

FIRST DIVISION

[CA-G.R. SP NO. 119728, May 27, 2014]

JACA CONSTRUCTION AND MANAGEMENT CORPORATION AND ARNULFO D. MONDERIN, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (SECOND DIVISION) AND MARIO DIOLA, RESPONDENTS.

D E C I S I O N

BARRIOS, M. M., J.:

This is a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure assailing, on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction, the Resolution dated 12 January 2011^[1] of the National Labor Relations Commission that overturned the decision of the Labor Arbiter. The decretal part reads:

x x x

*"**WHEREFORE**, premises considered, the appealed decision is hereby **REVERSED** and **SET ASIDE**, and a new one entered, declaring Respondents to have illegally dismissed Complainant, who is hereby ordered reinstated without the loss of seniority rights and privileges, and paid full backwages up to reinstatement.*

SO ORDERED."

x x x

Likewise assailed is the Resolution^[2] dated 24 March 2011 denying petitioner's motion for reconsideration.

The Antecedents

Private respondent was employed by petitioner-corporation on August 2008 and was initially assigned as helper in the Septic Tank Project of petitioner. He was thereafter transferred to Pudong Tool Transfer Project at CV2 Numonyx Phils. Later on, private respondent was assigned in South Forbes, Barangay Inchican, Silang, Cavite, and lastly, as a welder in the Madison Project of petitioner on March 2010.

After the completion of the last project, Engr. Arvin Burgos informed private respondent that he will just summon the latter for the next project. However, private respondent did not receive any call for the next project; and when he inquired, he was asked to wait. On 07 April 2010, with no probable work assignment from petitioner, private respondent filed an illegal dismissal case against petitioner praying for reinstatement, full backwages and other monetary benefits.

On the other hand, petitioner averred that it is engaged in the construction business and undertake the specific projects of its clients. Private respondent was hired as a project employee in connection with several projects pursued by petitioner. Accordingly, several contracts of employment written in Pilipino were executed by the parties whereby the services of private respondent were engaged for a fixed period for the specific project assigned to him. Thus, for the Pudong Tool Transfer Project undertaken for Numonyx Phils., petitioner hired private respondent for a three (3) month period from 15 January 2009 until 15 April 2009. Then, the latter was re-hired as helper in the same project from 15 May 2009 until 15 August 2009. Thereafter, private respondent was again hired as helper for the Madison South Subdivision (Hillary Phase 2) project in Calamba, Laguna from 15 September 2009 until 15 December 2009, and then again, from 15 January 2010 until 15 April 2010 in another phase (Nancy Phase I) of the subdivision project. After the aforesaid housing project contract was completed, private respondent was notified that his employment was terminated due to the completion of the project for which he was hired. Petitioners maintain that private respondent was a project employee, and not a regular employee.

On 29 June 2010, the Labor Arbiter rendered a decision dismissing private respondent's complaint for lack of merit. The Labor Arbiter posited that private respondent was a project employee and was not illegally dismissed inasmuch as his employment automatically ceased after the completion of the specific project for which he was hired by petitioner.

On appeal, however, public respondent NLRC reversed the decision of the Labor Arbiter per its Resolution dated 12 January 2011, and ruled that there was illegal dismissal and therefore awarded money claims in favor of private respondent. Petitioners filed a Motion for Reconsideration, but this was denied in a Resolution dated 24 March 2011. Hence, this instant petition premised on the following arguments:

I.

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION IN RULING THAT PRIVATE RESPONDENT MARIO DIOLA WAS A REGULAR EMPLOYEE OF PETITIONER CONSTRUCTION COMPANY SINCE AUGUST 29, 2008, WHO WAS ILLEGALLY DISMISSED ON MARCH 27, 2010, CONTRARY TO THE ADMITTED FACTS AND RECORDS OF THE CASE.

II.

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION AND CONTRARY TO LAW AND EXISTING JURISPRUDENCE, (sic) IN DECLARING PRIVATE RESPONDENT TO BE ENTITLED TO REINSTATEMENT AND PAYMENT OF BACK WAGES AND EMPLOYEE BENEFITS.

III.

PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION ACTED WITH GRAVE ABUSE OF DISCRETION AND