



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

**SALVADOR AWA INOCENTES,
 JR., AGAPITO AWA INOCENTES,
 KING MARVIN INOCENTES AND
 DENNIS C. CATANGUI,**

Petitioners,

- versus -

**R. SYJUCO CONSTRUCTION,
 INC. (RSCI) AND ARCH. RYAN I.
 SYJUCO,**

Respondents.

G.R. No. 240549

Present:

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER,
 LOPEZ, *JJ.*

Promulgated:

AUG 27 2020

x ----- x

DECISION

LAZARO-JAVIER, J.:

The Case

This petition for review on *certiorari* assails the following dispositions of the Court of Appeals (Former Special Eleventh and Special Former Special Eleventh Divisions) in CA-G.R. SP No. 152013 entitled *R. Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco v. National Labor Relations Commission, Salvador Awa Inocentes, Jr., Agapito Awa Inocentes, King Marvin Inocentes and Dennis C. Catangui, viz.:*

1. Amended Decision¹ dated February 2, 2018 reversing its earlier ruling that respondents were regular, not project employees; and
2. Resolution² dated July 5, 2018 denying petitioners' motion for reconsideration.

Antecedents

Respondent R. Syjuco Construction, Inc. (RSCI) is a construction company engaged in short-term projects such as renovation or construction of bank branches, stores in malls and similar projects with short duration. For its projects, RSCI hired construction workers like masons, carpenters, whose contracts of engagement were indicated to be co-terminous with the projects to which they were assigned.³

Sometime in 2005, RSCI hired petitioners Salvador Inocentes Jr. and Agapito Inocentes as carpenter and mason, respectively. Thereafter, RSCI engaged as carpenters King Marvin Inocentes in 2007 and Dennis Catangui, in 2008. The durations of their respective engagements depended on the scope and period of the projects. Between 2013 and 2015, petitioners were assigned to the following projects:⁴

1. Salvador Inocentes Jr.

Project	Duration
BDO BGC J.Y Campus	02 May – 15 May 2013
Edward Hernandez Residence	29 August – 11 September 2013
BDO UN Avenue	09 January – 29 January 2014
Edward Hernandez Residence	10 April – 02 July 2014
BDO City of Dreams	16 August -19 November 2014
Hernandez Condo	15 December – 18 December 2014
Tierra Pura	22 December – 26 December 2014
Hernandez Condo	28 January – 03 March 2015
Pinky Lim	20 May – 01 August 2015
BDO Solaire	22 October – 23 November 2015

2. Agapito Inocentes

Project	Duration
Loreta Arcadia Ave.	25 April – 30 April 2013
BDO BGC	09 May – 07 June 2013
PIKO Empire Studio	07 October – 09 October 2013
Edward Hernandez Residence	08 November – 11 December 2013
Edward Hernandez Residence	10 January – 02 March 2014

¹ Penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Danton Q. Bueser and Pablito A. Perez, *rollo*, pp. 9-15.

² Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justices Pablito A. Perez and Ronaldo Roberto B. Martin, *id.* at 7-8.

³ *Id.* at 129.

⁴ *Id.* at 129, 171-173.

Victory Liner Cubao	23 May – 22 July 2014
Victory Liner Pasay	04 September – 08 October 2014
PIKO Warehouse	11 December – 24 December 2014
Hernandez Condo	22 January – 18 March 2015
Avalon Condo	13 May – 25 July 2015
PIKO BDO Solaire	08 August – 22 September 2015

3. King Marvin Inocentes

Project	Duration
PIKO Push	20 February – 26 April 2013
Loreta Tua	08 May – 29 May 2013
PIKO Vantage	29 August – 16 October 2013
PIKO Giordano Concept	26 November – 06 December 2013
PIKO BDO Tektite	01 January – 12 January 2014
PIKO BDO UN times & PIKO BDO Elcano	16 January – 28 January 2014
PIKO Office	06 February – 12 February 2014
PIKO BDO MOB	06 March – 19 March 2014
Victory Liner Pasay	02 October – 08 October 2014
PIKO Fitness First Mall of Asia	23 October – 29 October 2014
Arlo Valero	25 February – 10 March 2015
PIKO BDO Kalentong	15 April – 28 April 2015
Office	14 May – 31 May 2015
Avalon Condo	02 July – 04 August 2015
PIKO Victory liner Sampaloc	12 August – 22 September 2015
PIKO BDO Bacoor	30 September – 13 October 2015

4. Dennis Catangui

Project	Duration
BDO BGC	09 May – 15 May 2013
Fitness First SM Aurora	30 May – 14 June 2013
BDO Tektite	05 December – 11 December 2013
BDO UN Avenue	11 March – 9 May 2014
BDO City of Dreams	16 August – 5 November 2014
Fitness First Mall of Asia	16 November – 17 December 2014
Hernandez Condo	8 January – 9 March 2015
Ayala Heights – Pinky Lim	12 March – 16 June 2015
Victory Liner Pasay	10 December – 12 December 2015

Sometime in February and May 2016, the RSCI's foreman twice directed petitioners to report for work for another short-term project, but the latter failed to do so.⁵

⁵ *Id.* at 130.

J

On June 9, 2016, petitioners filed a request for assistance and complaint under the single entry approach (SEnA) entitled *Salvador A. Inocentes, Jr., Agapito A. Inocentes, King Marvin Inocentes and Dennis C. Catangui v. R. Syjuco Construction, Inc. RSCI/Arch. Ryan I. Syjuco*. They sued for illegal dismissal, underpayment of wages, overtime pay, and non-payment of 13th month pay, holiday pay, holiday premium, rest day premium, service incentive leave and night shift differential. They also demanded for moral and exemplary damages and attorney's fees.⁶

RSCI denied that petitioners were illegally dismissed. As they were project employees, their employment was validly terminated after end of each construction project. It also denied petitioners' entitlement to holiday pay since they did not work during holidays. Too, they were not entitled to nightshift differential as their work did not go beyond 12 midnight. As to non-receipt of 13th month pay, their signed quitclaims were proof of receipt of such benefit.

Petitioners asserted that they were regular employees and that the signed quitclaims supported their claim of termination from employment.

The Labor Arbiter's Ruling

By Decision⁷ dated November 29, 2016, Labor Arbiter Ma. Claradel C. Javier-Rotor dismissed the complaint for lack of merit. She ruled that petitioners were project employees who belonged to RSCI's work pool. Their engagements were intermittent, depending on the availability of projects. Since they were not receiving any salary during their temporary break, they were free to find employment elsewhere.

As for petitioners' claim that they were misled into signing the purported quitclaims, the labor arbiter held that the same were required of all RSCI workers as proof of receipt of their 13th month pay and other benefits. Signing these quitclaims did not mean they were being terminated from work. They were merely on a temporary stoppage of work while waiting for their next project. She then directed petitioners to report to RSCI for their next project assignment.

The labor arbiter also denied the claim for holiday premium pay and night-shift differential for lack of proof that they were entitled to them.

⁶ *Id.* at 131.

⁷ *Id.* at 64-70.

The NRLC's Ruling

On appeal, the Fourth Division of the National Labor Relations Commission (NLRC) partly reversed,⁸ thus:

WHEREFORE, complainants' appeal is **PARTLY GRANTED**. The appealed Decision is hereby **MODIFIED** in that respondent R[.] Syjuco Construction[,] Inc. is directed to pay:

1. Complainant Salvador Awa Inocentes, Jr.[,] his **Backwages**, to be computed from 27 November 2015 (the date [of] termination took effect) until the finality of this Decision;

2. Complainant Agapito Awa Inocentes[,] his **Backwages**, to be computed from 30 November 2015 (the date [of] termination took effect) until the finality of this Decision;

3. Complainant King Marvin Inocentes[,] his **Backwages**, to be computed from 15 November 2015 (the date [of] termination took effect) until the finality of this Decision;

4. Complainant Dennis G. Catangui[,] his **Backwages**, to be computed from 20 December 2015 (the date [of] termination took effect) until the finality of this Decision;

5. **Separation Pay**, in lieu of reinstatement, in the amount of one (1) month's salary for every year of service, that is, from date of employment until the finality of this Decision;

6. **Moral damages** in the amount of Php10,000.00 each;

7. **Exemplary damages** in the amount of [Php]10,000.00 each;

8. [P]lus **Attorney's Fees** in an amount equivalent to 10% of the total monetary award.

Attached is the detailed computation which forms part of this Decision.

All other claims are **DISMISSED** for lack of basis.

SO ORDERED.⁹

The NLRC ruled that petitioners were regular employees. Their co-terminous status ceased when they were repeatedly hired for more than five (5) years as carpenters and masons since their services were necessary and desirable to RSCI's construction business. Notably, RSCI itself failed to submit the reportorial requirement under DOLE Department Order No. 19, series of 1993 every time petitioners' assigned projects got terminated. And

⁸ Penned by Presiding Commissioner Grace M. Venus and concurred in by Commissioners Bernardino B. Julve and Leonard Vinz O. Ignacio, *id.* at 77-87.

⁹ *Id.* at 86-87.

because they were regular employees, their dismissal due to contract expiration was invalid, the same not being a just or authorized cause for termination under Art. 279 of the Labor Code.

RSCI's motion for reconsideration was denied per Resolution¹⁰ dated June 30, 2017.

The Court of Appeals' Ruling

On RSCI's petition for *certiorari*, the Court of Appeals (Special Eleventh Division), by Decision dated December 7, 2017, affirmed in the main, albeit it deleted the award of moral and exemplary damages and imposed six percent (6%) interest per annum on the money award from finality of the decision until fully paid.

On RSCI's motion for reconsideration, however, the Court of Appeals (Former Special Eleventh Division) reversed per Amended Decision dated February 2, 2018, *viz.*:

WHEREFORE, the motion for reconsideration is **GRANTED**. Our *Decision* dated December 7, 2017 is **REVERSED** and **SET ASIDE**. The petition for *certiorari* is **GRANTED**. The assailed NLRC dispositions dated February 24, 2017 and June 30, 2017 are **ANNULLED** and **SET ASIDE**. The decision of the Labor Arbiter dated November 29, 2016 in NLRC Case No. 07-08384-16 is **REINSTATED**. No costs.

SO ORDERED.¹¹

The Court of Appeals (Former Special Eleventh Division) took judicial notice of the Decision dated December 28, 2017¹² of the Former Special Third Division in CA-G.R. SP No. 150606 entitled *R. Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco v. NLRC, Dominic Inocentes, Jeffrey Inocentes, Joseph Cornelio and Reymark Catangui* involving as well the employment status of similarly situated construction workers of RSCI.¹³

In that case, the Former Special Third Division found that the concerned construction workers were informed of their termination when they were denied entry to the job site. They thereafter filed a complaint for constructive dismissal and money claims against RSCI. The Labor Arbiter dismissed the complaint and ruled that they were project employees. On

¹⁰ *Id.* at 91-95.

¹¹ *Id.* at 14.

¹² Penned by Associate Justice Victoria Isabel A. Paredes and concurred in by now Supreme Court Associate Justice Jose C. Reyes, Jr. and Associate Justice Renato C. Francisco.

¹³ *Id.* at 10.

appeal, the NLRC reversed and ruled that the workers were regular employee.¹⁴ On further petition for *certiorari via* CA-G.R. SP No. 150606, the Former Special Third Division, as stated, held that the workers were project-based employees since they failed to prove that their work as such was continuous and uninterrupted. In concluding that these workers, at the time of their engagement, were in fact informed of the nature and durations of their work, the Former Special Third Division gave weight to RSCI's summary of project assignments for the years 2013 to 2015.¹⁵

In CA-G.R. SP No. 150606, the Former Special Eleventh Division justified its adoption of the aforesaid ruling, stating that since the construction workers in the two (2) cases were similarly situated, there should only be one (1) uniform ruling regarding their employment status, *i.e.*, they were project employees, and not regular employees.

The Special Former Special Eleventh Division denied petitioners' subsequent motion for reconsideration under Resolution dated July 5, 2018.

The Present Petition

Petitioners now seek affirmative relief from the Court to reverse and set aside the assailed dispositions of the Court of Appeals. They assert anew that they were regular employees because (1) they were repeatedly hired for more than ten (10) years without any interruption, (2) RSCI did not submit the reportorial requirement after every termination of its construction project per DOLE Department Order No. 19, series of 1993,¹⁶ (3) they were not aware of their project-based employment since they were not issued any employment contract at all, and (4) they were not even paid any completion bonus supposedly due to project employees following completion of each project.

On the other hand, RSCI argues that the petition should be dismissed for its late filing on August 28, 2018. The petition should have been allegedly filed on August 26, 2018, the last day of the thirty (30) day extended period. In any event, its failure to comply with the required report of termination following completion of each project is not fatal because it has sufficiently complied with all the other requirements under DOLE Department Order No. 19. More, petitioners' own acknowledgement before the Labor Arbiter that they were laid off due to project completion is already sufficient proof that RSCI did inform petitioners of their project-based employment status. Project completion is a valid cause for terminating employment. Finally, the Court of Appeals correctly applied the decision in CA-G.R. SP No. 150606 to the present case.

¹⁴ *Id.* at 179.

¹⁵ *Id.* at 180-181.

¹⁶ Guidelines Governing the Employment of Workers in Construction Industry.

ISSUES

I

Was the petition filed out of time?

II

Are petitioners project-based employees?

Ruling

The petition was timely filed.

On the procedural aspect, RSCI points out that the petition was belatedly filed on August 28, 2018 or two (2) days beyond the thirty (30) day extension sought which expired on August 26, 2018.

A.M. 00-2-14-SC *Re: Computation of Time When the Last Day Falls on a Saturday, Sunday or Legal Holiday and a Motion for Extension Filed on Next Working Day is Granted* ordains that when the last day of the filing period falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

Here, the Court¹⁷ granted petitioners an extension of thirty (30) days from receipt of the assailed Resolution or until August 26, 2018 within which to file the present petition. Since August 26, 2018, last day of the extended due date, fell on a Sunday, and the next day, August 27, was declared a regular holiday, the petition was timely filed on the next working day, August 28, 2018. So must it be.

As ordained in G.R. No. 237020, RSCI's construction workers were regular employees, and not project employees.

In its Amended Decision dated February 2, 2018, the Court of Appeals Former Special Eleventh Division reversed its previous ruling that petitioners were regular employees and pronounced, instead, that they were project employees, thus:

After taking a second hard look at the facts of this case *vis-à-vis* the facts in CA-G.R. SP No. 150606, We find that the Private Respondents herein are similarly situated with the Private Respondents in CA-G.R. SP

¹⁷ Second Division Resolution dated August 6, 2018.

No. 150606. Thus, the issues raised by the Private Respondents herein are not different from the issues raised by the Private Respondents in the earlier case.

In view thereof and in order to avoid conflicting dispositions, We are constrained to rule differently and to agree with the Petitioner's contention that the Private Respondents are project employees.

It is **undisputed** that the Petitioner is a construction company engage in short-term projects, such as renovation or construction of branches of banks, stores in malls, and other similar projects that can easily be accomplished in a few months. At the time of each engagement, the Private Respondents were advised as to the nature of the work and the duration of the project they were involved in. This is evidenced by the submissions of the Petitioner showing the project assignments and duration thereof. Upon completion of the project or particular phase thereof where they were engaged to work, the Private Respondents' employment necessarily ended. The Private Respondents' re-hiring thus was conditioned on the availability of construction projects of the Petitioner. During the time that there is no project assignment, the Private Respondents are not paid and are free to seek other employment. Therefore, **the Private Respondents are indeed project employees, whose employment was coterminous with the projects they were assigned.**

The Amended Decision cited as basis for its turn around a similar case under CA-GR SP No. 150606 where the Former Special Third Division, through its Decision dated October 5, 2017, held that RSCI's construction workers, like herein petitioners, were project employees, and not regular employees.

Notably though, the aforesaid Decision dated October 5, 2017 subsequently became the subject of a petition for review on *certiorari* under G.R. No. 237020 entitled *Dominic Inocentes, Jeffrey Inocentes, Joseph Cornelio and Reymark Catangui v. R. Syjuco Construction, Inc. (RSCI)/Arch. Ryan I. Syjuco*, specifically on the employment status of RSCI's construction workers.

By Decision dated July 29, 2019, we pronounced, in no uncertain terms, that RSCI's construction workers were regular employees as the services they rendered were necessary and desirable to RSCI's construction business. As such, they may not be dismissed upon the mere expiration or completion of each project for which they were engaged. Thus:

In *Dacuital vs. L.M. Camus Engineering Corp.*, the Court stressed that a project employee is assigned to a project that starts and ends at a determined or determinable time. **The Court elucidated therein that the principal test to determine if an employee is a project employee is - whether he or she is assigned to carry out a particular project or undertaking, which duration or scope was specified at the time of engagement.**

In this case, to ascertain whether petitioners were project employees, as claimed by respondents, it is primordial to determine whether notice was given them that they were being engaged just for a specific project, which notice must be made at the time of hiring. However, no such prior notice was given by respondents.

The Court notes that the summary of project assignments relied by the CA cannot be considered as the needed notice because it only listed down the projects from where petitioners were previously assigned but nowhere did it indicate that petitioners were informed or were aware that they were hired for a project or undertaking only.

Stated differently, **the summary only listed the projects after petitioners were assigned to them but it did not reflect that petitioners were informed at the time of engagement that their work was only for the duration of a project.** Notably, it was only in their Rejoinder (filed with the LA) that respondents stated that at the time of their engagement, petitioners were briefed as to the nature of their work but respondents did not fully substantiate this claim.

Moreover, **the summary of project assignments even worked against respondents as it established the necessity and desirability of petitioners' tasks on the usual business of respondents.** It is worth noting that respondents themselves admitted to such essentiality of the work because in their Reply (also submitted with the LA), respondents confirmed that days or a few months after a repair or renovation project, they would inform petitioners that they would be called upon when a new project commences. This matter only shows that petitioners' work for respondents did not end by the supposed completion of a project because respondents coordinated with and notified them that their services would still be necessary for respondents.

Also, **the fact that respondents did not submit a report with the DOLE (anent the termination of petitioners' employment due to alleged project completion) further bolsters that petitioners were not project employees.** In *Freyssinet Filipinas Corp. vs. Lapuz*, the Court explained that the failure on the part of the employer to file with the DOLE a termination report every time a project or its phase is completed is an indication that the workers are not project employees but regular ones.

x x x x

However, as already discussed, **respondents did not prove that they informed petitioners, at the time of engagement, that they were being engaged as project employees. The duration and scope of their work was without prior notice to petitioners.** While the lack of a written contract does not necessarily make one a regular employee, a written contract serves as proof that employees were informed of the duration and scope of their work and their status as project employee at the commencement of their engagement. There being none that was adduced here, the presumption that the employees are regular employees prevails.

x x x x

Notably, considering that respondents failed to discharge their burden to prove that petitioners were project employees, the NLRC properly found them to be regular employees. **It thus follows that as regular employees, petitioners 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 of the NLRC that petitioners were illegally dismissed.

Let it be underscored too that even if we rely on the averment of respondents that petitioners ceased to work at the end of their purported project contract, this assertion will not hold water since it is not a valid cause to terminate regular employees. This is in addition to the fact that there was no showing that petitioners were given notice of their termination, an evident violation of their right to due process. (Emphasis supplied)

Inocentes is on all fours with the present case. Petitioners here and those in *Inocentes* were all RSCI's construction workers. As such, they had been repeatedly and continuously employed for many years. They performed tasks that were desirable and necessary to RSCI's construction business. Thus, they were regular employees, not project employees. For sure, mere termination or completion of each project for which they were engaged is not a valid or just cause for termination of employment under Art. 279 of the Labor Code.

While the Court is aware that *Inocentes* is under reconsideration, our Decision in that case stands until otherwise vacated or reversed. Undoubtedly, the issues, subject matters and causes of action in *Inocentes* and in the present case are identical. The workers were categorized as project employees but they were not properly informed of the nature of their employment as such.

They were all continuously engaged by RSCI to render construction services for its short-term projects. Too, RSCI did not file any termination report to the DOLE due to alleged project completion nor did it pay the workers any completion bonus supposedly due to project employees following completion of each project. RSCI asserted that the completion of the workers' assigned projects was a valid ground for their termination despite the workers' claim that they were regular employees and that their dismissal due to contract expiration was not a just or authorized cause for termination under Art. 279 of the Labor Code. In other words, except for the specific workers involved, the two (2) cases are closely identical and ought to be uniformly resolved on the merits. We, therefore, apply in full *Inocentes* to the present case.

Award of money claims is warranted.

The Court sustains the NLRC's award of backwages and separation pay to the illegally terminated employees which shall be computed from the date



of their illegal dismissal until finality of this Decision. Likewise, as found in *Inocentes*, the Court awards service incentive leave pay to herein petitioners which benefit was not given them by RSCI.

As for the award of ten percent (10%) attorney's fees, the same is justified under Article 2208(7) of the Civil Code which allows it in actions involving wages of household helpers, laborers, and skilled workers.

The legal rate of six percent (6%) per annum is imposed on the total money award to be reckoned from finality of this Decision until fully paid consistent with *Nacar v. Gallery Frames*.¹⁸


ACCORDINGLY, the petition is **GRANTED**. The Amended Decision dated February 2, 2018 and Resolution dated July 5, 2018 of the Court of Appeals in CA-G.R. SP No. 152013 are **REVERSED** and **SET ASIDE**. The Decision dated December 7, 2017 of the Court of Appeals is **REINSTATED with MODIFICATION** in that service incentive leave pay is likewise awarded.

SO ORDERED.

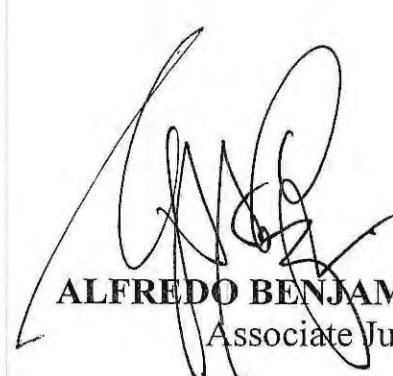


AMY C. LAZARO-JAVIER
Associate Justice

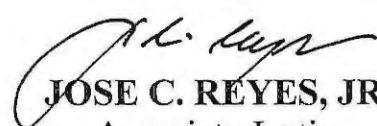
WE CONCUR:



DIOSDADO M. PERALTA
Chief Justice
Chairperson – First Division




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice

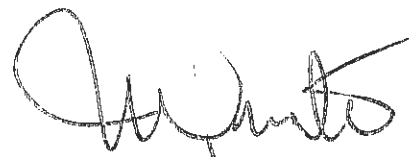
¹⁸ 716 Phil. 267 (2013).



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

