On 11 December 1995, Alcatel informed respondent that the project would be completed on 31 December 1995 and that his contract with Alcatel would expire on the same day.[15] Alcatel asked respondent to settle all his accountabilities with the company and advised him that he would be called if it has future projects that require his expertise.

In March 1997, respondent filed a complaint for illegal dismissal, separation pay, unpaid wages, unpaid overtime pay, damages, and attorney's fees against Alcatel. Respondent alleged that he was a regular employee of Alcatel and that he was dismissed during the existence of the project.

In its 24 September 1998 Decision, the Labor Arbiter declared that respondent was a regular employee of Alcatel. The Labor Arbiter also ruled that respondent was illegally dismissed and, therefore, entitled to back wages. The Labor Arbiter's Decision provides:

WHEREFORE, premises considered, judgment is hereby rendered, finding that [sic] complainant to be a regular employee and finding further that [sic] complainant to have been illegally dismissed from employment and ordering respondents, jointly and severally, to pay complainant the following:

- Backwages from the time he was illegally dismissed until his actual reinstatement in the amount of THREE HUNDRED FORTY EIGHT THOUSAND PESOS (P348,000.00). The award of backwages shall be re-computed once this decision has become final;
- Money claims in the total amount of FOURTEEN THOUSAND TWO HUNDRED FORTY PESOS (P14,240.00);
- Attorney's fees of ten (10%) percent of the total monetary award.

SO ORDERED.[16]

Alcatel appealed to the NLRC.

In its 20 February 2002 Decision, the NLRC reversed the Labor Arbiter's Decision and dismissed respondent's complaint for illegal dismissal. The NLRC declared that respondent was a project employee and that respondent was not illegally dismissed but that his employment contract expired.

Respondent filed a motion for reconsideration. In its 19 December 2002 Order,[17] the NLRC denied respondent's motion.

Respondent appealed to the Court of Appeals.

In its 31 March 2004 Decision, the Court of Appeals set aside the NLRC's Decision and reinstated the Labor Arbiter's Decision.

Alcatel filed a motion for reconsideration. In its 14 June 2004 Resolution, the Court of Appeals denied Alcatel's motion.

Hence, this petition.

The Ruling of the Labor Arbiter

The Labor Arbiter declared that, since respondent was repeatedly hired by Alcatel, respondent performed functions that were necessary and desirable in the usual business or trade of Alcatel. The Labor Arbiter concluded that respondent belonged to the "work pool of non-project employees" of Alcatel.

As to the project, the Labor Arbiter noted that respondent's employment contracts did not specify the project's completion date. The Labor Arbiter said that a short extension of respondent's employment contract was

believable, but an extension up to 1995, when respondent was originally engaged only from 1 February to 31 March 1991, was unbelievable. The Labor Arbiter also said that Alcatel's unsubstantiated claim, that the project was merely extended for "unavoidable causes," was absurd. The Labor Arbiter concluded that there was really no fixed duration of the project and that Alcatel used the periods of employment as a facade to show that respondent was only a project employee.

The Ruling of the NLRC

The NLRC set aside the Labor Arbiter's ruling and declared that respondent was a project employee. The NLRC said respondent was assigned to carry out a specific project or undertaking and the duration of his services was always stated in his employment contracts. The NLRC also pointed out that, by the nature of Alcatel's business, respondent would remain a project employee regardless of the number of projects for which he had been employed. Since respondent was a project employee, the NLRC said he was not illegally dismissed, but that his dismissal was brought about by the expiration of his employment contract.

The Ruling of the Court of Appeals

The Court of Appeals set aside the NLRC's decision and reinstated the Labor Arbiter's ruling. The Court of Appeals declared that respondent was a regular employee of Alcatel because (1) respondent was assigned to positions and performed tasks that were necessary to the main line and business operations of Alcatel; (2) respondent was repeatedly hired and contracted, continuously and for prolonged periods, with his employment contracts renewed each time they fell due; and (3) Alcatel did not report the termination of the projects with the nearest public employment office. The Court of Appeals also said that, although respondent's employment contracts specified that he was being engaged for a specific period, there was no clear provision on the actual scope of the project for which respondent was engaged or the actual length of time that the project was going to last. The Court of Appeals concluded that Alcatel imposed the periods of employment to preclude respondent from acquiring tenurial security.

The Issues

Alcatel raises the following issues:

- Whether respondent was a regular employee or a project employee; and
- Whether respondent was illegally dismissed.

The Ruling of the Court

The petition is meritorious.

Alcatel argues that respondent was a project employee because he worked on distinct projects with the terms of engagement and the specific project made known to him at the time of the engagement. Alcatel clarifies that respondent's employment was coterminous with the project for which he was hired and, therefore, respondent was not illegally dismissed but was validly dismissed upon the expiration of the term of his project employment. Alcatel explains that its business relies mainly on the projects it enters into and thus, it is constrained to hire project employees to meet the demands of specific projects.

On the other hand, respondent insists that he is a regular employee because he was assigned by Alcatel on its various projects since 4 January 1988 performing functions desirable or necessary to Alcatel's business. Respondent adds that his employment contracts were renewed successively by Alcatel for seven years. Respondent contends that, even assuming that he was a project employee, he became a regular employee because he was re-hired every termination of his employment contract and he performed functions necessary to Alcatel's

business. Respondent also claims that he was illegally dismissed because he was dismissed during the existence of the project.

The principal test for determining whether a particular employee is a project employee or a regular employee is whether the project employee was assigned to carry out a specific project or undertaking, the duration and scope of which were specified at the time the employee is engaged for the project.[18] "Project" may refer to a particular job or undertaking that is within the regular or usual business of the employer, but which is distinct and separate and identifiable as such from the undertakings of the company. Such job or undertaking begins and ends at determined or determinable times.[19]

In our review of respondent's employment contracts, we are convinced that respondent was a project employee. The specific projects for which respondent was hired and the periods of employment were specified in his employment contracts. The services he rendered, the duration and scope of each employment are clear indications that respondent was hired as a project employee.

We do not agree with respondent that he became a regular employee because he was continuously rehired by Alcatel every termination of his contract. In *Maraguinot, Jr. v. NLRC*, [20] we said:

A project employee or a member of a work pool may acquire the status of a regular employee when the following concur:

- 1) There is a continuous rehiring of project employees even after the cessation of a project; and
- 2) The tasks performed by the alleged "project employee" are vital, necessary and indispensable to the usual business or trade of the employer.[21] (Emphasis ours)

While respondent performed tasks that were clearly vital, necessary and indispensable to the usual business or trade of Alcatel, respondent was not continuously rehired by Alcatel after the cessation of every project. Records show that respondent was hired by Alcatel from 1988 to 1995 for three projects, namely the PLDT X-5 project, the PLDT X-4 IOT project and the PLDT 1342 project. On 30 April 1988, upon the expiration of respondent's contract for the PLDT X-4 IOT project, Alcatel did not rehire respondent until 1 February 1991, or after a lapse of 33 months, for the PLDT 1342 project. Alcatel's continuous rehiring of respondent in various capacities from February 1991 to December 1995 was done entirely within the framework of one and the same project – the PLDT 1342 project. This did not make respondent a regular employee of Alcatel as respondent was not continuously rehired after the cessation of a project. Respondent remained a project employee of Alcatel working on the PLDT 1342 project.

The employment of a project employee ends on the date specified in the employment contract. Therefore, respondent was not illegally dismissed but his employment terminated upon the expiration of his employment contract. Here, Alcatel employed respondent as a Site Inspector until 31 December 1995.

WHEREFORE, we GRANT the petition. We SET ASIDE the 31 March 2004 Decision and 14 June 2004 Resolution of the Court of Appeals and REINSTATE the 20 February 2002 Decision and 19 December 2002 Order of the National Labor Relations Commission.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 26-35. Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Mariano C. Del Castillo and Vicente Q. Roxas, concurring.

[3] Id. at 37.

[4] Id. at 95-114. Penned by Commissioner Vicente S.E. Veloso (now Associate Justice of the Court of Appeals), with Presiding Commissioner Roy V. Señeres and Commissioner Alberto R. Quimpo concurring.

[5] Id. at 72-77. Penned by Labor Arbiter Romulus S. Protacio.

[6] Id. at 246-247 (Annex "1").

[7] Id. at 248-249 (Annex "2").

[8] Id. at 38 (Annex "C").

[9] Id. at 39-40 (Annex "C-1").

[10] Id. at 41-50 (Annexes "C-2" to "C-6").

[11] Id. at 51-52 (Annex "C-7").

[12] Id. at 53-56 (Annexes "C-8" and "C-9").

[13] Id. at 57-58 (Annex "C-10").

[14] Id. at 59-62 (Annexes "C-11" to "C-14").

[15] Id. at 63 (Annex "D").

[16] Id. at 76-77.

[17] Id. at 141-143.

[18] *Imbuido v. National Labor Relations Commission*, 385 Phil. 999 (2000).

[19] *Tomas Lao Construction v. National Labor Relations Commission*, 344 Phil. 268 (1997).

[20] 348 Phil. 580 (1998).

[21] Id. at 600-601.

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