

**CHERRY J. PRICE, STEPHANIE G. DOMINGO AND LOLITA ARBILERA,
PETITIONERS, VS. INNODATA PHILS. INC.,/ INNODATA
CORPORATION, LEO RABANG AND JANE NAVARETTE,
RESPONDENTS.**

G.R. No. 178505. September 30, 2008

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review on Certiorari under Rule 45 of the Rules of Court assails the Decision[1] dated 25 September 2006 and Resolution[2] dated 15 June 2007 of the Court of Appeals in CA-G.R. SP No. 72795, which affirmed the Decision dated 14 December 2001 of the National Labor Relations Commission (NLRC) in NLRC NCR Case No. 30-03-01274-2000 finding that petitioners were not illegally dismissed by respondents.

The factual antecedents of the case are as follows:

Respondent Innodata Philippines, Inc./Innodata Corporation (INNODATA) was a domestic corporation engaged in the data encoding and data conversion business. It employed encoders, indexers, formatters, programmers, quality/quantity staff, and others, to maintain its business and accomplish the job orders of its clients. Respondent Leo Rabang was its Human Resources and Development (HRAD) Manager, while respondent Jane Navarette was its Project Manager. INNODATA had since ceased operations due to business losses in June 2002.

Petitioners Cherry J. Price, Stephanie G. Domingo, and Lolita Arbilera were employed as formatters by INNODATA. The parties executed an employment contract denominated as a "Contract of Employment for a Fixed Period," stipulating that the contract shall be for a period of one year,[3] to wit:

CONTRACT OF EMPLOYMENT FOR A FIXED PERIOD

x x x x

WITNESSETH: That

WHEREAS, the EMPLOYEE has applied for the position of FORMATTER and in the course thereof and represented himself/herself to be fully qualified and skilled for the said position;

WHEREAS, the EMPLOYER, by reason of the aforesaid representations, is desirous of engaging that the (sic) services of the EMPLOYEE for a fixed period;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties have mutually agreed as follows:

TERM/DURATION

The EMPLOYER hereby employs, engages and hires the EMPLOYEE and the EMPLOYEE hereby accepts such appointment as FORMATTER effective FEB. 16, 1999 to FEB. 16, 2000 a period of ONE YEAR.

x x x x

TERMINATION

6.1 In the event that EMPLOYER shall discontinue operating its business, this CONTRACT shall also ipso facto terminate on the last day of the month on which the EMPLOYER ceases operations with the same force and effect as is such last day of the month were originally set as the termination date of this Contract. Further should the Company have no more need for the EMPLOYEE's services on account of completion of the project, lack of work (sic) business losses, introduction of new production processes and techniques, which will negate the need for personnel, and/or overstaffing, this contract maybe pre-terminated by the EMPLOYER upon giving of three (3) days notice to the employee.

6.2 In the event period stipulated in item 1.2 occurs first vis-à-vis the completion of the project, this contract shall automatically terminate.

6.3 COMPANY's Policy on monthly productivity shall also apply to the EMPLOYEE.

6.4 The EMPLOYEE or the EMPLOYER may pre-terminate this CONTRACT, with or without cause, by giving at least Fifteen - (15) notice to that effect. Provided, that such pre-termination shall be effective only upon issuance of the appropriate clearance in favor of the said EMPLOYEE.

6.5 Either of the parties may terminate this Contract by reason of the breach or violation of the terms and conditions hereof by giving at least Fifteen (15) days written notice. Termination with cause under this paragraph shall be effective without need of judicial action or approval.[4]

During their employment as formatters, petitioners were assigned to handle jobs for various clients of INNODATA, among which were CAS, Retro, Meridian, Adobe, Netlib, PSM, and Earthweb. Once they finished the job for one client, they were immediately assigned to do a new job for another client.

On 16 February 2000, the HRAD Manager of INNODATA wrote petitioners informing them of their last day of work. The letter reads:

RE: End of Contract
Date: February 16, 2000

Please be informed that your employment ceases effective at the end of the close of business hours on February 16, 2000.[5]

According to INNODATA, petitioners' employment already ceased due to the end of their contract.

On 22 May 2000, petitioners filed a Complaint[6] for illegal dismissal and damages against respondents. Petitioners claimed that they should be considered regular employees since their positions as formatters were necessary and desirable to the usual business of INNODATA as an encoding, conversion and data processing company. Petitioners also averred that the decisions in Villanueva v. National Labor Relations Commission[7] and Servidad v. National Labor Relations Commission,[8] in which the Court already purportedly ruled "that the nature of employment at Innodata Phils., Inc. is regular,"[9] constituted stare decisis to the present case. Petitioners finally argued that they could not be considered project employees considering that their employment was not coterminous with any project or undertaking, the termination of which was predetermined.

On the other hand, respondents explained that INNODATA was engaged in the business of data processing, typesetting, indexing, and abstracting for its foreign clients. The bulk of the work was data processing, which involved data encoding. Data encoding, or the typing of data into the computer, included pre-encoding, encoding 1 and 2, editing, proofreading, and scanning. Almost half of the employees of INNODATA did data encoding work, while the other half monitored quality control. Due to the wide range of services rendered to its clients,

INNODATA was constrained to hire new employees for a fixed period of not more than one year. Respondents asserted that petitioners were not illegally dismissed, for their employment was terminated due to the expiration of their terms of employment. Petitioners' contracts of employment with INNODATA were for a limited period only, commencing on 6 September 1999 and ending on 16 February 2000.[10] Respondents further argued that petitioners were estopped from asserting a position contrary to the contracts which they had knowingly, voluntarily, and willfully agreed to or entered into. There being no illegal dismissal, respondents likewise maintained that petitioners were not entitled to reinstatement and backwages.

On 17 October 2000, the Labor Arbiter[11] issued its Decision[12] finding petitioners' complaint for illegal dismissal and damages meritorious. The Labor Arbiter held that as formatters, petitioners occupied jobs that were necessary, desirable, and indispensable to the data processing and encoding business of INNODATA. By the very nature of their work as formatters, petitioners should be considered regular employees of INNODATA, who were entitled to security of tenure. Thus, their termination for no just or authorized cause was illegal. In the end, the Labor Arbiter decreed:

FOREGOING PREMISES CONSIDERED, judgment is hereby rendered declaring complainants' dismissal illegal and ordering respondent INNODATA PHILS. INC./INNODATA CORPORATION to reinstate them to their former or equivalent position without loss of seniority rights and benefits. Respondent company is further ordered to pay complainants their full backwages plus ten percent (10%) of the totality thereof as attorney's fees. The monetary awards due the complainants as of the date of this decision are as follows:

A. Backwages

1. Cherry J. Price

2/17/2000 - 10/17/2000 at 223.50/day

P5,811.00/mo/ x 8 mos.

P46,488.00

2. Stephanie Domingo

46,488.00

(same computation)

3. Lolita Arbilera

46,488.00

(same computation)

Total Backwages

P139,464.00

B. Attorney's fees (10% of total award)

13,946.40

Total Award

P153,410.40

Respondent INNODATA appealed the Labor Arbiter's Decision to the NLRC. The NLRC, in its Decision dated

14 December 2001, reversed the Labor Arbiter's Decision dated 17 October 2000, and absolved INNODATA of the charge of illegal dismissal.

The NLRC found that petitioners were not regular employees, but were fixed-term employees as stipulated in their respective contracts of employment. The NLRC applied *Brent School, Inc. v. Zamora*[13] and *St. Theresa's School of Novaliches Foundation v. National Labor Relations Commission*,[14] in which this Court upheld the validity of fixed-term contracts. The determining factor of such contracts is not the duty of the employee but the day certain agreed upon by the parties for the commencement and termination of the employment relationship. The NLRC observed that the petitioners freely and voluntarily entered into the fixed-term employment contracts with INNODATA. Hence, INNODATA was not guilty of illegal dismissal when it terminated petitioners' employment upon the expiration of their contracts on 16 February 2000.

The dispositive portion of the NLRC Decision thus reads:

WHEREFORE, premises considered, the decision appealed from is hereby REVERSED and SET ASIDE and a new one entered DISMISSING the instant complaint for lack of merit.[15]

The NLRC denied petitioners' Motion for Reconsideration in a Resolution dated 28 June 2002.[16]

In a Petition for Certiorari under Rule 65 of the Rules of Court filed before the Court of Appeals, petitioners prayed for the annulment, reversal, modification, or setting aside of the Decision dated 14 December 2001 and Resolution dated 28 June 2002 of the NLRC.

On 25 September 2006, the Court of Appeals promulgated its Decision sustaining the ruling of the NLRC that petitioners were not illegally dismissed.

The Court of Appeals ratiocinated that although this Court declared in *Villanueva and Servidad* that the employees of INNODATA working as data encoders and abstractors were regular, and not contractual, petitioners admitted entering into contracts of employment with INNODATA for a term of only one year and for a project called Earthweb. According to the Court of Appeals, there was no showing that petitioners entered into the fixed-term contracts unknowingly and involuntarily, or because INNODATA applied force, duress or improper pressure on them. The appellate court also observed that INNODATA and petitioners dealt with each other on more or less equal terms, with no moral dominance exercised by the former on latter. Petitioners were therefore bound by the stipulations in their contracts terminating their employment after the lapse of the fixed term.

The Court of Appeals further expounded that in fixed-term contracts, the stipulated period of employment is governing and not the nature thereof. Consequently, even though petitioners were performing functions that are necessary or desirable in the usual business or trade of the employer, petitioners did not become regular employees because their employment was for a fixed term, which began on 16 February 1999 and was predetermined to end on 16 February 2000.

The appellate court concluded that the periods in petitioners' contracts of employment were not imposed to preclude petitioners from acquiring security of tenure; and, applying the ruling of this Court in *Brent*, declared that petitioners' fixed-term employment contracts were valid. INNODATA did not commit illegal dismissal for terminating petitioners' employment upon the expiration of their contracts.

The Court of Appeals adjudged:

WHEREFORE, the instant petition is hereby DENIED and the Resolution dated December 14, 2001 of the National Labor Relations Commission declaring petitioners were not illegally dismissed is AFFIRMED.[17]

The petitioners filed a Motion for Reconsideration of the afore-mentioned Decision of the Court of Appeals,

which was denied by the same court in a Resolution dated 15 June 2007.

Petitioners are now before this Court via the present Petition for Review on Certiorari, based on the following assignment of errors:

I.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW AND GRAVE ABUSE OF DISCRETION WHEN IT DID NOT APPLY THE SUPREME COURT RULING IN THE CASE OF NATIVIDAD & QUEJADA THAT THE NATURE OF EMPLOYMENT OF RESPONDENTS IS REGULAR NOT FIXED, AND AS SO RULED IN AT LEAST TWO OTHER CASES AGAINST INNODATA PHILS. INC.

II.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN RULING THAT THE STIPULATION OF CONTRACT IS GOVERNING AND NOT THE NATURE OF EMPLOYMENT AS DEFINED BY LAW.

III.

THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHEN IT DID NOT CONSIDER THE EVIDENCE ON RECORD SHOWING THAT THERE IS CLEAR CIRCUMVENTION OF THE LAW ON SECURITY OF TENURE THROUGH CONTRACT MANIPULATION.[18]

The issue of whether petitioners were illegally dismissed by respondents is ultimately dependent on the question of whether petitioners were hired by INNODATA under valid fixed-term employment contracts.

After a painstaking review of the arguments and evidences of the parties, the Court finds merit in the present Petition. There were no valid fixed-term contracts and petitioners were regular employees of the INNODATA who could not be dismissed except for just or authorized cause.

The employment status of a person is defined and prescribed by law and not by what the parties say it should be.[19] Equally important to consider is that a contract of employment is impressed with public interest such that labor contracts must yield to the common good.[20] Thus, provisions of applicable statutes are deemed written into the contract, and the parties are not at liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other.[21]

Regular employment has been defined by Article 280 of the Labor Code, as amended, which reads:

Art. 280. Regular and Casual Employment. The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of engagement of the employee or where the work or services to be performed is seasonal in nature and 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 of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists. (Underscoring ours).

Based on the afore-quoted provision, the following employees are accorded regular status: (1) those who are engaged to perform activities which are necessary or desirable in the usual business or trade of the employer, regardless of the length of their employment; and (2) those who were initially hired as casual employees, but have rendered at least one year of service, whether continuous or broken, with respect to the activity in which they are employed.

Undoubtedly, petitioners belong to the first type of regular employees.

Under Article 280 of the Labor Code, the applicable test to determine whether an employment should be considered regular or non-regular is the reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer.[22]

In the case at bar, petitioners were employed by INNODATA on 17 February 1999 as formatters. The primary business of INNODATA is data encoding, and the formatting of the data entered into the computers is an essential part of the process of data encoding. Formatting organizes the data encoded, making it easier to understand for the clients and/or the intended end users thereof. Undeniably, the work performed by petitioners was necessary or desirable in the business or trade of INNODATA.

However, it is also true that while certain forms of employment require the performance of usual or desirable functions and exceed one year, these do not necessarily result in regular employment under Article 280 of the Labor Code.[23] Under the Civil Code, fixed-term employment contracts are not limited, as they are under the present Labor Code, to those by nature seasonal or for specific projects with predetermined dates of completion; they also include those to which the parties by free choice have assigned a specific date of termination.[24]

The decisive determinant in term employment is the day certain agreed upon by the parties for the commencement and termination of their employment relationship, a day certain being understood to be that which must necessarily come, although it may not be known when. Seasonal employment and employment for a particular project are instances of employment in which a period, where not expressly set down, is necessarily implied.[25]

Respondents maintain that the contracts of employment entered into by petitioners with INNDOATA were valid fixed-term employment contracts which were automatically terminated at the expiry of the period stipulated therein, i.e., 16 February 2000.

The Court disagrees.

While this Court has recognized the validity of fixed-term employment contracts, it has consistently held that this is the exception rather than the general rule. More importantly, a fixed-term employment is valid only under certain circumstances. In *Brent*, the very same case invoked by respondents, the Court identified several circumstances wherein a fixed-term is an essential and natural appurtenance, to wit:

Some familiar examples may be cited of employment contracts which may be neither for seasonal work nor for specific projects, but to which a fixed term is an essential and natural appurtenance: overseas employment contracts, for one, to which, whatever the nature of the engagement, the concept of regular employment with all that it implies does not appear ever to have been applied, Article 280 of the Labor Code notwithstanding; also appointments to the positions of dean, assistant dean, college secretary, principal, and other administrative offices in educational institutions, which are by practice or tradition rotated among the faculty members, and where fixed terms are a necessity without which no reasonable rotation would be possible. Similarly, despite the provisions of Article 280, Policy Instructions No. 8 of the Minister of Labor implicitly recognize that certain company officials may be elected for what would amount to fixed periods, at the expiration of which they would have to stand down, in providing that these officials, "x x may lose their jobs as president, executive vice-president or vice president, etc. because the stockholders or the board of directors for one

reason or another did not reelect them."[26]

As a matter of fact, the Court, in its oft-quoted decision in *Brent*, also issued a stern admonition that where, from the circumstances, it is apparent that the period was imposed to preclude the acquisition of tenurial security by the employee, then it should be struck down as being contrary to law, morals, good customs, public order and public policy.[27]

After considering petitioners' contracts in their entirety, as well as the circumstances surrounding petitioners' employment at INNODATA, the Court is convinced that the terms fixed therein were meant only to circumvent petitioners' right to security of tenure and are, therefore, invalid.

The contracts of employment submitted by respondents are highly suspect for not only being ambiguous, but also for appearing to be tampered with.

Petitioners alleged that their employment contracts with INNODATA became effective 16 February 1999, and the first day they reported for work was on 17 February 1999. The Certificate of Employment issued by the HRAD Manager of INNODATA also indicated that petitioners Price and Domingo were employed by INNODATA on 17 February 1999.

However, respondents asserted before the Labor Arbiter that petitioners' employment contracts were effective only on 6 September 1999. They later on admitted in their Memorandum filed with this Court that petitioners were originally hired on 16 February 1999 but the project for which they were employed was completed before the expiration of one year. Petitioners were merely rehired on 6 September 1999 for a new project. While respondents submitted employment contracts with 6 September 1999 as beginning date of effectivity, it is obvious that in one of them, the original beginning date of effectivity, 16 February 1999, was merely crossed out and replaced with 6 September 1999. The copies of the employment contracts submitted by petitioners bore similar alterations.

The Court notes that the attempt to change the beginning date of effectivity of petitioners' contracts was very crudely done. The alterations are very obvious, and they have not been initialed by the petitioners to indicate their assent to the same. If the contracts were truly fixed-term contracts, then a change in the term or period agreed upon is material and would already constitute a novation of the original contract.

Such modification and denial by respondents as to the real beginning date of petitioners' employment contracts render the said contracts ambiguous. The contracts themselves state that they would be effective until 16 February 2000 for a period of one year. If the contracts took effect only on 6 September 1999, then its period of effectivity would obviously be less than one year, or for a period of only about five months.

Obviously, respondents wanted to make it appear that petitioners worked for INNODATA for a period of less than one year. The only reason the Court can discern from such a move on respondents' part is so that they can preclude petitioners from acquiring regular status based on their employment for one year. Nonetheless, the Court emphasizes that it has already found that petitioners should be considered regular employees of INNODATA by the nature of the work they performed as formatters, which was necessary in the business or trade of INNODATA. Hence, the total period of their employment becomes irrelevant.

Even assuming that petitioners' length of employment is material, given respondents' muddled assertions, this Court adheres to its pronouncement in *Villanueva v. National Labor Relations Commission*,[28] to the effect that where a contract of employment, being a contract of adhesion, is ambiguous, any ambiguity therein should be construed strictly against the party who prepared it. The Court is, thus, compelled to conclude that petitioners' contracts of employment became effective on 16 February 1999, and that they were already working continuously

for INNODATA for a year.

Further attempting to exonerate itself from any liability for illegal dismissal, INNODATA contends that petitioners were project employees whose employment ceased at the end of a specific project or undertaking. This contention is specious and devoid of merit.

In *Philex Mining Corp. v. National Labor Relations Commission*,^[29] the Court defined "project employees" as those workers hired (1) for a specific project or undertaking, and wherein (2) the completion or termination of such project has been determined at the time of the engagement of the employee.

Scrutinizing petitioners' employment contracts with INNODATA, however, failed to reveal any mention therein of what specific project or undertaking petitioners were hired for. Although the contracts made general references to a "project," such project was neither named nor described at all therein. The conclusion by the Court of Appeals that petitioners were hired for the Earthweb project is not supported by any evidence on record. The one-year period for which petitioners were hired was simply fixed in the employment contracts without reference or connection to the period required for the completion of a project. More importantly, there is also a dearth of evidence that such project or undertaking had already been completed or terminated to justify the dismissal of petitioners. In fact, petitioners alleged - and respondents failed to dispute that petitioners did not work on just one project, but continuously worked for a series of projects for various clients of INNODATA.

In *Magcalas v. National Labor Relations Commission*,^[30] the Court struck down a similar claim by the employer therein that the dismissed employees were fixed-term and project employees. The Court here reiterates the rule that all doubts, uncertainties, ambiguities and insufficiencies should be resolved in favor of labor. It is a well-entrenched doctrine that in illegal dismissal cases, the employer has the burden of proof. This burden was not discharged in the present case.

As a final observation, the Court also takes note of several other provisions in petitioners' employment contracts that display utter disregard for their security of tenure. Despite fixing a period or term of employment, i.e., one year, INNODATA reserved the right to pre-terminate petitioners' employment under the following circumstances:

6.1 x x x Further should the Company have no more need for the EMPLOYEE's services on account of completion of the project, lack of work (sic) business losses, introduction of new production processes and techniques, which will negate the need for personnel, and/or overstaffing, this contract maybe pre-terminated by the EMPLOYER upon giving of three (3) days notice to the employee.

x x x x

6.4 The EMPLOYEE or the EMPLOYER may pre-terminate this CONTRACT, with or without cause, by giving at least Fifteen - (15) [day] notice to that effect. Provided, that such pre-termination shall be effective only upon issuance of the appropriate clearance in favor of the said EMPLOYEE. (Emphasis ours.)

Pursuant to the afore-quoted provisions, petitioners have no right at all to expect security of tenure, even for the supposedly one-year period of employment provided in their contracts, because they can still be pre-terminated (1) upon the completion of an unspecified project; or (2) with or without cause, for as long as they are given a three-day notice. Such contract provisions are repugnant to the basic tenet in labor law that no employee may be terminated except for just or authorized cause.

Under Section 3, Article XVI of the Constitution, it is the policy of the State to assure the workers of security of tenure and free them from the bondage of uncertainty of tenure woven by some employers into their contracts of employment. This was exactly the purpose of the legislators in drafting Article 280 of the Labor Code - to prevent the circumvention by unscrupulous employers of the employee's right to be secure in his tenure by

indiscriminately and completely ruling out all written and oral agreements inconsistent with the concept of regular employment.

In all, respondents' insistence that it can legally dismiss petitioners on the ground that their term of employment has expired is untenable. To reiterate, petitioners, being regular employees of INNODATA, are entitled to security of tenure. In the words of Article 279 of the Labor Code:

ART. 279. Security of Tenure. - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

By virtue of the foregoing, an illegally dismissed employee is entitled to reinstatement without loss of seniority rights and other privileges, with full back wages computed from the time of dismissal up to the time of actual reinstatement.

Considering that reinstatement is no longer possible on the ground that INNODATA had ceased its operations in June 2002 due to business losses, the proper award is separation pay equivalent to one month pay^[31] for every year of service, to be computed from the commencement of their employment up to the closure of INNODATA.

The amount of back wages awarded to petitioners must be computed from the time petitioners were illegally dismissed until the time INNODATA ceased its operations in June 2002.^[32]

Petitioners are further entitled to attorney's fees equivalent to 10% of the total monetary award herein, for having been forced to litigate and incur expenses to protect their rights and interests herein.

Finally, unless they have exceeded their authority, corporate officers are, as a general rule, not personally liable for their official acts, because a corporation, by legal fiction, has a personality separate and distinct from its officers, stockholders and members. Although as an exception, corporate directors and officers are solidarily held liable with the corporation, where terminations of employment are done with malice or in bad faith,^[33] in the absence of evidence that they acted with malice or bad faith herein, the Court exempts the individual respondents, Leo Rabang and Jane Navarette, from any personal liability for the illegal dismissal of petitioners.

WHEREFORE, the Petition for Review on Certiorari is GRANTED. The Decision dated 25 September 2006 and Resolution dated 15 June 2007 of the Court of Appeals in CA-G.R. SP No. 72795 are hereby REVERSED and SET ASIDE. Respondent Innodata Philippines, Inc./Innodata Corporation is ORDERED to pay petitioners Cherry J. Price, Stephanie G. Domingo, and Lolita Arbilera: (a) separation pay, in lieu of reinstatement, equivalent to one month pay for every year of service, to be computed from the commencement of their employment up to the date respondent Innodata Philippines, Inc./Innodata Corporation ceased operations; (b) full backwages, computed from the time petitioners' compensation was withheld from them up to the time respondent Innodata Philippines, Inc./Innodata Corporation ceased operations; and (3) 10% of the total monetary award as attorney's fees. Costs against respondent Innodata Philippines, Inc./Innodata Corporation.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ.,

[1] Penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Martin S. Villarama Jr. and Lucas P. Bersamin, concurring. Rollo, pp. 47-61.

[2] Id. at 64-66.

[3] Id. at 16-17.

[4] Id. at 241-242.

[5] Id. at 116 and 120.

[6] Id. at 92-112.

[7] 356 Phil. 638 (1998).

[8] 364 Phil. 518 (1999).

[9] Rollo, p. 94.

[10] Respondents' Position Paper; id. at 236. Respondents subsequently explained before this Court that petitioners were initially hired on 16 February 1999 for a particular project, but the same was completed before the period of one year, and that petitioners were rehired on 6 September 1999. Petitioners' employment contracts on record showed that their effectivity date of 16 February 1999 was crossed out and replaced with 6 September 1999.

[11] Labor Arbiter Napoleon M. Menese.

[12] Rollo, pp. 544-551.

[13] G.R. No. 48494, 5 February 1990, 181 SCRA 702.

[14] 351 Phil. 1038 (1998).

[15] Rollo, p. 560.

[16] Id. at 563-564.

[17] Id. at 61.

[18] Id. at 13-45.

[19] *Industrial Timber Corporation v. National Labor Relations Commission*, G.R. No. 83616, 20 January 1989, 169 SCRA 341, 348.

[20] Article 1700 of the Civil Code.

[21] *Pakistan International Airlines Corporation v. Ople*, G.R. No. 61594, 28 September 1990, 190 SCRA 90, 99.

[22] *Magsalin v. National Organization of Working Men*, 451 Phil. 254, 260-261 (2003); *Big AA Manufacturer v. Antonio*, G.R. No. 160854, 3 March 2006, 484 SCRA 33, 44.

[23] *Millares v. National Labor Relations Commission*, 434 Phil. 524, 538.

[24] *Brent School, Inc. v. Zamora*, supra note 12 at 710.

[25] Id.

[26] Id. at 714.

[27] Id.

[28] Supra note 7 at 646.

[29] 371 Phil. 48, 57 (1999).

[30] 336 Phil. 433, 449 (1997).

[31] Atlas Farms, Inc. v. National Labor Relations Commission, 440 Phil. 620, 636 (2002); Chavez v. National Labor Relations Commission, G.R. No. 146530, 17 January 2005, 448 SCRA 478, 496; Philippine Tobacco Flue-Curing and Redrying Corporation v. National Labor Relations Commission, 360 Phil. 218, 244 (1998); Angeles v. Fernandez, G.R. No. 160213, 30 January 2007, 513 SCRA 378, 388.

[32] Bustamante v. National Labor Relations Commission, 332 Phil. 833, 843 (1996).

[33] Uichico v. National Labor Relations Commission, 339 Phil. 242, 251-252 (1997).

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