

WILFREDO ARO, RONILO TIROL, JOSE PACALDO, PRIMITIVO CASQUEJO AND MARCIAL ABGO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION AND BENTHEL DEVELOPMENT CORP...

G.R. No. 174792. March 07, 2012

Ponente: PERALTA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-174792/>

PERALTA, J.:

For resolution of this Court is the Petition for Review on Certiorari under Rule 45 of the Rules of Court, dated October 7, 2006, of petitioners Wilfredo Aro, Ronilo Tirol, Jose Pacaldo, Primitivo Casquejo and Marcial Abgo, seeking to reverse and set aside the Decision[1] dated March 7, 2006, and Resolution[2] dated July 27, 2006, of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 01012 which reversed the Decision and Resolution dated June 25, 2004 and June 30, 2005, respectively, of the National Labor Relations Commission (NLRC).

The facts, as culled from the records, are the following:

Several employees of private respondent Benthel Development Corporation, including the petitioners, filed a Complaint for illegal dismissal with various money claims and prayer for damages against the latter, in the NLRC Arbitration Branch No. VII in Cebu City and docketed as RAB Case No. 07-09-1222-97/12-1609-97. Thereafter, Labor Arbiter Ernesto F. Carreon rendered a decision finding private respondent guilty of illegal dismissal and ordering it to pay its thirty-six (36) employees P446,940.00 as separation pay.

The employees, including the petitioners herein, appealed from the said decision. The NLRC, in NLRC Case No. V-000399-98, affirmed the decision of Labor Arbiter Carreon in its Decision dated January 12, 1999, with the modification that private respondent pay backwages computed from the respective dates of dismissal until finality of the decision.

Private respondent, unsatisfied with the modification made by the NLRC, filed a motion for reconsideration with the contention that, since it has been found by the Labor Arbiter and affirmed in the assailed decision that the employees were project employees, the computation of backwages should be limited to the date of the completion of the project and not to the finality of the decision. The NLRC, however, denied the motion ruling that private respondent failed to establish the date of the completion of the project.

Aggrieved, private respondent filed a Petition for Certiorari with the CA, docketed as CA-G.R. SP No. UDK 3092 assailing the January 12, 1999 decision of the NLRC and the denial of its motion for reconsideration which was dismissed for non-payment of docket fees and insufficiency of form. It filed a motion for reconsideration, but the latter was also denied.

Thus, private respondent filed with this Court, docketed as G.R. No. 144433 a Petition for Review on Certiorari. In a Resolution dated September 20, 2000, this Court denied the petition for having been filed out of time and for non-payment of docket and other lawful fees.

The employees, including the petitioners, upon the finality of this Court's resolution, filed a Motion for Execution before the Labor Arbiter of the January 12, 1999 decision. Thereafter, the Labor Arbiter ordered for the issuance of a writ of execution directing the computation of the awards.

Afterwards, private respondent filed an appeal from the said Order with an urgent prayer for the issuance of a temporary restraining order and/or preliminary injunction with public respondent NLRC. The said appeal was denied. The NLRC held that the appeal was premature, there having been no computation yet made by the Labor Arbiter as to the exact amount to be paid to the employees. Public respondent remanded the case to the arbitration branch for appropriate action.

Labor Arbiter Carreon inhibited himself from further proceedings in the case upon motion of private respondent. In the meantime, fifteen (15) employees have executed Affidavits of Full Settlement after having settled amicably with the private respondent. Labor Arbiter Violeta Ortiz-Bantug issued an Order dated July 31, 2003 for the issuance of a writ of execution only for the payment of the claims of the twenty-one (21) remaining employees in the total amount of P4,383,225.00, which included attorney's fees equivalent to ten (10%) percent of the sum received as settlement by the fifteen (15) employees who had earlier settled with the private respondent.

Private respondent appealed to public respondent NLRC contending that the computation for backwages must be only until the completion of the project and not until the finality of the decision. Public respondent, in its Decision dated June 25, 2004, affirmed the Order of Labor Arbiter Bantug, but reduced the total amount to P4,073,858.00, inclusive of attorney's fees. Thereafter, private respondent filed a motion for reconsideration of the June 25, 2004 decision which was denied by the public respondent, but not before the admittance of the affidavits of withdrawal, release/waiver and quitclaim executed by another group of fourteen (14) employees, leaving unresolved only the claims of the petitioners herein. Thus, in the resolution of the private respondent's motion for reconsideration, the award was reduced to the sum of P1,374,339.00, inclusive of attorney's fees.

As a recourse, private respondent filed a petition for certiorari with the CA, alleging that public respondent committed grave abuse of discretion in promulgating its assailed decision and denying its motion for reconsideration. The CA granted the petition, therefore, annulling and setting aside the decision and resolution of the NLRC as to the award for backwages and remanded the case to the same public respondent for the proper computation of the backwages due to each of the petitioners herein. The dispositive portion of the decision reads:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us GRANTING the petition filed in this case. The assailed Decision and Resolution dated June 04, 2004 (sic) and June 30, 2005, respectively, issued by the public respondent in NLRC Case No. V-000586-2003 are hereby ANNULLED and SET ASIDE as to the award for backwages granted to the seven private respondents named in the petition at bench.

The case is hereby remanded to the public respondent for the proper computation of the backwages due to each of the said seven private respondents, computed until March 18, 1997.

SO ORDERED.[3]

Hence, the present petition.

Petitioners assigned the following errors:

GROUND/ASSIGNMENT OF ERRORS

THE RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT OVERTURNED ITS OWN DECISION AND THAT OF THE SUPREME COURT.

THE RESPONDENT COURT COMMITTED GRAVE ABUSE OF DISCRETION IN DECLARING THAT PETITIONERS ARE PROJECT EMPLOYEES, CONSIDERING THAT THE NLRC 4TH DIVISION HAD LONG RULED THAT SAID EMPLOYEES ARE IN FACT REGULAR EMPLOYEES AND WHICH RULING WAS LONG CONFIRMED AND AFFIRMED NOT ONLY BY THE COURT OF APPEALS BUT BY THE SUPREME COURT ITSELF.

THE RESPONDENT COURT ACTED WITH GRAVE ABUSE OF DISCRETION WHEN IT REFUSED TO RULE ON THE INVALIDITY OF THE RELEASE AND QUITCLAIMS EXECUTED BY SOME OF THE EMPLOYEES WITHOUT THE ASSISTANCE OF COUNSEL.[4]

In its Comment[5] dated January 24, 2007, private respondent stated the following counter-arguments:

1. The issues presented in CA-G.R. SP No. UDK 3092 and SC G.R. No. 144433 are not the same issues recently raised in the Petition for Certiorari before the Court of Appeals.
2. There is no final and executory ruling that herein petitioners were regular employees and not just project employees.[6]

First of all, this Court has to address the nature of the petition filed by petitioners. As pointed out by private respondent, and not disputed by petitioners, the present petition was filed out of time. Petitioners received, on August 4, 2006, a copy of the CA Resolution dated July 27, 2006. The period within which to file a petition for review under Rule 45 is within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or from the denial of the petitioners' motion for new trial or reconsideration filed in due time after notice of the judgment, or in this case, not later than August 19, 2006. Under Rule 65, a petition for certiorari may be filed not later than sixty (60) days from notice of the judgment, order or resolution, or in this case, not later than October 3, 2006. However, the present petition is dated October 7, 2006 and as it appears on the records, this Court received the said petition on October 17, 2006. Thus, on its face and in reality, the present petition was filed out of time, whether it be under Rule 45 or Rule 65 of the Rules of Court. Nevertheless, this Court did not dismiss the present petition and required private respondent to file its Comment. Consequently, a Reply from petitioners and eventually, both parties' respective memorandum were filed. In view of that premise and in the interest of justice, this Court shall forego the technicalities and is constrained to resolve the present petition as a petition for certiorari under Rule 65, since the main issue raised by petitioners is whether or not the CA committed grave abuse of discretion which amounted to lack or excess of its jurisdiction.

Petitioners argue that the CA should have dismissed private respondent's petition, since there was already a finality of the judgment of the NLRC. It is not disputed that on January 31, 2000, the CA, through its 17th Division, issued a Resolution dismissing private respondent's petition for certiorari (docketed as CA-G.R. SP No. UDK 3092. Subsequently, the same private respondent filed a motion for reconsideration, which was denied by the CA in its Resolution dated June 8, 2000. Not contented, private respondent filed a petition with this Court, which the latter denied, through its Second Division (G.R. No. 144433), in its Resolution dated September 20, 2000. Still aggrieved, private respondent filed a second motion for reconsideration, which was dismissed by this Court. Thus, according to petitioners, there was already a finality of judgment.

On the other hand, private respondent insists that the inequitable, nay illegal, in a decision cannot lapse into finality, referring to the computation of the backwages which is not commensurate to the factual findings of the Labor Arbiter and the NLRC. Basically, according to private respondent, the CA merely sought to correct the NLRC's and the Labor Arbiter's one-sided and blind adherence to and/or misguided application of strict technical rules, and their overzealous partiality in favor of labor. Private respondent further claims that the issues presented in their earlier petitions with the CA and this Court (CA-G.R. SP No. UDK 3092 and SC G.R. No. 144433, respectively) are not the same issues raised in the petition for certiorari later filed with the CA and the decision of

which is now the subject of herein petition. Private respondent clarifies that there is no final and executory ruling that petitioners were regular and not just project employees, hence, there was a need to file a petition with the CA.

The issue as to whether petitioners were project employees or regular employees is factual in nature. It is well-settled in jurisprudence that factual findings of administrative or quasi-judicial bodies, which are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence.[7] Section 5, Rule 133 of the Rules of Court, defines substantial evidence as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion." Consistent therewith is the doctrine that this Court is not a trier of facts, and this is strictly adhered to in labor cases.[8] We [this Court] may take cognizance of and resolve factual issues, only when the findings of fact and conclusions of law of the Labor Arbiter or the NLRC are inconsistent with those of the CA.[9] In the present case, the NLRC and the CA have opposing views.

According to the CA, petitioners are project employees as found by Labor Arbiter Ernesto Carreon in his Decision dated May 28, 1998, because they were hired for the construction of the Cordova Reef Village Resort in Cordova, Cebu, which was later on affirmed by the NLRC in its January 12, 1999 decision. The only discrepancy is the Order of the NLRC that petitioners are entitled to backwages up to the finality of its decision, when as project employees, private respondents are only entitled to payment of backwages until the date of the completion of the project. In a later resolution on private respondent's motion for reconsideration of its January 12, 1999 decision, the NLRC changed its findings by ruling that petitioners herein were regular employees and, therefore, entitled to full backwages, until finality of the decision, citing that petitioners' repeated rehiring over a long span of time made them regular employees.

Article 280 of the Labor Code distinguishes a "project employee" from a "regular employee," thus:

Article 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.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year 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 activity exists.

In *Hanjin Heavy Industries and Construction Co. Ltd. v. Ibañez*,^[10] this Court extensively discussed the above distinction, thus:

x x x [T]he 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.^[11]

In a number of cases,^[12] the Court has held that the length of service or the re-hiring of construction workers on a project-to-project basis does not confer upon them regular employment status, since their re-hiring is only a natural consequence of the fact that experienced construction workers are preferred. Employees who are hired for carrying out a separate job, distinct from the other undertakings of the company, the scope and duration of which has been determined and made known to the employees at the time of the employment, are

properly treated as project employees and their services may be lawfully terminated upon the completion of a project.[13] Should the terms of their employment fail to comply with this standard, they cannot be considered project employees.

In *Abesco Construction and Development Corporation v. Ramirez*,^[14] which also involved a construction company and its workers, this Court considered it crucial that the employees were informed of their status as project employees:

The principal test for determining whether employees are "project employees" or "regular employees" is whether they are assigned to carry out a specific project or undertaking, the duration and scope of which are specified at the time they are engaged for that project. Such duration, as well as the particular work/service to be performed, is defined in an employment agreement and is made clear to the employees at the time of hiring.

In this case, petitioners did not have that kind of agreement with respondents. Neither did they inform respondents of the nature of the latter's work at the time of hiring. Hence, for failure of petitioners to substantiate their claim that respondents were project employees, we are constrained to declare them as regular employees.

In *Caramol v. National Labor Relations Commission*,^[15] and later reiterated in *Salinas, Jr. v. National Labor Relations Commission*,^[16] the Court markedly stressed the importance of the employees' knowing consent to being engaged as project employees when it clarified that "there is no question that stipulation on employment contract providing for a fixed period of employment such as "project-to-project" contract is valid provided the period was agreed upon knowingly and voluntarily by the parties, without any force, duress or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his consent x x x."

Applying the above disquisition, this Court agrees with the findings of the CA that petitioners were project employees. It is not disputed that petitioners were hired for the construction of the Cordova Reef Village Resort in Cordova, Cebu. By the nature of the contract alone, it is clear that petitioners' employment was to carry out a specific project. Hence, the CA did not commit grave abuse of discretion when it affirmed the findings of the Labor Arbiter. The CA correctly ruled:

A review of the facts and the evidence in this case readily shows that a finding had been made by Labor Arbiter Ernesto Carreon, in his decision dated May 28, 1998, that complainants, including private respondents, are project employees. They were hired for the construction of the Cordova Reef Village Resort in Cordova, Cebu. We note that no appeal had been made by the complainants, including herein private respondents, from the said finding. Thus, that private respondents are project employees has already been effectively established.

Likewise, a review of the public respondent's January 12, 1999 decision shows that it affirmed the labor arbiter's finding of the private respondents' being project employees.

We therefore cannot fathom how the public respondent could have ordered backwages up to the finality of its decision when, as project employees, private respondents are only entitled to payment of the same until the date of the completion of the project. It is settled that, without a valid cause, the employment of project employees cannot be terminated prior to expiration. Otherwise, they shall be entitled to reinstatement with full backwages. However, if the project or work is completed during the pendency of the ensuing suit for illegal dismissal, the employees shall be entitled only to full backwages from the date of the termination of their employment until the actual completion of the work.

While it may be true that in the proceedings below the date of completion of the project for which the private respondents were hired had not been clearly established, it constitutes grave abuse of discretion on the part of the public respondent for not determining for itself the date of said completion instead of merely ordering payment of backwages until finality of its decision.

x x x x

The decision of the labor arbiter, as affirmed by the public respondent in its January 12, 1999 decision, clearly established that private respondents were project employees. Because there was no showing then that the project for which their services were engaged had already been completed, the public respondent likewise found that private respondents were illegally dismissed and thus entitled to backwages.

However, in utter disregard of the law and prevailing jurisprudence, the public respondents capriciously and arbitrarily ordered that the said backwages be computed until the finality of its decision instead of only until the date of the project completion. In grave abuse of its discretion, the public respondent refused to consider the evidence presented before it as to the date of completion of the Cordova Reef Village Resort project. The records show that affidavits have been executed by the petitioner's manager, corporate architect and project engineer as to the fact of the completion of the project in October 1996. As these evidences [sic] were already a matter of record, the public respondent should not have closed its eyes and should have endeavored to render a correct and just judgment.

x x x x

Furthermore, as earlier noted, private respondents did not appeal from the Labor Arbiter's findings that they were indubitably project employees. However, they were entitled to the payment of separation pay only for the reason that the date of the completion of the project for which they were hired had not been clearly established. Thus, in affirming the labor arbiter's decision, the public respondent in effect sustained the finding that private respondents are project employees. The statement, therefore, contained in the resolution of the petitioner's motion for reconsideration of its January 12, 1999 decision that repeated rehiring makes the worker a regular employee, is at best an obiter, especially considering that such conclusion had not been shown to apply to the circumstances then obtaining with the private respondents' employment with the petitioner.[17]

Therefore, being project employees, petitioners are only entitled to full backwages, computed from the date of the termination of their employment until the actual completion of the work. Illegally dismissed workers are entitled to the payment of their salaries corresponding to the unexpired portion of their employment where the employment is for a definite period.[18] In this case, as found by the CA, the Cordova Reef Village Resort project had been completed in October 1996 and private respondent herein had signified its willingness, by way of concession to petitioners, to set the date of completion of the project as March 18, 1997; hence, the latter date should be considered as the date of completion of the project for purposes of computing the full backwages of petitioners.

As to the issue that the CA committed grave abuse of discretion in refusing to rule on the invalidity of the release and quitclaims executed by some of the employees other than the petitioners, such is inconsequential as those employees are not parties in the present case.

WHEREFORE, the Petition for Review dated October 7, 2006, of petitioners Wilfredo Aro, Ronilo Tirol, Jose Pacaldo, Primitivo Casquejo and Marcial Abgo is hereby DENIED. Consequently, the Decision dated March 7, 2006 and Resolution dated July 27, 2006 of the Court of Appeals are hereby AFFIRMED in toto.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Ramon M. Bato, Jr. and Apolinario D. Brusela, Jr., concurring; rollo, pp. 19-28.

[2] Rollo, pp. 30-31.

[3] Id. at 27.

[4] Id. at 11.

[5] Id. at 302-304.

[6] Id. at 315.

[7] Leyte Geothermal Power Progressive Employees Union–ALU–TUCP v. Philippine National Oil Company–Energy Development Corporation, G.R. No. 170351, March 30, 2011, citing G&M (Phils.), Inc. v. Cruz, 496 Phil. 119, 123-124 (2005).

[8] Id., citing PCL Shipping Philippines, Inc. v. NLRC, G.R. No. 153031, December 14, 2006, 511 SCRA 44, 54.

[9] Id.

[10] G.R. No. 170181, June 26, 2008, 555 SCRA 537, 550-552.

[11] ALU-TUCP v. National Labor Relations Commission, G.R. No. 109902, August 2, 1994, 234 SCRA 678, 685.

[12] Abesco Construction and Development Corporation v. Ramirez, G.R. No. 141168, April 10, 2006, 487 SCRA 9, 14; Filipinas Pre-Fabricated Building System (Filsystem), Inc. v. Puente, G.R. No. 153832, March 18, 2005, 453 SCRA 820, 826; Cioco, Jr. v. C.E. Construction Corporation, G.R. Nos. 156748 and 156896, September 8, 2004, 437 SCRA 648, 652; D.M. Consunji, Inc. v. National Labor Relations Commission, 401 Phil. 635, 641 (2000).

[13] Grandspan Development Corporation v. Bernardo, G.R. No. 141464, September 21, 2005, 470 SCRA 461, 470; ALU-TUCP v. National Labor Relations Commission, supra note 11.

[14] Supra note 12, at 14-15.

[15] G.R. No. 102973, August 24, 1993, 225 SCRA 582, 586.

[16] G.R. No. 114671, November 24, 1999, 319 SCRA 54, 61.

[17] Rollo, pp. 23-26. (Citations omitted.)

[18] Vinta Maritime Co., Inc. v. NLRC, G.R. No. 113911, January 23, 1998, 284 SCRA 656, 672, citing Better Buildings, Inc. v. NLRC, G.R. No. 109714, December 15, 1997, 283 SCRA 242.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.