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THIRD DIVISION

[G.R. NO. 167714, March 07, 2007]

ROWELL INDUSTRIAL CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND JOEL TARIPE, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

This case is a Petition for Review under Rule 45 of the 1997 Revised Rules of Civil Procedure seeking to set aside the Decision[1] and Resolution[2] of the Court of Appeals in CA-G.R. SP No. 74104, entitled, *Rowell Industrial Corp., and/or Edwin Tang vs. National Labor Relations Commission and Joel Taripe,* dated 30 September 2004 and 1 April 2005, respectively, which affirmed the Resolutions[3] of the National Labor Relations Commission (NLRC) dated 7 June 2002 and 20 August 2002, finding herein respondent Joel Taripe (Taripe) as a regular employee who had been illegally dismissed from employment by herein petitioner Rowell Industrial Corp. (RIC), thereby ordering petitioner RIC to reinstate respondent Taripe with full backwages, subject to the modification of exonerating Edwin Tang, the RIC General Manager and Vice President, from liability and computing the backwages of herein respondent Taripe based on the prevailing salary rate at the time of his dismissal. The NLRC Resolutions reversed the Decision[4] of the Labor Arbiter dated 29 September 2000, which dismissed respondent Taripe's complaint.

Petitioner RIC is a corporation engaged in manufacturing tin cans for use in packaging of consumer products, e.g., foods, paints, among other things. Respondent Taripe was employed by petitioner RIC on 8 November 1999 as a "rectangular power press machine operator" with a salary of P223.50 per day, until he was allegedly dismissed from his employment by the petitioner on 6 April 2000.

The controversy of the present case arose from the following facts, as summarized by the NLRC and the Court of Appeals:

> On [17 February 2000], [herein respondent Taripe] filed a [C]omplaint against [herein petitioner RIC] for regularization and payment of holiday pay, as well as indemnity for severed finger, which was amended on [7 April 2000] to include illegal dismissal. [Respondent Taripe] alleges that [petitioner RIC] employed him starting [8 November 1999] as power press machine operator, such position of which was occupied by [petitioner RIC's] regular employees and the functions of which were necessary to the latter's business. [Respondent Taripe] adds that upon employment, he was made to sign a document, which was not explained to him but which was made a condition for him to be taken in and for which he was not furnished a copy. [Respondent Taripe] states that he was not extended full benefits granted under the law and the [Collective Bargaining Agreement] and that on [6 April 2000], while the case for

> regularization was pending, he was summarily dismissed from his job although he never violated any of the [petitioner RIC's] company rules and regulations.
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> [Petitioner RIC], for [its] part, claim[s] that [respondent Taripe] was a contractual employee, whose services were required due to the increase in the demand in packaging requirement of [its] clients for Christmas season and to build up stock levels during the early part of the following year; that on [6 March 2000], [respondent Taripe's] employment contract expired. [Petitioner RIC] avers that the information update for union members, which was allegedly filled up by [respondent Taripe] and submitted by the Union to [petitioner] company, it is stated therein that in the six (6) companies where [respondent Taripe] purportedly worked, the latter's reason for leaving was "finished contract," hence, [respondent Taripe] has knowledge about being employed by contract contrary to his allegation that the document he was signing was not explained to him. [Petitioner RIC] manifest[s] that all benefits, including those under the [Social Security System], were given to him on [12 May 2000].[5]

On 29 September 2000, the Labor Arbiter rendered a Decision dismissing respondent Taripe's Complaint based on a finding that he was a contractual employee whose contract merely expired. The dispositive portion of the said Decision reads, thus:

> **WHEREFORE**, premises considered, judgment is hereby rendered declaring this complaint of [herein respondent Taripe] against [herein petitioner RIC] and Mr. Edwin Tang for illegal dismissal **DISMISSED** for lack of merit. However, on ground of compassionate justice, [petitioner RIC and Mr. Edwin Tang] are hereby ordered to pay [respondent Taripe] the sum of PHP5,811.00 or one month's salary as financial assistance and holiday pay in the sum of PHP894.00, as well as attorney's fees of 10% based on holiday pay (Article 110, Labor Code).[6]

Aggrieved, respondent Taripe appealed before the NLRC. In a Resolution dated 7 June 2002, the NLRC granted the appeal filed by respondent Taripe and declared that his employment with the petitioner was regular in status; hence, his dismissal was illegal. The decretal portion of the said Resolution reads as follows:

> **WHEREFORE**, premises considered, [herein respondent Taripe's] appeal is **GRANTED**. The Labor Arbiter's [D]ecision in the above-entitled case is hereby **REVERSED**. It is hereby declared that [respondent Taripe's] employment with [herein petitioner RIC and Mr. Edwin Tang] is regular in status and that he was illegally dismissed therefrom.
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> [Petitioner RIC and Mr. Edwin Tang] are hereby ordered to reinstate [respondent Taripe] and to jointly and severally pay him full backwages from the time he was illegally dismissed up to the date of his actual reinstatement, less the amount of P1,427.67. The award of P894.00 for holiday pay is **AFFIRMED** but the award of P5,811.00 for financial assistance is deleted. The award for attorney's fees is hereby adjusted to ten percent (10%) of [respondent Taripe's] total monetary award.[7]

Dissatisfied, petitioner RIC moved for the reconsideration of the aforesaid Resolution but it was denied in the Resolution of the NLRC dated 20 August 2002.

Consequently, petitioner filed a Petition for *Certiorari* under Rule 65 of the 1997 Revised Rules of Civil Procedure before the Court of Appeals with the following assignment of errors:

> I. THE [NLRC] GRAVELY ABUSED ITS DISCRETION AND IS IN EXCESS OF ITS JURISDICTION WHEN IT MISINTERPRETED ARTICLE 280 OF THE LABOR CODE AND IGNORED JURISPRUDENCE WHEN IT DECIDED THAT [RESPONDENT TARIPE] IS A REGULAR EMPLOYEE AND THUS, ILLEGALLY DISMISSED.
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> II. THE [NLRC] GRAVELY ABUSED ITS DISCRETION AND IS IN EXCESS OF ITS JURISDICTION WHEN IT ORDERED [EDWIN TANG] TO (sic) JOINTLY AND SEVERALLY LIABLE FOR MONETARY CLAIMS OF [RESPONDEN TARIPE].
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> III. THE [NLRC] GRAVELY ABUSED ITS DISCRETION AND IS IN EXCESS OF ITS JURISDICTION WHEN IT ORDERED PAYMENT OF MONETARY CLAIMS COMPUTED ON AN ERRONEOUS WAGE RATE.[8]

The Court of Appeals rendered the assailed Decision on 30 September 2004, affirming the Resolution of the NLRC dated 7 June 2002, with modifications. Thus, it disposed -

> **WHEREFORE**, the Resolutions dated [7 June 2002] and [20 August 2002] of [the NLRC] are affirmed, subject to the modification that [Edwin Tang] is exonerated from liability and the computation of backwages of [respondent Taripe] shall be based on P223.50, the last salary he received.[9]

A Motion for Reconsideration of the aforesaid Decision was filed by petitioner RIC, but the same was denied for lack of merit in a Resolution[10] of the Court of Appeals dated 1 April 2005.

Hence, this Petition.

Petitioner RIC comes before this Court with the lone issue of whether the Court of Appeals misinterpreted **Article 280 of the Labor Code, as amended**, and ignored jurisprudence when it affirmed that respondent Taripe was a regular employee and was illegally dismissed.

Petitioner RIC, in its Memorandum,[11] argues that the Court of Appeals had narrowly interpreted Article 280 of the Labor Code, as amended, and disregarded a contract voluntarily entered into by the parties.

Petitioner RIC emphasizes that while an employee's status of employment is vested by law pursuant to Article 280 of the Labor Code, as amended, said provision of law admits of two exceptions, to wit: (1) those employments which have 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 employment; and (2) when the

work or services to be performed are seasonal; hence, the employment is for the duration of the season. Thus, there are certain forms of employment which entail the performance of usual and desirable functions and which exceed one year but do not necessarily qualify as regular employment under Article 280 of the Labor Code, as amended.

The Petition is unmeritorious.

A closer examination of Article 280 of the Labor Code, as amended, is imperative to resolve the issue raised in the present case.

In declaring that respondent Taripe was a regular employee of the petitioner and, thus, his dismissal was illegal, the Court of Appeals ratiocinated in this manner:

> In determining the employment status of [herein respondent Taripe], reference must be made to Article 280 of the Labor Code, which provides:
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> x x x x
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> Thus, there are two kinds of regular employees, namely: (1) those who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; and (2) those who have rendered at least one year of service, whether continuous or broken, with respect to the activity in which they are employed. [Respondent Taripe] belonged to the first category of regular employees.
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> The purported contract of employment providing that [respondent Taripe] was hired as contractual employee for five (5) months only, cannot prevail over the undisputed fact that [respondent Taripe] was hired to perform the function of power press operator, a function necessary or desirable in [petitioner's] business of manufacturing tin cans. [Herein petitioner RIC's] contention that the four (4) months length of service of [respondent Taripe] did not grant him a regular status is inconsequential, considering that length of service assumes importance only when the activity in which the employee has been engaged to perform is not necessary or desirable to the usual business or trade of the employer.
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> As aptly ruled by [the NLRC]:
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> "In the instant case, there is no doubt that [respondent Taripe], as power press operator, has been engaged to perform activities which are usually necessary or desirable in [petitioner RIC's] usual business or trade of manufacturing of tin cans for use in packaging of food, paint and others. We also find that [respondent Taripe] does not fall under any of the abovementioned exceptions. Other that (sic) [petitioner RIC's] bare allegation thereof, [it] failed to present any evidence to prove that he was employed for a fixed or specific project or undertaking the completion of which has been determined at the time of his engagement or that [respondent Taripe's] services are seasonal in nature and that his employment was for the duration of the season."[12]

Article 280 of the Labor Code, as amended, provides:

> **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 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.
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> 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. [Emphasis supplied]

The aforesaid Article 280 of the Labor Code, as amended, classifies employees into three categories, namely: (1) **regular employees** or those whose work is necessary or desirable to the usual business of the employer; (2) **project employees** or those 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; and (3) **casual employees** or those who are neither regular nor project employees.[13]

Regular employees are further classified into: (1) regular employees by nature of work; and (2) regular employees by years of service.[14] The former refers to those employees who perform a particular activity which is necessary or desirable in the usual business or trade of the employer, regardless of their length of service; while the latter refers to those employees who have been performing the job, regardless of the nature thereof, for at least a year.[15]

The aforesaid Article 280 of the Labor Code, as amended, however, does not proscribe or prohibit an employment contract with a fixed period. It does not necessarily follow that where the duties of the employee consist of activities usually necessary or desirable in the usual business of the employer, the parties are forbidden from agreeing on a period of time for the performance of such activities. There is nothing essentially contradictory between a definite period of employment and the nature of the employee's duties.[16] What Article 280 of the Labor Code, as amended, seeks to prevent is the practice of some unscrupulous and covetous employers who wish to circumvent the law that protects lowly workers from capricious dismissal from their employment. The aforesaid provision, however, should not be interpreted in such a way as to deprive employers of the right and prerogative to choose their own workers if they have sufficient basis to refuse an employee a regular status. Management has rights which should also be protected.[17]