



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 11, 2022, which reads as follows:

“G.R. No. 253455 (JLC Construction and/or Dan V. Jimenez vs. Jony Casas Juanico). – Considering the allegations, issues, and arguments adduced in the Petition for Review on *Certiorari*,¹ the Court resolves to DENY it for failure to show that the Court of Appeals (CA) committed any reversible error in its assailed Decision² dated September 12, 2019 and Resolution³ dated September 3, 2020 in CA-G.R. SP No. 154962. The CA correctly held that the National Labor Relations Commission (NLRC) in NLRC LAC No. 08-002672-17 committed grave abuse of discretion when it ruled that respondent Jony Casas Juanico (Juanico) was a project employee of petitioner JLC Construction (JLC) and was therefore not illegally dismissed from work.

The issue of whether Juanico is a regular or a project employee of JLC is a factual matter which the Court generally does not dwell upon in a petition for review on *certiorari* under Rule 45 of the Rules of Court. However, considering that the findings of facts of the NLRC are in conflict with those of the Labor Arbiter (LA) and the CA, the Court may deviate from the general rule and review the records to determine which findings conform to the applicable laws and the evidentiary facts of the case.⁴

Equally important is the rule that “in a Rule 45 review in labor cases, the Court examines the CA’s Decision from the prism of whether [in a petition for *certiorari*,] the latter had correctly determined the presence or absence of grave abuse of discretion in the NLRC’s Decision.”⁵ Corollary thereto, there is grave abuse of discretion on the part of the NLRC when its findings and conclusions are not supported by substantial evidence, *i.e.*, “that amount of relevant evidence which a reasonable mind might accept as

¹ *Rollo*, pp. 15-29.

² *Id.* at 34-50. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Zenaida T. Galapate-Laguilles.

³ *Id.* at 57-65. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Ricardo R. Rosario (now a Member of the Court) and Zenaida T. Galapate-Laguilles.

⁴ See *Samson v. National Labor Relations Commission*, 386 Phil. 669, 681 (2000).

⁵ *Slord Development Corp. v. Noya*, G.R. No. 232687, February 4, 2019.

adequate to justify a conclusion.”⁶ Such grave abuse of discretion on the part of the NLRC warrants the grant of the extraordinary remedy of *certiorari*.⁷

Petitioners come before the Court alleging that Juanico was not a regular employee of JLC and that his employment was only for a fixed period.⁸ In essence, they allege as follows: (1) that there were no projects for January 2017 as JLC had yet to participate in the bidding for SM projects; (2) that Juanico’s nature of work solely relied on the existence of the projects with SM which are won by JLC through bidding; (3) that he was not illegally dismissed as his employment expired pursuant to the *Kasunduan sa Pagtatrabaho* covering the period from May 28, 2016 to October 31, 2016; and (4) that the cessation of the project effectively terminated his employment contract.⁹

The Court is not convinced.

In insisting that Juanico’s employment was for a fixed period, petitioners solely rely on the *Kasunduan sa Pagtatrabaho*¹⁰ that was signed by Juanico on May 28, 2016 stating that his employment was for a fixed term or from May 28, 2016 to October 31, 2016.¹¹ Apart from this, however, they failed to controvert the following allegations and submissions of Juanico:

First, JLC hired Juanico on January 9, 2012. To prove that he was hired before 2016, Juanico presented before the LA JLC’s payroll statement covering the period July 19 to 25, 2013.¹² JLC could have controverted this allegation by submitting documents in its possession, but it failed to do so.

Second, Juanico had in his possession a copy of a blank *Kasunduan sa Pagtatrabaho*¹³ pre-signed by Norwind Tabelina (Tabelina), JLC’s Administrative Manager. This bolsters his claim that the employees were given blank forms and that they were told that they will be dismissed should they fail to return a filled-out form to Tabelina. Indeed, Juanico’s employment was terminated for his failure to do so.

Lastly, the blank *Kasunduan sa Pagtatrabaho* stated that “*Ikaw ay mareregular sa trabaho pagkatapos ng anim na buwan sa trabaho ng walang anumang paglabag sa lahat ng regulasyon ng kumpanya.*”¹⁴ Juanico averred that this provision confused him because he knew that he was

⁶ *Ace Navigation Company v. Garcia*, 760 Phil. 924, 932 (2015); *Mercado v. AMA Computer College-Parañaque City, Inc.*, 632 Phil. 228, 248 (2010).

⁷ *Id.*

⁸ *Rollo*, p. 23.

⁹ *Id.* at 24-25.

¹⁰ *Id.* at 234

¹¹ *Id.*

¹² *Id.* at 48, 75.

¹³ *Id.* at 180.

¹⁴ *Id.*

already a regular employee of JLC for about five years.¹⁵

While petitioners presented in evidence another *Kasunduan sa Pagtatrabaho*¹⁶ allegedly signed by Juanico stating that his employment was for a fixed term or from May 28, 2016 to October 31, 2016, this lacked material details such as the name and particulars of the supposed project and the amount to be received by Juanico for his work. Under the circumstances, the Court cannot give weight to this document and characterize Juanico's employment as a fixed-term with it as the sole basis.

At this point, it must be stressed that the employer has the burden to prove that the employee is indeed a project employee. On this, the employer must establish that (a) the employee was assigned to carry out a particular project or undertaking; and (b) the duration and scope of which was specified at the time of engagement.¹⁷

Considering that petitioners failed to discharge their burden to prove that Juanico was a project employee, both the LA and the CA properly found him to be a regular employee. As a regular employee, it thus follows that Juanico may only be dismissed for a just or authorized cause and upon observance of due process of law. As these requirements were not observed, the Court also sustains the finding that Juanico was illegally dismissed from work by petitioners.

All told, the Court affirms the CA's reversal of the NLRC Decision¹⁸ dated September 22, 2017 dismissing Juanico's complaint for illegal dismissal on the ground that he was a project employee of JLC. Indeed, the NLRC committed grave abuse of discretion as its conclusion is not supported by substantial evidence. The CA was thus correct in holding that Juanico is a regular employee of JLC and that he was illegally dismissed from employment.

Accordingly, the Court reinstates the LA Decision¹⁹ dated May 31, 2017 finding that Juanico was illegally dismissed from work by JLC, viz.:

WHEREFORE, premises considered, judgment is rendered finding JONY CASA JUANICO ("JUANICO") illegally dismissed. JLC CONSTRUCTION or DAN JIMENEZ is ordered to pay JUANICO:

[1] Separation pay equivalent to one half month pay per year of service;

[2] Full backwages from January 9, 2017; [both separation pay and full backwages shall only be computed up to

¹⁵ Id. at 98.

¹⁶ Id. at 234.

¹⁷ See *Bajaro v. Metro Stonerich Corp.*, 830 Phil. 714 (2018).

¹⁸ *Rollo*, pp. 96-110.

¹⁹ Id. at 73-78.

promulgation of this Decision] [;]

[3] Salary differentials, subject to the 3[-]year prescriptive period for filing money claims;

[4] Pro-rata 13th month pay for 2017 covering January 1, 2017 to January 9, 2017.

The computation of the monetary award is as computed in Annex "A", forming part of this Decision.

All other claims are dismissed for lack of merit/particulars.

SO ORDERED.²⁰

However, in light of prevailing jurisprudence,²¹ the Court deems it proper to modify the CA Decision and order the remand of the case to the LA for the recomputation of the award of full backwages and separation pay, as the reckoning point should be from the time of Juanico's illegal dismissal up to the finality of the Court's Resolution and not that of the LA.

Further, the Court imposes legal interest on the total monetary award in favor of Juanico at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until full satisfaction, pursuant to *Nacar vs. Gallery Frames*.²²

WHEREFORE, the petition is **DENIED**. The Decision dated September 12, 2019 and the Resolution dated September 3, 2020 of the Court of Appeals in CA-G.R. SP No. 154962 are **AFFIRMED** with **MODIFICATION** in that the award of full backwages and separation pay should be counted from the time of respondent Jony Casas Juanico's illegal dismissal on January 9, 2017 up to the finality of the Court's Resolution.

The Labor Arbiter is **ORDERED** to recompute the total monetary award in favor of respondent in accordance with this Resolution.

The total monetary award of the Labor Arbiter shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until full satisfaction.

The Court further resolves to:

1. **GRANT** the First to Fourth Motions for Extension of Time to File Comment on the petition for review on *certiorari*, totaling sixty-five (65) days from May 28, 2021, filed by respondent Jony Casas Juanico;

²⁰ Id. at 78.

²¹ See *C.I.C.M. Mission Seminaries v. Perez*, 803 Phil. 596 (2017).

²² 716 Phil. 267, 281 (2013).

- 2. **NOTE** the Manifestation dated November 3, 2021 filed by the Public Attorney’s Office stating that respondent Jony Casas Juanico’s failure to file comment on the petition within the extended period requested was due to the temporary physical closure of its office on August 26, 2021 and the order to subject its officials and employees to quarantine after one of its employees died due to COVID-19; and **GRANT** the motion that said attached comment be admitted; and
- 3. **NOTE** the Comment dated August 31, 2021 filed by respondent Jony Casas Juanico.

SO ORDERED.”

By authority of the Court:

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Division Clerk of Court JB 1/30/23

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 (NLRC NCR CASE NO. 03-03894-17)

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