# OSCAR VILLAMARIA, JR. PETITIONER,VS.COURT OF APPEALS AND JERRY V. BUSTAMANTE, RESPONDENTS.

*G.R. NO. 165881. April 19, 2006*

Ponente: CALLEJO, SR., J.

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**CALLEJO, SR., J.:**

Before us is a Petition for Review on Certiorari under Rule 65 of the Revised Rules of Court assailing the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 78720 which set aside the Resolution[3] of the National Labor Relations Commission (NLRC) in NCR-30-08-03247-00, which in turn affirmed the Decision[4] of the Labor Arbiter dismissing the complaint filed by respondent Jerry V. Bustamante.

Petitioner Oscar Villamaria, Jr. was the owner of Villamaria Motors, a sole proprietorship engaged in assembling passenger jeepneys with a public utility franchise to operate along the Baclaran-Sucat route. By 1995, Villamaria stopped assembling jeepneys and retained only nine, four of which he operated by employing drivers on a "boundary basis." One of those drivers was respondent Bustamante who drove the jeepney with Plate No. PVU-660. Bustamante remitted P450.00 a day to Villamaria as boundary and kept the residue of his daily earnings as compensation for driving the vehicle. In August 1997, Villamaria verbally agreed to sell the jeepney to Bustamante under the "boundary-hulog scheme," where Bustamante would remit to Villarama P550.00 a day for a period of four years; Bustamante would then become the owner of the vehicle and continue to drive the same under Villamaria's franchise. It was also agreed that Bustamante would make a downpayment of P10,000.00.

On August 7, 1997, Villamaria executed a contract entitled "Kasunduan ng Bilihan ng Sasakyan sa Pamamagitan ng Boundary-Hulog"[5] over the passenger jeepney with Plate No. PVU-660, Chassis No. EVER95-38168-C and Motor No. SL-26647. The parties agreed that if Bustamante failed to pay the boundary-hulog for three days, Villamaria Motors would hold on to the vehicle until Bustamante paid his arrears, including a penalty of P50.00 a day; in case Bustamante failed to remit the daily boundary-hulog for a period of one week, the Kasunduan would cease to have legal effect and Bustamante would have to return the vehicle to Villamaria Motors.

Under the Kasunduan, Bustamante was prohibited from driving the vehicle without prior authority from Villamaria Motors. Thus, Bustamante was authorized to operate the vehicle to transport passengers only and not for other purposes. He was also required to display an identification card in front of the windshield of the vehicle; in case of failure to do so, any fine that may be imposed by government authorities would be charged against his account. Bustamante further obliged himself to pay for the cost of replacing any parts of the vehicle that would be lost or damaged due to his negligence. In case the vehicle sustained serious damage, Bustamante was obliged to notify Villamaria Motors before commencing repairs. Bustamante was not allowed to wear slippers, short pants or undershirts while driving. He was required to be polite and respectful towards the passengers. He was also obliged to notify Villamaria Motors in case the vehicle was leased for two or more days and was required to attend any meetings which may be called from time to time. Aside from the boundary-hulog, Bustamante was also obliged to pay for the annual registration fees of the vehicle and the premium for the vehicle's comprehensive insurance. Bustamante promised to strictly comply with the rules and regulations imposed by Villamaria for the upkeep and

maintenance of the jeepney.

Bustamante continued driving the jeepney under the supervision and control of Villamaria. As agreed upon, he made daily remittances of P550.00 in payment of the purchase price of the vehicle. Bustamante failed to pay for the annual registration fees of the vehicle, but Villamaria allowed him to continue driving the jeepney.

In 1999, Bustamante and other drivers who also had the same arrangement with Villamaria Motors failed to pay their respective boundary-hulog. This prompted Villamaria to serve a "Paalala,"[6] reminding them that under the Kasunduan, failure to pay the daily boundary-hulog for one week, would mean their respective jeepneys would be returned to him without any complaints. He warned the drivers that the Kasunduan would henceforth be strictly enforced and urged them to comply with their obligation to avoid litigation.

On July 24, 2000, Villamaria took back the jeepney driven by Bustamante and barred the latter from driving the vehicle.

On August 15, 2000, Bustamante filed a Complaint[7] for Illegal Dismissal against Villamaria and his wife Teresita. In his Position Paper,[8] Bustamante alleged that he was employed by Villamaria in July 1996 under the boundary system, where he was required to remit P450.00 a day. After one year of continuously working for them, the spouses Villamaria presented the Kasunduan for his signature, with the assurance that he (Bustamante) would own the jeepney by March 2001 after paying P550.00 in daily installments and that he would thereafter continue driving the vehicle along the same route under the same franchise. He further narrated that in July 2000, he informed the Villamaria spouses that the surplus engine of the jeepney needed to be replaced, and was assured that it would be done. However, he was later arrested and his driver's license was confiscated because apparently, the replacement engine that was installed was taken from a stolen vehicle. Due to negotiations with the apprehending authorities, the jeepney was not impounded. The Villamaria spouses took the jeepney from him on July 24, 2000, and he was no longer allowed to drive the vehicle since then unless he paid them P70,000.00.

Bustamante prayed that judgment be rendered in his favor, thus:

> WHEREFORE, in the light of the foregoing, it is most respectfully prayed that judgment be rendered ordering the respondents, jointly and severally, the following:
>
> - Reinstate complainant to his former position without loss of seniority rights and execute a Deed of Sale in favor of the complainant relative to the PUJ with Plate No. PVU-660;
>
> - Ordering the respondents to pay backwages in the amount of P400.00 a day and other benefits computed from July 24, 2000 up to the time of his actual reinstatement;
>
> - Ordering respondents to return the amount of P10,000.00 and P180,000.00 for the expenses incurred by the complainant in the repair and maintenance of the subject jeep;
>
> - Ordering the respondents to refund the amount of One Hundred (P100.00) Pesos per day counted from August 7, 1997 up to June 2000 or a total of P91,200.00;
>
> - To pay moral and exemplary damages of not less than P200,000.00;
>
> - Attorney's fee[s] of not less than 10% of the monetary award.
>
> Other just and equitable reliefs under the premises are also being prayed for.[9]

In their Position Paper,[10] the spouses Villamaria admitted the existence of the Kasunduan, but alleged that Bustamante failed to pay the P10,000.00 downpayment and the vehicle's annual registration fees. They further alleged that Bustamante eventually failed to remit the requisite boundary-hulog of P550.00 a day, which prompted


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them to issue the Paalaala. Instead of complying with his obligations, Bustamante stopped making his remittances despite his daily trips and even brought the jeepney to the province without permission. Worse, the jeepney figured in an accident and its license plate was confiscated; Bustamante even abandoned the vehicle in a gasoline station in Sucat, Parañaque City for two weeks. When the security guard at the gasoline station requested that the vehicle be retrieved and Teresita Villamaria asked Bustamante for the keys, Bustamante told her: "Di kunin ninyo." When the vehicle was finally retrieved, the tires were worn, the alternator was gone, and the battery was no longer working.

Citing the cases of Cathedral School of Technology v. NLRC[11] and Canlubang Security Agency Corporation v. NLRC,[12] the spouses Villamaria argued that Bustamante was not illegally dismissed since the Kasunduan executed on August 7, 1997 transformed the employer-employee relationship into that of vendor-vendee. Hence, the spouses concluded, there was no legal basis to hold them liable for illegal dismissal. They prayed that the case be dismissed for lack of jurisdiction and patent lack of merit.

In his Reply,[13] Bustamante claimed that Villamaria exercised control and supervision over the conduct of his employment. He maintained that the rulings of the Court in National Labor Union v. Dinglasan,[14] Magboo v. Bernardo,[15] and Citizen's League of Free Workers v. Abbas[16] are germane to the issue as they define the nature of the owner/operator-driver relationship under the boundary system. He further reiterated that it was the Villamaria spouses who presented the Kasunduan to him and that he conformed thereto only upon their representation that he would own the vehicle after four years. Moreover, it appeared that the Paalala was duly received by him, as he, together with other drivers, was made to affix his signature on a blank piece of paper purporting to be an "attendance sheet."

On March 15, 2002, the Labor Arbiter rendered judgment[17] in favor of the spouses Villamaria and ordered the complaint dismissed on the following ratiocination:

> Respondents presented the contract of Boundary-Hulog, as well as the PAALALA, to prove their claim that complainant violated the terms of their contract and afterwards abandoned the vehicle assigned to him. As against the foregoing, [the] complaint's (sic) mere allegations to the contrary cannot prevail.
>
> Not having been illegally dismissed, complainant is not entitled to damages and attorney's fees.[18]

Bustamante appealed the decision to the NLRC,[19] insisting that the Kasunduan did not extinguish the employer-employee relationship between him and Villamaria. While he did not receive fixed wages, he kept only the excess of the boundary-hulog which he was required to remit daily to Villamaria under the agreement. Bustamante maintained that he remained an employee because he was engaged to perform activities which were necessary or desirable to Villamaria's trade or business.

The NLRC rendered judgment[20] dismissing the appeal for lack of merit, thus:

> WHEREFORE, premises considered, complainant's appeal is hereby DISMISSED for reasons not stated in the Labor Arbiter's decision but mainly on a jurisdictional issue, there being none over the subject matter of the controversy.[21]

The NLRC ruled that under the Kasunduan, the juridical relationship between Bustamante and Villamaria was that of vendor and vendee, hence, the Labor Arbiter had no jurisdiction over the complaint. Bustamante filed a Motion for Reconsideration, which the NLRC resolved to deny on May 30, 2003.[22]

Bustamante elevated the matter to the CA via Petition for Certiorari, alleging that the NLRC erred

> I

> IN DISMISSING PETITIONER'S APPEAL "FOR REASON NOT STATED IN THE LABOR ARBITER'S DECISION, BUT MAINLY ON JURISDICTIONAL ISSUE;"
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> II
>
> IN DISREGARDING THE LAW AND PREVAILING JURISPRUDENCE WHEN IT DECLARED THAT THE RELATIONSHIP WHICH WAS ESTABLISHED BETWEEN PETITIONER AND THE PRIVATE RESPONDENT WAS DEFINITELY A MATTER WHICH IS BEYOND THE PROTECTIVE MANTLE OF OUR LABOR LAWS.[23]

Bustamante insisted that despite the Kasunduan, the relationship between him and Villamaria continued to be that of employer-employee and as such, the Labor Arbiter had jurisdiction over his complaint. He further alleged that it is common knowledge that operators of passenger jeepneys (including taxis) pay their drivers not on a regular monthly basis but on commission or boundary basis, or even the boundary-hulog system. Bustamante asserted that he was dismissed from employment without any lawful or just cause and without due notice.

For his part, Villamaria averred that Bustamante failed to adduce proof of their employer-employee relationship. He further pointed out that the Dinglasan case pertains to the boundary system and not the boundary-hulog system, hence inapplicable in the instant case. He argued that upon the execution of the Kasunduan, the juridical tie between him and Bustamante was transformed into a vendor-vendee relationship. Noting that he was engaged in the manufacture and sale of jeepneys and not in the business of transporting passengers for consideration, Villamaria contended that the daily fees which Bustmante paid were actually periodic installments for the the vehicle and were not the same fees as understood in the boundary system. He added that the boundary-hulog plan was basically a scheme to help the driver-buyer earn money and eventually pay for the unit in full, and for the owner to profit not from the daily earnings of the driver-buyer but from the purchase price of the unit sold. Villamaria further asserted that the apparently restrictive conditions in the Kasunduan did not mean that the means and method of driver-buyer's conduct was controlled, but were mere ways to preserve the vehicle for the benefit of both parties: Villamaria would be able to collect the agreed purchase price, while Bustamante would be assured that the vehicle would still be in good running condition even after four years. Moreover, the right of vendor to impose certain conditions on the buyer should be respected until full ownership of the property is vested on the latter. Villamaria insisted that the parallel circumstances obtaining in Singer Sewing Machine Company v. Drilon[24] has analogous application to the instant issue.

In its Decision[25] dated August 30, 2004, the CA reversed and set aside the NLRC decision. The fallo of the decision reads:

> UPON THE VIEW WE TAKE IN THIS CASE, THUS, the impugned resolutions of the NLRC must be, as they are hereby are, REVERSED AND SET ASIDE, and judgment entered in favor of petitioner:
>
> - Sentencing private respondent Oscar Villamaria, Jr. to pay petitioner Jerry Bustamante separation pay computed from the time of his employment up to the time of termination based on the prevailing minimum wage at the time of termination; and,
>
> - Condemning private respondent Oscar Villamaria, Jr. to pay petitioner Jerry Bustamante back wages computed from the time of his dismissal up to March 2001 based on the prevailing minimum wage at the time of his dismissal.

Without Costs.

**SO ORDERED.[26]**

The appellate court ruled that the Labor Arbiter had jurisdiction over Bustamante's complaint. Under the Kasunduan, the relationship between him and Villamaria was dual: that of vendor-vendee and employer-employee. The CA ratiocinated that Villamaria's exercise of control over Bustamante's conduct in operating the jeepney is inconsistent with the former's claim that he was not engaged in the transportation business. There was no evidence that petitioner was allowed to let some other person drive the jeepney.

The CA further held that, while the power to dismiss was not mentioned in the Kasunduan, it did not mean that Villamaria could not exercise it. It explained that the existence of an employment relationship did not depend on how the worker was paid but on the presence or absence of control over the means and method of the employee's work. In this case, Villamaria's directives (to drive carefully, wear an identification card, don decent attire, park the vehicle in his garage, and to inform him about provincial trips, etc.) was a means to control the way in which Bustamante was to go about his work. In view of Villamaria's supervision and control as employer, the fact that the "boundary" represented installment payments of the purchase price on the jeepney did not remove the parties' employer-employee relationship.

While the appellate court recognized that a week's default in paying the boundary-hulog constituted an additional cause for terminating Bustamante's employment, it held that the latter was illegally dismissed. According to the CA, assuming that Bustamante failed to make the required payments as claimed by Villamaria, the latter nevertheless failed to take steps to recover the unit and waited for Bustamante to abandon it. It also pointed out that Villamaria neither submitted any police report to support his claim that the vehicle figured in a mishap nor presented the affidavit of the gas station guard to substantiate the claim that Bustamante abandoned the unit.

Villamaria received a copy of the decision on September 8, 2004, and filed, on September 17, 2004, a motion for reconsideration thereof. The CA denied the motion in a Resolution[27] dated November 2, 2004, and Villamaria received a copy thereof on November 8, 2004.

Villamaria, now petitioner, seeks relief from this Court via petition for review on certiorari under Rule 65 of the Rules of Court, alleging that the CA committed grave abuse of its discretion amounting to excess or lack of jurisdiction in reversing the decision of the Labor Arbiter and the NLRC. He claims that the CA erred in ruling that the juridical relationship between him and respondent under the Kasunduan was a combination of employer-employee and vendor-vendee relationships. The terms and conditions of the Kasunduan clearly state that he and respondent Bustamante had entered into a conditional deed of sale over the jeepney; as such, their employer-employee relationship had been transformed into that of vendor-vendee. Petitioner insists that he had the right to reserve his title on the jeepney until after the purchase price thereof had been paid in full.

In his Comment on the petition, respondent avers that the appropriate remedy of petitioner was an appeal via a petition for review on certiorari under Rule 45 of the Rules of Court and not a special civil action of certiorari under Rule 65. He argues that petitioner failed to establish that the CA committed grave abuse of its discretion amounting to excess or lack of jurisdiction in its decision, as the said ruling is in accord with law and the evidence on record.

Respondent further asserts that the Kasunduan presented to him by petitioner which provides for a boundary-hulog scheme was a devious circumvention of the Labor Code of the Philippines. Respondent insists that his juridical relationship with petitioner is that of employer-employee because he was engaged to perform activities which were necessary or desirable in the usual business of petitioner, his employer.

In his Reply, petitioner avers that the Rules of Procedure should be liberally construed in his favor; hence, it


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behooves the Court to resolve the merits of his petition.

We agree with respondent's contention that the remedy of petitioner from the CA decision was to file a petition for review on certiorari under Rule 45 of the Rules of Court and not the independent action of certiorari under Rule 65. Petitioner had 15 days from receipt of the CA resolution denying his motion for the reconsideration within which to file the petition under Rule 45.[28] But instead of doing so, he filed a petition for certiorari under Rule 65 on November 22, 2004, which did not, however, suspend the running of the 15-day reglementary period; consequently, the CA decision became final and executory upon the lapse of the reglementary period for appeal. Thus, on this procedural lapse, the instant petition stands to be dismissed.[29]

It must be stressed that the recourse to a special civil action under Rule 65 of the Rules of Court is proscribed by the remedy of appeal under Rule 45. As the Court elaborated in Tomas Claudio Memorial College, Inc. v. Court of Appeals:[30]

> We agree that the remedy of the aggrieved party from a decision or final resolution of the CA is to file a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, on questions of facts or issues of law within fifteen days from notice of the said resolution. Otherwise, the decision of the CA shall become final and executory. The remedy under Rule 45 of the Rules of Court is a mode of appeal to this Court from the decision of the CA. It is a continuation of the appellate process over the original case. A review is not a matter of right but is a matter of judicial discretion. The aggrieved party may, however, assail the decision of the CA via a petition for certiorari under Rule 65 of the Rules of Court within sixty days from notice of the decision of the CA or its resolution denying the motion for reconsideration of the same. This is based on the premise that in issuing the assailed decision and resolution, the CA acted with grave abuse of discretion, amounting to excess or lack of jurisdiction and there is no plain, speedy and adequate remedy in the ordinary course of law. A remedy is considered plain, speedy and adequate if it will promptly relieve the petitioner from the injurious effect of the judgment and the acts of the lower court.
>
> The aggrieved party is proscribed from filing a petition for certiorari if appeal is available, for the remedies of appeal and certiorari are mutually exclusive and not alternative or successive. The aggrieved party is, likewise, barred from filing a petition for certiorari if the remedy of appeal is lost through his negligence. A petition for certiorari is an original action and does not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary injunction has been issued against the public respondent from further proceeding. A petition for certiorari must be based on jurisdictional grounds because, as long as the respondent court acted within its jurisdiction, any error committed by it will amount to nothing more than an error of judgment which may be corrected or reviewed only by appeal.[31]

However, we have also ruled that a petition for certiorari under Rule 65 may be considered as filed under Rule 45, conformably with the principle that rules of procedure are to be construed liberally, provided that the petition is filed within the reglementary period under Section 2, Rule 45 of the Rules of Court, and where valid and compelling circumstances warrant that the petition be resolved on its merits.[32] In this case, the petition was filed within the reglementary period and petitioner has raised an issue of substance: whether the existence of a boundary-hulog agreement negates the employer-employee relationship between the vendor and vendee, and, as a corollary, whether the Labor Arbiter has jurisdiction over a complaint for illegal dismissal in such case.

We resolve these issues in the affirmative.

The rule is that, the nature of an action and the subject matter thereof, as well as, which court or agency of the government has jurisdiction over the same, are determined by the material allegations of the complaint in relation to the law involved and the character of the reliefs prayed for, whether or not the complainant/plaintiff is entitled to any or all of such reliefs.[33] A prayer or demand for relief is not part of the petition of the cause of action; nor does it enlarge the cause of action stated or change the legal effect of what is alleged.[34] In determining which

body has jurisdiction over a case, the better policy is to consider not only the status or relationship of the parties but also the nature of the action that is the subject of their controversy.[35]

Article 217 of the Labor Code, as amended, vests on the Labor Arbiter exclusive original jurisdiction only over the following:

> x x x (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:
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> - Unfair labor practice cases;
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> - Termination disputes;
>
> - If accompanied with a claim for reinstatement, those cases that workers may file involving wage, rates of pay, hours of work, and other terms and conditions of employment;
>
> - Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;
>
> - Cases arising from violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and
>
> - Except claims for Employees Compensation, Social Security, Medicare and maternity benefits, all other claims, arising from employer-employee relationship, including those of persons in domestic or household service, involving an amount exceeding five thousand pesos (P5,000.00) regardless of whether accompanied with a claim for reinstatement.
>
> (b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters.
>
> (c) Cases arising from the interpretation or implementation of collective bargaining agreements, and those arising from the interpretation or enforcement of company personnel policies shall be disposed of by the Labor Arbiter by referring the same to the grievance machinery and voluntary arbitration as may be provided in said agreements.

In the foregoing cases, an employer-employee relationship is an indispensable jurisdictional requisite.[36] The jurisdiction of Labor Arbiters and the NLRC under Article 217 of the Labor Code is limited to disputes arising from an employer-employee relationship which can only be resolved by reference to the Labor Code, other labor statutes or their collective bargaining agreement.[37] Not every dispute between an employer and employee involves matters that only the Labor Arbiter and the NLRC can resolve in the exercise of their adjudicatory or quasi-judicial powers. Actions between employers and employees where the employer-employee relationship is merely incidental is within the exclusive original jurisdiction of the regular courts.[38] When the principal relief is to be granted under labor legislation or a collective bargaining agreement, the case falls within the exclusive jurisdiction of the Labor Arbiter and the NLRC even though a claim for damages might be asserted as an incident to such claim.[39]

We agree with the ruling of the CA that, under the boundary-hulog scheme incorporated in the Kasunduan, a dual juridical relationship was created between petitioner and respondent: that of employer-employee and vendor-vendee. The Kasunduan did not extinguish the employer-employee relationship of the parties extant before the execution of said deed.

As early as 1956, the Court ruled in National Labor Union v. Dinglasan[40] that the jeepney

owner/operator-driver relationship under the boundary system is that of employer-employee and not lessor-lessee. This doctrine was affirmed, under similar factual settings, in Magboo v. Bernardo[41] and Lantaco, Sr. v. Llamas,[42] and was analogously applied to govern the relationships between auto-calesa owner/operator and driver,[43] bus owner/operator and conductor,[44] and taxi owner/operator and driver.[45]

The boundary system is a scheme by an owner/operator engaged in transporting passengers as a common carrier to primarily govern the compensation of the driver, that is, the latter's daily earnings are remitted to the owner/operator less the excess of the boundary which represents the driver's compensation. Under this system, the owner/operator exercises control and supervision over the driver. It is unlike in lease of chattels where the lessor loses complete control over the chattel leased but the lessee is still ultimately responsible for the consequences of its use. The management of the business is still in the hands of the owner/operator, who, being the holder of the certificate of public convenience, must see to it that the driver follows the route prescribed by the franchising and regulatory authority, and the rules promulgated with regard to the business operations. The fact that the driver does not receive fixed wages but only the excess of the "boundary" given to the owner/operator is not sufficient to change the relationship between them. Indubitably, the driver performs activities which are usually necessary or desirable in the usual business or trade of the owner/operator.[46]

Under the Kasunduan, respondent was required to remit P550.00 daily to petitioner, an amount which represented the boundary of petitioner as well as respondent's partial payment (hulog) of the purchase price of the jeepney. Respondent was entitled to keep the excess of his daily earnings as his daily wage. Thus, the daily remittances also had a dual purpose: that of petitioner's boundary and respondent's partial payment (hulog) for the vehicle. This dual purpose was expressly stated in the Kasunduan. The well-settled rule is that an obligation is not novated by an instrument that expressly recognizes the old one, changes only the terms of payment, and adds other obligations not incompatible with the old provisions or where the new contract merely supplements the previous one.[47]The two obligations of the respondent to remit to petitioner the boundary-hulog can stand together.

In resolving an issue based on contract, this Court must first examine the contract itself, keeping in mind that when the terms of the agreement are clear and leave no doubt as to the intention of the contracting parties, the literal meaning of its stipulations shall prevail.[48] The intention of the contracting parties should be ascertained by looking at the words used to project their intention, that is, all the words, not just a particular word or two or more words standing alone. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.[49] The parts and clauses must be interpreted in relation to one another to give effect to the whole. The legal effect of a contract is to be determined from the whole read together.[50]

Under the Kasunduan, petitioner retained supervision and control over the conduct of the respondent as driver of the jeepney, thus:

> Ang mga patakaran, kaugnay ng bilihang ito sa pamamagitan ng boundary hulog ay ang mga sumusunod:
>
> - Pangangalagaan at pag-iingatan ng TAUHAN NG IKALAWANG PANIG ang sasakyan ipinagkatiwala sa kanya ng TAUHAN NG UNANG PANIG.
>
> - Na ang sasakyan nabanggit ay gagamitin lamang ng TAUHAN NG IKALAWANG PANIG sa paghahanapbuhay bilang pampasada o pangangalakal sa malinis at maayos na pamamaraan.
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> - Na ang sasakyan nabanggit ay hindi gagamitin ng TAUHAN NG IKALAWANG PANIG sa mga bagay na makapagdudulot ng kahihiyan, kasiraan o pananagutan sa TAUHAN NG UNANG PANIG.
>
> - Na hindi ito mamanehohin ng hindi awtorisado ng opisina ng UNANG PANIG.


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- Na ang TAUHAN NG IKALAWANG PANIG ay kinakailangang maglagay ng ID Card sa harap ng windshield upang sa pamamagitan nito ay madaliang malaman kung ang nagmamaneho ay awtorisado ng VILLAMARIA MOTORS o hindi.

- Na sasagutin ng TAUHAN NG IKALAWANG PANIG ang [halaga ng] multa kung sakaling mahuli ang sasakyang ito na hindi nakakabit ang ID card sa wastong lugar o anuman kasalanan o kapabayaan.

- Na sasagutin din ng TAUHAN NG IKALAWANG PANIG ang materyales o piyesa na papalitan ng nasira o nawala ito dahil sa kanyang kapabayaan.

- Kailangan sa VILLAMARIA MOTORS pa rin ang garahe habang hinuhulugan pa rin ng TAUHAN NG IKALAWANG PANIG ang nasabing sasakyan.

- Na kung magkaroon ng mabigat na kasiraan ang sasakyang ipinagkaloob ng TAUHAN NG UNANG PANIG, ang TAUHAN NG IKALAWANG PANIG ay obligadong itawag ito muna sa VILLAMARIA MOTORS bago ipagawa sa alin mang Motor Shop na awtorisado ng VILLAMARIA MOTORS.

- Na hindi pahihintulutan ng TAUHAN NG IKALAWANG PANIG sa panahon ng pamamasada na ang nagmamaneho ay naka-tsinelas, naka short pants at nakasando lamang. Dapat ang nagmamaneho ay laging nasa maayos ang kasuotan upang igalang ng mga pasahero.

- Na ang TAUHAN NG IKALAWANG PANIG o ang awtorisado niyang driver ay magpapakita ng magandang asal sa mga pasaheros at hindi dapat magsasalita ng masama kung sakali man may pasaherong pilosopo upang maiwasan ang anumang kaguluhan na maaaring kasangkutan.

- Na kung sakaling hindi makapagbigay ng BOUNDARY HULOG ang TAUHAN NG IKALAWANG PANIG sa loob ng tatlong (3) araw ay ang opisina ng VILLAMARIA MOTORS ang may karapatang mangasiwa ng nasabing sasakyan hanggang matugunan ang lahat ng responsibilidad. Ang halagang dapat bayaran sa opisina ay may karagdagang multa ng P50.00 sa araw-araw na ito ay nasa pangangasiwa ng VILLAMARIA MOTORS.

- Na kung ang TAUHAN NG IKALAWANG PANIG ay hindi makapagbigay ng BOUNDARY HULOG sa loob ng isang linggo ay nangangahulugan na ang kasunduang ito ay wala ng bisa at kusang ibabalik ng TAUHAN NG IKALAWANG PANIG ang nasabing sasakyan sa TAUHAN NG UNANG PANIG.

- Sasagutin ng TAUHAN NG IKALAWANG PANIG ang bayad sa rehistro, comprehensive insurance taon-taon at kahit anong uri ng aksidente habang ito ay hinuhulugan pa sa TAUHAN NG UNANG PANIG.

- Na ang TAUHAN NG IKALAWANG PANIG ay obligadong dumalo sa pangkalahatang pagpupulong ng VILLAMARIA MOTORS sa tuwing tatawag ang mga tagapangasiwa nito upang maipaabot ang anumang mungkahi sa ikasusulong ng samahan.

- Na ang TAUHAN NG IKALAWANG PANIG ay makikiisa sa lahat ng mga patakaran na magkakaroon ng pagbabago o karagdagan sa mga darating na panahon at hindi magiging hadlang sa lahat ng mga balakin ng VILLAMARIA MOTORS sa lalo pang ipagtatagumpay at ikakatibay ng Samahan.

- Na ang TAUHAN NG IKALAWANG PANIG ay hindi magiging buwaya sa pasahero upang hindi kainisan ng kapwa driver at maiwasan ang pagkakasangkot sa anumang gulo.

- Ang nasabing sasakyan ay hindi kalilimutang siyasatin ang kalagayan lalo na sa umaga bago pumasada, at sa hapon o gabi naman ay sisikapin mapanatili ang kalinisan nito.

- Na kung sakaling ang nasabing sasakyan ay maaarkila at aabutin ng dalawa o higit pang araw sa lalawigan ay dapat lamang na ipagbigay alam muna ito sa VILLAMARIA MOTORS upang maiwasan ang mga anumang suliranin.


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> - Na ang TAUHAN NG IKALAWANG PANIG ay iiwasan ang pakikipag-unahan sa kaninumang sasakyan upang maiwasan ang aksidente.
>
> - Na kung ang TAUHAN NG IKALAWANG PANIG ay mayroon sasabihin sa VILLAMARIA MOTORS mabuti man or masama ay iparating agad ito sa kinauukulan at iwasan na iparating ito kung [kani-kanino] lamang upang maiwasan ang anumang usapin. Magsadya agad sa opisina ng VILLAMARIA MOTORS.
>
> - Ang mga nasasaad sa KASUNDUAN ito ay buong galang at puso kong sinasang-ayunan at buong sikap na pangangalagaan ng TAUHAN NG IKALAWANG PANIG ang nasabing sasakyan at gagamitin lamang ito sa paghahanapbuhay at wala nang iba pa.[51]

The parties expressly agreed that petitioner, as vendor, and respondent, as vendee, entered into a contract to sell the jeepney on a daily installment basis of P550.00 payable in four years and that petitioner would thereafter become its owner. A contract is one of conditional sale, oftentimes referred to as contract to sell, if the ownership or title over the property sold is retained by the vendor, and is not passed to the vendee unless and until there is full payment of the purchase price and/or upon faithful compliance with the other terms and conditions that may lawfully be stipulated.[52] Such payment or satisfaction of other preconditions, as the case may be, is a positive suspensive condition, the failure of which is not a breach of contract, casual or serious, but simply an event that would prevent the obligation of the vendor to convey title from acquiring binding force.[53] Stated differently, the efficacy or obligatory force of the vendor's obligation to transfer title is subordinated to the happening of a future and uncertain event so that if the suspensive condition does not take place, the parties would stand as if the conditional obligation had never existed.[54] The vendor may extrajudicially terminate the operation of the contract, refuse conveyance, and retain the sums or installments already received, where such rights are expressly provided for.[55]

Under the boundary-hulog scheme, petitioner retained ownership of the jeepney although its material possession was vested in respondent as its driver. In case respondent failed to make his P550.00 daily installment payment for a week, the agreement would be of no force and effect and respondent would have to return the jeepney to petitioner; the employer-employee relationship would likewise be terminated unless petitioner would allow respondent to continue driving the jeepney on a boundary basis of P550.00 daily despite the termination of their vendor-vendee relationship.

The juridical relationship of employer-employee between petitioner and respondent was not negated by the foregoing stipulation in the Kasunduan, considering that petitioner retained control of respondent's conduct as driver of the vehicle. As correctly ruled by the CA:

> The exercise of control by private respondent over petitioner's conduct in operating the jeepney he was driving is inconsistent with private respondent's claim that he is, or was, not engaged in the transportation business; that, even if petitioner was allowed to let some other person drive the unit, it was not shown that he did so; that the existence of an employment relation is not dependent on how the worker is paid but on the presence or absence of control over the means and method of the work; that the amount earned in excess of the "boundary hulog" is equivalent to wages; and that the fact that the power of dismissal was not mentioned in the Kasunduan did not mean that private respondent never exercised such power, or could not exercise such power.
>
> Moreover, requiring petitioner to drive the unit for commercial use, or to wear an identification card, or to don a decent attire, or to park the vehicle in Villamaria Motors garage, or to inform Villamaria Motors about the fact that the unit would be going out to the province for two days of more, or to drive the unit carefully, etc. necessarily related to control over the means by which the petitioner was to go about his work; that the ruling applicable here is not Singer Sewing Machine but National Labor Union since the latter case involved jeepney owners/operators and jeepney drivers, and that the fact that the "boundary" here represented installment

> payment of the purchase price on the jeepney did not withdraw the relationship from that of employer-employee, in view of the overt presence of supervision and control by the employer.[56]

Neither is such juridical relationship negated by petitioner's claim that the terms and conditions in the Kasunduan relative to respondent's behavior and deportment as driver was for his and respondent's benefit: to insure that respondent would be able to pay the requisite daily installment of P550.00, and that the vehicle would still be in good condition despite the lapse of four years. What is primordial is that petitioner retained control over the conduct of the respondent as driver of the jeepney.

Indeed, petitioner, as the owner of the vehicle and the holder of the franchise, is entitled to exercise supervision and control over the respondent, by seeing to it that the route provided in his franchise, and the rules and regulations of the Land Transportation Regulatory Board are duly complied with. Moreover, in a business establishment, an identification card is usually provided not just as a security measure but to mainly identify the holder thereof as a bona fide employee of the firm who issues it.[57]

As respondent's employer, it was the burden of petitioner to prove that respondent's termination from employment was for a lawful or just cause, or, at the very least, that respondent failed to make his daily remittances of P550.00 as boundary. However, petitioner failed to do so. As correctly ruled by the appellate court:

> It is basic of course that termination of employment must be effected in accordance with law. The just and authorized causes for termination of employment are enumerated under Articles 282, 283 and 284 of the Labor Code.
>
> Parenthetically, given the peculiarity of the situation of the parties here, the default in the remittance of the boundary hulog for one week or longer may be considered an additional cause for termination of employment. The reason is because the Kasunduan would be of no force and effect in the event that the purchaser failed to remit the boundary hulog for one week. The Kasunduan in this case pertinently stipulates:
> 13. Na kung ang TAUHAN NG IKALAWANG PANIG ay hindi makapagbigay ng BOUNDARY HULOG sa loob ng isang linggo ay NANGANGAHULUGAN na ang kasunduang ito ay wala ng bisa at kusang ibabalik ng TAUHAN NG IKALAWANG PANIG ang nasabing sasakyan sa TAUHAN NG UNANG PANIG na wala ng paghahabol pa.

Moreover, well-settled is the rule that, the employer has the burden of proving that the dismissal of an employee is for a just cause. The failure of the employer to discharge this burden means that the dismissal is not justified and that the employee is entitled to reinstatement and back wages.

In the case at bench, private respondent in his position paper before the Labor Arbiter, alleged that petitioner failed to pay the miscellaneous fee of P10,000.00 and the yearly registration of the unit; that petitioner also stopped remitting the "boundary hulog," prompting him (private respondent) to issue a "Paalala," which petitioner however ignored; that petitioner even brought the unit to his (petitioner's) province without informing him (private respondent) about it; and that petitioner eventually abandoned the vehicle at a gasoline station after figuring in an accident. But private respondent failed to substantiate these allegations with solid, sufficient proof. Notably, private respondent's allegation viz, that he retrieved the vehicle from the gas station, where petitioner abandoned it, contradicted his statement in the Paalala that he would enforce the provision (in the Kasunduan) to the effect that default in the remittance of the boundary hulog for one week would result in the forfeiture of the unit. The Paalala reads as follows:

"Sa lahat ng mga kumukuha ng sasakyan"Sa pamamagitan ng "BOUNDARY HULOG"

"Nais ko pong ipaalala sa inyo ang Kasunduan na inyong pinirmahan particular na ang paragrapo 13 na nagsasaad na kung hindi kayo makapagbigay ng Boundary Hulog sa loob ng isang linggo ay kusa ninyong ibabalik and


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nasabing sasakyan na inyong hinuhulugan ng wala ng paghahabol pa."Mula po sa araw ng inyong pagkatanggap ng Paalala na ito ay akin na pong ipatutupad ang nasabing Kasunduan kaya't aking pinaaalala sa inyong lahat na tuparin natin ang nakalagay sa kasunduan upang maiwasan natin ito.

"Hinihiling ko na sumunod kayo sa hinihingi ng paalalang ito upang hindi na tayo makaabot pa sa korte kung sakaling hindi ninyo isasauli ang inyong sasakyan na hinuhulugan na ang mga magagastos ay kayo pa ang magbabayad sapagkat ang hindi ninyo pagtupad sa kasunduan ang naging dahilan ng pagsampa ng kaso.

"Sumasainyo

"Attendance: 8/27/99
"(The Signatures appearing herein
include (sic) that of petitioner's)
(Sgd.)

**SCAR VILLAMARIA, JR."**

On another point, private respondent did not submit any police report to support his claim that petitioner really figured in a vehicular mishap. Neither did he present the affidavit of the guard from the gas station to substantiate his claim that petitioner abandoned the unit there.[58]

Petitioner's claim that he opted not to terminate the employment of respondent because of magnanimity is negated by his (petitioner's) own evidence that he took the jeepney from the respondent only on July 24, 2000.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The decision of the Court of Appeals in CA-G.R. SP No. 78720 is AFFIRMED. Costs against petitioner.

**SO ORDERED.**

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1]Penned by Associate Justice Renato C. Dacudao, with Associate Justices Lucas P. Bersamin and Celia C. Librea-Leagogo, concurring; rollo, pp. 20-36.

[2]Rollo, p. 38.

[3] Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Victoriano R. Calaycay and Angelita A. Gacutan, concurring.

[4]Penned by Labor Arbiter Edgardo M. Madriaga.

[5]CA rollo, pp. 68-70.

[6] Id. at 71.

[7] Id. at 52.

[8] Id. at 53-62.

[9]Id. at 59-60.

[10] Id. at 63-67.

[11] G.R. No. 101438, October 13, 1992, 214 SCRA 551.


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[12] G.R. No. 97492, December 8, 1992, 216 SCRA 280.

[13] CA rollo, pp. 73-78.

[14] 98 Phil. 649 (1956).

[15] 117 Phil. 966 (1963).

[16] 124 Phil. 638 (1966).

[17] CA rollo, pp. 46-50.

[18] Id. at 50.

[19] Id. at 81-95.

[20] Id. at 30-42.

[21] Id. at 41-42.

[22] Id. at 44-45.

[23] Id. at 15.

[24] G.R. No. 91307, January 24, 1991, 193 SCRA 270.

[25] CA rollo, pp. 175-191.

[26] Id. at 190.

[27] Rollo, p. 38.

**[28] SECTION 2, RULE 45, RULES OF COURT.**

[29] Nippon Paint Employees Union-Olalia v. Court of Appeals, G.R. No. 159010, November 19, 2004, 443 SCRA 286, 292.

[30] G.R. No. 152568, February 16, 2004, 423 SCRA 122.

[31] Id. at 132.

[32] Nippon Paint Employees Union-Olalia v. Court of Appeals, supra note 29.

[33] Capiral v. Valenzuela, 440 Phil. 458, 465 (2002); Herrera v. Bollos, 424 Phil. 850, 856 (2002).

[34] Regalado, Remedial Law Compendium, Vol. I, 6[th] ed., 141.

[35] Bernardo, Sr. v. Court of Appeals, 331 Phil. 962, 980 (1996).

[36] Philippine Airlines, Inc. v. NLRC, 331 Phil. 937, 958 (1996).

[37] Georg Grotjahn GMBH & Co. v. Isnani, G.R. No. 109272, August 10, 1994, 235 SCRA 216, 221.

[38] Eviota v. Court of Appeals, 455 Phil. 118, 129 (2003).

[39] Tolosa v. NLRC, 449 Phil. 271, 282 (2003).

[40] Supra note 14.

[41] Supra note 15.


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[42] 195 Phil. 325 (1981).

[43] Citizens' League of Freeworkers v. Abbas, 124 Phil. 638 (1966).

[44] Doce v. Workmen's Compensation Commission, 104 Phil. 946 (1958).

[45] Jardin v. NLRC, 383 Phil. 187 (2000); Paguio Transport Corporation v. NLRC, G.R. No. 119500. August 28, 1998, 294 SCRA 657; Martinez vs. NLRC, G.R. No. 117495, May 29, 1997, 272 SCRA 793.

[46] Jardin vs. NLRC, supra, at 197-198.

[47]California Bus Lines, Inc. v. State Investment House, Inc., G.R. No. 147950, December 11, 2003, 418 SCRA 297, 309-310.

[48] Milwaukee Industries Corporation v. Pampanga III Electric Cooperative, Inc., G.R. No. 152569, May 31, 2004, 430 SCRA 389, 396.

[49] Article 1374, New Civil Code.

[50] Rivera v. Espiritu, 425 Phil. 169, 184 (2002).

[51] CA rollo, pp. 68-70.

[52] Republic v. David, G.R. No. 155634, August 16, 2004, 436 SCRA 577, 590-591; Philippine National Bank v. Court of Appeals, 330 Phil. 1048, 1065-1066 (1996).

[53] Laforteza v. Machuca, 389 Phil. 167, 180 (2000); Heirs of Pedro Escanlar v. Court of Appeals, 346 Phil. 158, 171 (1997); Odyssey Park, Inc. v. Court of Appeals, 345 Phil. 475, 484 (1997); Philippine National Bank v. Court of Appeals, supra; Adelfa Properties, Inc. v. Court of Appeals, 310 Phil. 623, 637 (1995); Pingol v. Court of Appeals, G.R. No. 102909, September 6, 1993, 226 SCRA 118; Luzon Brokerage Co., Inc. v. Maritime Building Co., Inc., 150 Phil. 114, 125-126 (1972).

[54] Philippine National Bank v. Court of Appeals, supra.

[55] Valarao v. Court of Appeals, G.R. No. 130347, March 3, 1999, 304 SCRA 155, 162-165; Heirs of Pedro Escanlar v. Court of Appeals, supra; Odyssey Park, Inc. v. Court of Appeals, supra, at 485; Luzon Brokerage Co., Inc. v. Maritime Building Co., Inc., supra, at 130.

[56] Rollo, pp. 31-32.

[57] Domasig v. National Labor Relations Commission, 330 Phil. 518, 524 (1996).

[58] Rollo, pp. 32-33.


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