

THIRTEENTH DIVISION

[CA-G.R. SP NO. 126949, May 29, 2014]

**GOODHAVEN CONSTRUCTION & DEVELOPMENT CORPORATION/
EMETERIO A. EUGENIO, PETITIONERS, VS. NATIONAL LABOR
RELATIONS COMMISSION (FIFTH DIVISION) AND JAIME C.
AREGLADO, CIRILO BATOTO, SILVANO M. TAGUENA, JR., AND
ANTONIO A. SALLAVE, RESPONDENTS.**

D E C I S I O N

DIMAAMPAO, J.:

Petitioners declaim against the *Decision*^[1] and *Resolution*^[2] dated 20 February 2012 and 26 July 2012 of the National Labor Relations Commission (NLRC) affirming the Labor Arbiter's judgment that private respondents were illegally dismissed, and denying the *Motion for Reconsideration* thereof, respectively, in NLRC NCR Case No. 02-03015-11.

The diegesis of the controversy is uncomplicated.

Petitioner Goodhaven Construction and Development Corporation (Goodhaven) is engaged in construction and property development. Co-petitioner Emeterio Eugenio (Emeterio) is its Chairman and Chief Executive Officer.

Upon the other hand, private respondents Jaime Areglado, Cirilo Batoto, Silvano Taguena, Jr., and Antonio Sallave (collectively, private respondents) were construction workers of Goodhaven holding positions as tinsmith, car-penter, and tile setter posted to various projects.

As a customary practice, Goodhaven would interchange-ably assign private respondents to its projects depending on manpower demand. They were made to routinely report to work Monday to Saturday from 8:00 o'clock in the morning to 5:00 o'clock in the afternoon.

Sometime in January 2011, Emeterio informed private respondents of the company's intention to employ workers merely on a "piece work" or "pakyaw" basis. As a consequence, they would have to sign a *Kasunduan o Kontrata Bilang Proyekto ng Manggagawa*.^[3] Private respondents professed that they wanted the company to pay their unpaid benefits for the past years before signing the *Kasunduan*. But Emeterio opposed and insisted that they sign the project employment contracts. Private respondents flatly refused.

As it happened, Goodhaven demanded an explanation from private respondents for their unwillingness to sign the proposed *Kasunduan*. Private respondents stood pat on their earlier stance that they would sign only if they would be paid their benefits. Most of them had rendered service for more than five years and had not yet received full benefits. All the same, Goodhaven maintained that they sign on or before the end of the month, otherwise, they would no longer be allowed to enter

the project sites. When private respondents refused, Goodhaven considered their employment terminated.

Aggrieved by the turn of events, private respondents sought the intervention of Goodhaven's Human Resources Department (HRD). Lamentably, they were told that if they refused to sign, they were deemed dismissed from service. Left without any means of livelihood, private respondents filed a *Complaint*^[4] before the Labor Arbiter for illegal dismissal praying for payment of salary differentials, overtime pay, holiday pay, rest day pay, service incentive leave pay, 13th month pay and attorney's fees.

In the interregnum, private respondent Cirilo Batoto (Cirilo) died due to a vehicular accident. Jerico Batoto, Cirilo's son, filed a motion to substitute his father as complainant. For failure of Goodhaven to object despite notice, the motion for substitution was granted.^[5] The hearing of the case proceeded ex parte as Goodhaven failed to file its Position Paper. In due course, the Labor Arbiter rendered the Decision^[6] dated 29 June 2011 pronouncing that private respondents were illegally dismissed, thusly:

"**WHEREFORE**, premises considered, judgment is hereby rendered declaring that the complainants' (sic) were illegally dismissed by the respondents' (sic). Concomitantly, respondents' (sic) GOODHAVEN CONSTRUCTION AND DEVELOPMENT CORPORATION and Emeterio A. Eugenio are ordered to pay complainants back wages, separation pay, 13th month pay and service incentive leave pay contained in Annex 'A' of this decision.

SO ORDERED."^[7]

Goodhaven appealed before the NLRC^[8] asserting that private respondents were merely project employees. Goodhaven adduced in evidence the various *Kasunduan*^[9] allegedly signed by private respondents reflecting, inter alia, that one, their respective project assignments already ended on 31 December 2010, and two, their assignment to different projects did not make them regular employees as they were merely hired for a specific period of employment at the time of their engagement.^[10]

On 20 February 2012, the NLRC rendered the impugned Decision, disposing in this wise:

"WHEREFORE, premises considered, judgment is rendered:

1. Granting Respondents' Motion to Reduce Bond; and
2. Dismissing the appeal for lack of merit.

The June 29, 2011 decision of the Labor Arbiter stands **AFFIRMED**.

SO ORDERED."^[11]

The Motion for Reconsideration^[12] ensuingly filed by Goodhaven was denied in the challenged Resolution.^[13]

Via the instant Petition for Certiorari,^[14] Goodhaven and Emeterio (now, petitioners) seek relief before Us raising the following issue:

WHETHER OR NOT THE PUBLIC RESPONDENT HAD COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION FOR DISMISSING THE APPEAL TAKEN BY THE PETITIONERS FOR ALLEGED LACK OF MERIT AND DENYING THE MOTION FOR RECONSIDERATION, THEREBY AFFIRMING ITS DECISION DATED FEBRUARY 20, 2012.

The Petition is meritless.

The conundrum in this case is not atypical— Are private respondents project employees?

Article 280 of the **Labor Code**^[15] specifically provides that a project employee is one whose 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 services to be performed is seasonal in nature and the employment is for the duration of the season. The principal test is whether or not the employee were assigned to carry out a specific project, the duration of which was specified at the time the employees were engaged for that project.

Petitioners postulate that the *Kasunduan* signed by private respondents clearly denoted that they are project employees and are not entitled to the benefits enjoyed by regular employees. The *Kasunduan* mentioned the project assigned to each of the private respondents and the term of their respective employment. As they knowingly agreed and voluntarily signed the same, they are bound by its terms and conditions.

Petitioners' postulation holds no water.

The *Kasunduan* heavily relied upon by petitioners to prove that private respondents were project employees bears no weight and substance.

First. Private respondents were not shown to have signed the *Kasunduan* at the time their services were first engaged.

Second. The genuineness and due execution of the *Kasunduan* were denied by private respondents. They adamantly maintained that their signatures were forged and petitioners caused them to sign blank contracts as a condition for the release of their wages.^[16]

Third. Petitioners did not present the *Kasunduan* before the Labor Arbiter. These were attached only to its *Motion for Reconsideration*^[17] before the NLRC. Petitioners' pretext that it was not presented earlier as they were irrelevant and immaterial deserves short shrift. The presentation thereof at the late stage of the case raises suspicion on its authenticity. So, too, it has not escaped Our attention that petitioners did not present original copies of the said *Kasunduan* before the NLRC.

Given the foregoing, petitioners failed to convince Us that private respondents were its project employees. The *Kasunduan* cannot be used as basis to hold that their

employment was on a per project basis.

Perforce, We give Our imprimatur to the disquisition of the NLRC, viz:

“(Petitioners) presented copies of the contracts of project employment allegedly executed by the (private respondents) to support their claim that (private respondents) were project employees. A perusal thereof revealed that (private respondents) were indeed hired for specific projects as either Tinsmith, Carpenter or Tile Setter, which nature of work were necessary and important to (petitioners') construction business. **However, it appeared that at the time of their engagement, or at the time they were hired, the completion or termination of the particular projects for which they were hired were not determined.**

Records disclosed that (private respondents) Areglado, Batoto, Taguenca, Jr. and Sallone were hired in 2004, 2006, 2006 and 2008, respectively. (Petitioners) only produced “KASUNDUANS” dated from 2009 to 2010 specifying particular projects/assignments and tenure to prove that (private respondents) were “project employees.” The failure of (petitioners) to produce the “KASUNDUANS” of (private respondents) at the time they were hired from 2004 to 2008, only proved that at the time (private respondents) were hired, the completion or termination of the projects for which they were hired was not determined. This alone removed them from the classification of “project employees.” (Private respondents) were regular employees of (petitioners) since they were engaged to perform activities which were usually necessary or desirable in the construction business of (petitioners).”^[18] (Emphasis Ours)

“Although it is made to appear by the (petitioners) that the (private respondents) had signed separate contracts entitled 'Kasunduan Bilang Project Worker,' such contracts did not determine the status of their employment. A perusal of the alleged contracts of employment disclose that they contained alterations, the signatures affixed thereat vary and some of the contracts particularly that of Areglado failed to stipulate the covered period of employment. x x x”^[19]

Rivetingly, petitioners failed to comply with **Section 6 of Department Order No. 019-93**^[20] or the *Guidelines Governing the Employment of Workers In The Construction Industry* which directs employers to submit a report of an employee's termination due to project completion. The failure to report on the part of petitioners is detrimental to its interest and bolsters private respondents' assertion that they were regular employees. Quite illuminating is the recent case of **Pasos v. Philippine National Construction Corporation**^[21] wherein the Supreme Court edifyingly held:

“In this case, records clearly show that PNCC did not report the termination of petitioner's supposed project employment for the NAIA II Project to the DOLE. **Department Order No. 19, or the "Guidelines Governing the Employment of Workers in the Construction Industry," requires employers to submit a report of an employee's termination to the nearest public employment office every time an employee's employment is terminated due to a**