Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RUBEN CARPIO,
Petitioner,

- *versus* -

MODAIR MANILA CO. LTD., INC.,
Respondent.

G.R. No. 239622

Present:

LEONEN, *J.*,*
HERNANDO, *Acting Chairperson,***
INTING,
DELOS SANTOS, and
LOPEZ, J., *JJ.*

Promulgated:
June 21, 2021
Mis-PDCBath

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D E C I S I O N

LOPEZ, J., *J.*:

Ruben Carpio (*Carpio*) filed the instant Petition for Review on *Certiorari*[1] dated July 18, 2018, assailing the Decision[2] dated December 27, 2017 and the Resolution[3] dated April 30, 2018, rendered by the Court of Appeals Seventh Division (*Court of Appeals*) in CA-G.R. SP No. 143736, both of which granted the Petition for *Certiorari*[4] dated January 7, 2016 filed by Modair Manila Co. Ltd., Inc. (*Modair*), which assailed the Decision[5] dated September 29, 2015 and Resolution[6] dated October 30, 2015, rendered by the National Labor Relations Commission Sixth Division (*NLRC*) in NLRC LAC Case No. 06-001497-15, which reversed the ruling[7] of the Labor Arbiter in NLRC Case No. RAB-IV-10-01443-13-L, dismissing Carpio's Complaint for illegal dismissal and regularization.

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* On wellness leave.
** Per Special Order No. 2828 dated June 21, 2021.
1 *Rollo*, pp. 11-299.
2 Penned by Associate Justice Renato C. Francisco (retired), with Associate Justices Rodil V. Zalameda (now a member of this Court) and Japar B. Dimaampao, concurring; *id.* at 273-285.
3 *Id.* at 293-299.
4 *Id.* at 40-59.
5 *Id.* at 60-70.
6 *Id.* at 73-74.
7 *Id.* at 223-226.

Factual and Procedural Antecedents

Carpio's Work Engagements with Modair

A Certificate of Employment dated May 23, 2013 issued by Modair's Deputy General Manager indicates that Carpio has been employed as a "contractor's employee (per project basis)," designated as "Electrician 3," from October 27, 1998 to April 10, 2013.[8] Apart from the Certificate of Employment, the evidence provides no further information regarding Carpio's employment between 1998 to 2008, only providing details from 2008 onwards.

In a Memorandum dated August 1, 2008, Modair informed Carpio that the "IBIDEN BACK END EXPANSION Project will soon cease operation due to its project completion[,]" (*Back End Expansion Project*) for which Carpio's "services will be terminated effective August 15, 2008" and that he will be "notified accordingly for re-contract if [his] services will again be needed." Identical language is found in a Memorandum dated November 30, 2009, terminating his services for the "PIL GREEN CONSTRUCTION Project" (*PIL Green Project*) effective December 15, 2009; and a Memorandum dated September 25, 2010, terminating his services for the "FAC D. UTIL. WORKS Project" (*UTIL. Works Project*) effective October 9, 2010.[9]

Apart from the foregoing, Modair also engaged Carpio for the "IBIDEN CPU S3 Project" (*Ibiden CPU Project*), for which Modair issued a Memorandum dated July 25, 2012, terminating his services effective August 10, 2012.[10] Modair submitted an Establishment Employment Report to the Department of Labor and Employment (*DOLE*) Makati City Field Office, informing said office of the completion of the Ibiden CPU Project.[11] Accordingly, Carpio executed an Affidavit of Release and Quitclaim dated August 25, 2012, acknowledging that his project employment ceased upon termination of the project, stating that he had no claims against Modair, and that said affidavit was explained to him by a Modair official.[12]

Modair again hired Carpio for the "NYK TECH PARK project" (*NYK Project*), with his engagement covered by a Project Agreement dated August 8, 2012 (*NYK Project Agreement*), notably indicating that: Carpio would be hired "as the ELECTRICIAN 3 for the duration of the project undertaken by the company x x x effective August 26, 2012 with scheduled date of completion on March 25, 2013 or upon the completion of the phase of the

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8 *Rollo*, p. 123.
9 *Id.* at 125-127.
10 *Id.* at 128.
11 *Id.* at 208.
12 *Id.* at 209.

work [for] which he is assigned"; that Carpio "shall work for the duration of the project unless he/she is terminated"; that the contract "is deemed terminated upon the completion of the project," among other eventualities; and that "[t]wo weeks prior to project completion, [Carpio] will receive a notice of project completion x x x to remind [Carpio] that the phase of the said project where [he is] assigned will soon be finished and therefore [his] services with the company will also be cessated."[13]

Modair issued a Memorandum dated March 25, 2013, with language similar to those above-enumerated, informing Carpio of the termination of his services effective April 10, 2013.[14] Modair also submitted an Establishment Employment Report to the DOLE Makati City Field Office, informing such office of the completion of the NYK Project.[15] Subsequently, Carpio signed his Final Release of Pay dated April 25, 2013, which incorporated a Quit Claim whereby he waived any claims against Modair and confirmed the full payment of everything due him from the NYK Project.[16] He also executed an Affidavit of Release and Quitclaim dated May 24, 2013, similar to that for the Ibiden CPU Project.[17]

Proceedings Before the Labor Arbiter

Despite executing the above instruments, Carpio filed against Modair a Complaint for illegal dismissal and regularization before Regional Arbitration Branch No. IV of the NLRC, docketed as NLRC Case No. RAB-IV-10-01443-13-L.[18] Sometime in December 2013, during the pendency of these proceedings, Carpio had gone to the Modair office, although minor details regarding this interaction (*e.g.*, who had initiated contact, what representations or promises were made, and what assurances and apprehensions were exchanged) remain contested.

What remains uncontroverted, however, are the existence of: (1) a Project Employment Agreement dated December 11, 2013 (*FUNAI Project Agreement*), the terms of which are identical to the NYK Project Agreement, except with Carpio being engaged for the "FUNAI" Project from December 16, 2013 to March 31, 2014;[19] (2) two (2) Petty Cash Vouchers, one dated December 5, 2013, for ₱1,000.00 particularized as "cash advance," and another dated December 11, 2013, for ₱10,000.00, particularized as "for the death of his brother";[20] (3) an Affidavit of Desistance dated December 11, 2013, signed by Carpio, relative to NLRC Case No. RAB-IV-10-01443-13-

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13 *Id.* at 87-90.
14 *Id.* at 91.
15 *Id.* at 94.
16 *Id.* at 92.
17 *Id.* at 93.
18 *Id.* at 122.
19 *Id.* at 97-100.
20 *Id.* at 96, 102.

L;[21] and (4) a Quitclaim and Release dated December 11, 2013, signed by Carpio, stating therein that he is withdrawing his Complaint in exchange for his acceptance of a new contract for project-based employment.[22]

Much to Modair's surprise, Carpio still proceeded to submit a "Sinumpaang Salaysay at Position Paper" dated January 8, 2014, wherein, curiously enough, he attached the Affidavit of Desistance and the Quitclaim and Release, both dated December 11, 2013. Additionally, Carpio argued that he had attained regular status owing to his repeated re-hiring by Modair for various construction projects; and that he was illegally dismissed since, despite other available projects, he was not given any work following completion of the NYK Project; ultimately praying for regularization, a finding of illegal dismissal, reinstatement with backwages, damages, and attorney's fees.[23] Modair prayed that the Complaint be dismissed, and argued that Carpio remained a project-based employee despite recurrent re-hiring; that he was not illegally dismissed as his engagement was co-terminus with each project; and that, at any rate, Carpio freely and knowingly executed the Affidavit of Desistance and the Quitclaim and Release, both dated December 11, 2013. Modair also presented a Resignation Letter dated February 14, 2000 (*Resignation Letter*), showing that Carpio voluntarily resigned effective February 19, 2000.[24]

The Labor Arbiter dismissed Carpio's Complaint in a Decision[25] dated March 12, 2015, the dispositive of which reads:

> WHEREFORE, premises considered, the above-entitled case is DISMISSED for lack of merit.
>
> SO ORDERED.[26]

The Labor Arbiter found that, not being covered then by any project employment contract, Carpio's service from 1998 was in the nature of regular employment, which, however, was interrupted when Carpio submitted the Resignation Letter. Since then, Carpio's employment had been covered by project-based contracts, making him a project-based employee who was not illegally dismissed, but whose engagement concluded following the completion of the respective projects.

Proceedings Before the NLRC

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21 *Id.* at 132.
22 *Id.* at 101.
23 *Id.* at 108-142.
24 *Id.* at 143-222.
25 *Id.* at 223-226.
26 *Id.* at 226.

Carpio filed his Appeal Memorandum[27] dated April 10, 2015 with the NLRC, eventually docketed as NLRC LAC Case No. 06-001497-15, arguing that the Labor Arbiter misappreciated the facts and misapplied the law, since the absence of project employment contracts covering several other assignments made him a regular employee. In its Answer[28] dated April 30, 2015, Modair insisted on the correctness of the Decision dated March 12, 2015, reiterating its arguments before the Labor Arbiter.

In its Decision[29] dated September 29, 2015, the NLRC reversed the Labor Arbiter, disposing as follows:

> WHEREFORE, premises considered, the Appeal filed by Complainant-Ruben Carpio is hereby PARTLY GRANTED. The Decision dated 12 March 2015 of the Labor Arbiter *a quo*, is AFFIRMED with MODIFICATION declaring Complainant to be a regular employee of Respondent-Modair Manila Co. Ltd., Inc., and ORDERING the said Respondent to immediately reinstate the Complainant to his former position, without loss of seniority rights, but without backwages, and to assign him to its future projects, if warranted under the circumstances.
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> SO ORDERED.[30]

In so reversing, the NLRC downplayed the evidentiary weight of the Resignation Letter, saying that Carpio's signature therein does not match his other specimen signatures, and that the purported resignation is contradicted by the Certificate of Employment, attesting to Carpio's continuous employment from October 27, 1998 to April 10, 2013. Moreover, Carpio's employment from 2001 to 2010 was covered by continuous payslips, but Modair had failed to present project-based contracts to prove such nature of employment during this period. Nevertheless, the NLRC found that Carpio was not illegally dismissed since his severance was a consequence of the completion of the NYK Project. Despite both parties moving for partial reconsideration, the NLRC, in its Resolution[31] dated October 30, 2015, upheld its Decision dated September 29, 2015.

Proceedings Before the Court of Appeals

Modair filed a Petition for *Certiorari*[32] dated January 7, 2016 before the Court of Appeals, docketed as CA-G.R. SP No. 143736, alleging grave abuse of discretion as the NLRC wrongly conferred Carpio with regular status.

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27 *Id.* at 227-238.
28 *Id.* at 239-247.
29 *Id.* at 60-70.
30 *Id.* at 69-70.
31 *Id.* at 73-74.
32 *Id.* at 40-59.

The Court of Appeals granted Modair's Petition for *Certiorari* in its Decision[33] dated December 27, 2017, the dispositive of which reads:

> WHEREFORE, premises considered, the petition is GRANTED. The Decision dated 29 September 2015 and the Resolution dated 30 October 2015 of the National Labor Relations Commission in NLRC LAC No. 06-001497-15 are REVERSED and SET ASIDE. The Decision dated 12 March 2015 of Labor Arbiter Renell Joseph R. Dela Cruz in NLRC Case No. RAB-IV-10-01443-13-L is REINSTATED.
>
> SO ORDERED.[34]

The Court of Appeals ruled that Carpio is a project employee, considering that he signed the NYK Project Agreement knowing that it covered only a specific project for a definite duration; that Modair had duly submitted the Establishment Employment Reports, indicative of project-based employment; and, despite successive re-hiring, length of time is not decisive on whether an employee is project-based or regular. While Carpio moved for reconsideration, the Court of Appeals, in its Resolution[35] dated April 30, 2018, upheld its Decision dated December 27, 2017.

Carpio now comes before the Court via the instant Petition for Review on *Certiorari*[36] dated July 18, 2018. Modair filed its Comment to the Petition for Review[37] dated October 23, 2018, to which Carpio responded with a Reply to Respondent's Comment[38] dated June 11, 2019. Both parties essentially rehash their arguments from the proceedings below.

Issues

The Court resolves the interlocking issues of: (1) whether Carpio is a project-based or regular employee of Modair; and (2) whether Carpio was illegally dismissed.

Ruling

The Court partially grants the Petition for Review on *Certiorari*, resolving the first issue in favor of, and the second issue against, Carpio.

Granted, the above issues are factual questions which generally lie beyond the scope of the Court's review in a Rule 45 Petition for Review on *Certiorari*. Nevertheless, the Court may, in the exercise of its equity

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33 *Id.* at 273-285.
34 *Id.* at 285.
35 *Id.* at 298-299.
36 *Id.* at 11-299.
37 *Id.* at 401-416.
38 *Id.* at 428-434.

jurisdiction, review the facts and re-examine the records of the case, where there is a conflict between the factual findings of the Labor Arbiter and the Court of Appeals, on one hand, and those of the NLRC, on the other. In the present case, the NLRC and the Court of Appeals have opposing views.[39]

Regular Employment and Project-Based Employments, Distinguished

Both regular and project employments find basis in Article 295 (previously Article 280) of the Labor Code, which provides:

> ARTICLE 295. [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 service to be performed is seasonal in nature and the employment is for the duration of the season.
>
> 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.[40]

As characterized, regular employment exists when the employee is: (a) engaged to perform activities that are usually necessary or desirable in the usual business or trade of the employer; or (b) a casual employee whose activities are not usually necessary or desirable in the employer's usual business or trade, and has rendered at least one year of service, whether continuous or broken, with respect to the activity in which he is employed; while project employment exists when the employee is hired under a contract which specifies that the employment will last only for a specific project or undertaking, the completion or termination of which is determined at the time of engagement.[41]

As regards security of tenure, regular employment may be terminated for just or authorized causes;[42] whereas, for project employment, lawful dismissal is brought about by the completion of the project or contract for

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39 *JR Hauling Services v. Gavino L. Solamo*, G.R. No 214294, September 30, 2020.

40 Underscoring supplied.

41 *Freyssinet Filipinas Corp. v. Amado R. Lapuz*, G.R. No. 226722, March 18, 2019.

42 Department of Labor and Employment (DOLE) Department Order (D.O.) No. 147-15, Series of 2015, Amending the Implementing Rules and Regulations of Book VI of the Labor Code of the Philippines, As Amended.

which the employee was engaged, unless terminated during the life of the project, in which case, only just or authorized causes may be invoked.[43]

Regarding payment of backwages in cases of illegal dismissal, for regular employment, backwages are computed from the time of dismissal until reinstatement, if such is ordered, or until finality of the decision ordering separation pay, if reinstatement is infeasible;[44] while for project employment, backwages are computed from the date of the termination of employment until the actual completion of the work.[45]

Upon the employer lies the burden of proof to establish project employment by showing that: (1) the employee was assigned to carry out a specific project or undertaking; and (2) the duration and scope of which were specified at the time the employee was engaged for such project.[46] Moreover, the employer must also prove that there was indeed a project undertaken.[47] Failing these, the worker will be presumed a regular employee.[48]

For the instant controversy, the foregoing concepts must be contextualized within the construction industry, the governing rule being DOLE Department Order (*D.O.*) No. 19-93, Series of 1993 (*D.O. 19-93*), the "*Guidelines Governing the Employment of Workers in the Construction Industry*". D.O. 19-93 provides for two employment categories: project-based, pertaining to "those employed in connection with a particular construction project or phase thereof and whose employment is co-terminus with each project or phase of the project to which they are assigned"; and non-project based, "are those employed without reference to any particular construction project or phase of a project,"[49] particularly, probationary, casual, and regular employees.[50]

Moreover, Section 2.2 of D.O. 19-93 lays down indicators of project employment, which, while phrased in permissive language, must still be read in relation to Article 295 of the Labor Code and the distinctions afore-discussed:

> 2.2 *Indicators of project employment.* — Either one or more of the following circumstances, among others, may be considered as indicators that an employee is a project employee.

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43 Omnibus Rules to Implement the Labor Code, as amended by DOLE D.O. No. 9, Series of 1997, Rule XXIII, Section 1(c).

44 *Aro v. National Labor Relations Commission*, 683 Phil. 605 (2012).

45 *Bani Rural Bank, Inc. v. De Guzman*, 721 Phil 84 (2013).

46 *Dacles v. Millenium Erectors Corp.*, 763 Phil. 550, 558 (2015).

47 *Omni Hauling Services. Inc. v. Bon*, 742 Phil. 335, 344 (2014).

48 *Quebral v. Angbus Construction, Inc.*, 798 Phil. 179, 192 (2016).

49 DOLE D.O. No. 19-93 (D.O. 19-93), the Guidelines Governing the Employment of Workers in the Construction Industry, Section 2.1.

50 D.O. No. 19-93, Section 2.4.

> (a) The duration of the specific/identified undertaking for which the worker is engaged is reasonably determinable.
>
> (b) Such duration, as well as the specific work/service to be performed, is defined in an employment agreement and is made clear to the employee at the time of hiring.
>
> (c) The work/service performed by the employee is in connection with the particular project/undertaking for which he is engaged.
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> (d) The employee, while not employed and awaiting engagement, is free to offer his services to any other employer.
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> (e) The termination of his employment in the particular project/undertaking is reported to the Department of Labor and Employment (DOLE) Regional Office having jurisdiction over the workplace within 30 days following the date of his separation from work, using the prescribed form on employees' terminations/dismissals/suspensions.
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> (f) An undertaking in the employment contract by the employer to pay completion bonus to the project employee as practiced by most construction companies.

Workers naturally prefer to be accorded regular status, due to the greater protection and benefits resultant therefrom. Still, the delineation between the two (2) types of employment hardly remains fixed. Issues regarding the true nature of employment, as well as how and when project-based employees may be regularized, abound such work relations. Considering the conflicting interpretations of the herein litigants and lower tribunals, as well as the diversity of the Court's previous rulings on such matters, the instant controversy is an opportunity to closely scrutinize the body of pertinent jurisprudence and synthesize guiding principles.

Employment Deemed Regular from the Beginning, Despite Insinuations of Project Employment

In the first strand of jurisprudence, despite the employer's claims of project-based employment, the workers were deemed regular employees *from the beginning* because: (a) despite the execution of employment contracts for certain projects, the workers were actually engaged to work in-house, for services vital and necessary to the employer's usual trade or business; or (b) the employer failed to substantiate the allegations of project-based employment, even if for just a fraction of the employee's service.

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In *Capitol Industrial Construction Groups v. National Labor Relations Commission*[51] (*Capitol Industrial*), therein employees were made to sign various agreements as contract workers for various construction projects.[52] The Court observed that the employees did not just work in the project sites, but were also made to work in-house as welders, inventory clerks, truck helpers, machinists, batterymen, and warehousemen in the contractor's Central Shop, Central Warehouse, and Central Office, thereby performing work that is "usually necessary and desirable in the employer's usual business or trade." Moreover, the employer had failed to submit termination reports in accordance with the then-prevailing DOLE Policy Instruction No. 20, Series of 1976 (*Policy Instruction No. 20*). Finally, the Court ruled that the employees "worked for the petitioner not only for a specific period of time, but long after their supposed projects had been finished[.]"[53] Although not explicitly, the Court essentially ruled that, to begin with, the workers were engaged as regular and not just project employees.

Tomas Lao Construction v. National Labor Relations Commission[54] (*Tomas Lao Construction*) concerned various construction workers whose services with the Lao Group of Companies spanned between seven (7) to twenty (20) years. Years into their employment relations, the management issued a memorandum requiring all workers and company personnel to sign employment contract forms and clearances which, notably, expressly described the construction workers as project employees whose employments were for a definite period. To enforce assent, salary was withheld for those who would not sign. The Court observed that the Lao Group of Companies "had engaged in various joint venture agreements in the past without having to draft project employment contracts," and that to require the belated execution of such contracts would be "farcical" as an attempt to circumvent the workers' tenurial security. Finally, citing as authority *Capitol Industrial's* observation regarding work extensions long after the projects had been completed, the Court ruled that, although initially hired as project employees, repeated re-hiring had conferred on them regular status. In the proper context, and illumined by the wisdom of subsequent jurisprudence, the foregoing point on repeated re-hiring is really a surplusage because the absence of the project employment contracts conferred regular status at the onset.

Subsequent cases were more resolute on requiring employers prove the fact of project employment. In *Brahm Industries, Inc. v. National Labor Relations Commission*[55] (*Brahm Industries*), spanning five (5) to nine (9) years, therein employees performed welding works for a small-scale

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51 293 Phil. 508 (1993).

52 While the Court devoted no discussion thereon, the projects contracts significantly stipulated that the employees may be assigned to "such other projects as the company may designate", a detail which would have been material in the lens of subsequent jurisprudence.

53 This observation would later on be cited as doctrine in the seminal cases of *Tomas Lao Construction v. National Labor Relations Commission*, 344 Phil. 268, 279 (1997), and by extension, *Maraguinot, Jr. v. NLRC*, 348 Phil. 580 (1998).

54 *Id.*

55 345 Phil. 1077 (1997).

enterprise engaged in contracting for water purifiers and waste control devices. Faulting the employer for failing to substantiate the exact nature of employment, the Court ruled:

> As employer, BRAHM has unlimited access to all pertinent documents and records on the status of employment of its workers. Yet, even as it stubbornly insists that private respondents were project employees only, no contract, payroll or any other convincing evidence which may attest to the nature of their employment was ever presented to substantiate its claim. Instead, what was offered as evidence were merely self-serving affidavits of petitioner's other employees declaring that private respondents were project employees like them, which affidavits were inadequate to buttress its claim.[56]

Apart from the foregoing, in basically ruling that the workers were considered regular to begin with, the Court also observed the employer's failure to observe the requirements of Policy Instruction No. 20, the reasonable connection between the workers' activities and the usual business and trade of the employer, and the practice of repeatedly re-hiring the workers after the completion of each project.

Then, in *Violeta v. National Labor Relations Commission*,[57] the Court established the principle that, absent any showing of an agreement that conforms with the requirements of then Article 280 (now Article 295) of the Labor Code, a worker is presumed to be a regular employee:

> To be exempted from the presumption of regularity of employment, therefore, the agreement between a project employee and his employer must strictly conform with the requirements and conditions provided in Article 280. It is not enough that an employee is hired for a specific project or phase of work. There must also be a determination of or a clear agreement on the completion or termination of the project at the time the employee is engaged if the objective of Article 280 is to be achieved. Since this second requirement was not met in petitioners' case, they should be considered as regular employees despite their admissions and declarations that they are project employees made under circumstances unclear to us.[58]

This presumption was used in *Chua v. Court of Appeals*,[59] where the employer omitted "a determination of, or a clear agreement on, the completion or termination of the project at the time the employee was engaged[,]" and "was unable to show that private respondents were apprised of the project nature of their employment, the specific projects themselves or any phase thereof undertaken by petitioner and for which private respondents were hired," much less "employment contracts and employment records that would indicate the dates of hiring and termination in relation to the particular construction project or phases in which they were employed."

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56 *Id.* at 1085. (Underscoring supplied)
57 345 Phil. 762 (1997).
58 *Id.* at 774. (Underscoring supplied)
59 483 Phil. 126 (2004).

Thus, the presumption of regular employment, absent any showing of a project employment agreement, was firmly entrenched in subsequent jurisprudence,[60] the latest of which being the twin *Inocentes v. R. Syjuco Construction, Inc.*[61] cases. In the first Decision, the Court stressed "that the employer has the burden to prove that the employee is indeed a project employee" and found that the employer's evidence consisted of a summary which "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."

The foregoing doctrine was also fortified in jurisprudence wherein, despite the employer being able to present project employment contracts covering some portions of the work relations, the Court still deemed the worker a regular employee through and through. In these cases, project employment contracts must have covered the entire duration of the work relations, such that any gap therein would set off the presumption of regular employment. Thus, in *Liganza v. RBL Shipyard Corp.*[62] (*Liganza*), the Court noted that the employer presented employment contracts covering only the period from 1997 to 2000, but not as far back as 1991, when the employee was first engaged:

> To begin with, respondent has been unable to refute petitioner's allegation that he did not sign any contract when he started working for the company. The four employment contracts are not sufficient to reach the conclusion that petitioner was, and has been, a project employee earlier since 1991. The Court is not satisfied with the explanation that the other employment contracts were destroyed by floods and rains. Respondent could have used other evidence to prove project employment, but it did not do so, seemingly content with the convenient excuse of "destroyed documents."

Apart from the foregoing, the Court pointed out that the successive employment contracts were spaced too narrowly apart [*e.g.*, four (4) to seventeen (17) days], providing no real opportunity for the employee to seek gainful employment elsewhere while in between projects.

Similarly, *Freyssinet Filipinas Corp. v. Lapuz*[63] (*Freyssinet*) instructs that, failure to substantiate the purported project-based employment early in the employment relations confers regular status to the employee:

> However, ***for the first three (3) projects***, petitioners failed to show that respondent was hired on a project basis and that he was informed of the duration and scope of his work. In fact, no employment contracts for the said

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60 *Hanjin Heavy Industries & Construction Co. Ltd. v. Ibañez*, 578 Phil. 497 (2008); and *Quebral v. Angbus Construction, Inc.*, 798 Phil. 179 (2016).

61 G.R. No. 237020, July 29, 2019.

62 535 Phil. 662, 670 (2006).

63 G.R. No. 226722, March 18, 2019.

> projects were presented to substantiate their claim. While the absence of a written contract does not per se grant regular status to respondent, it is nonetheless evidence that he was informed of the duration and scope of his work and his status as project employee.[64]

Significantly, in both *Liganza* and *Freyssinet*, the Court found the workers to be of regular status for the entire duration of their engagement, despite being covered by project employment contracts for a fraction thereof. Expressed differently, the Court did not find that the nature of employment was partly regular and partly project-based. Notably, the Court found the successive project contracts demonstrated that the workers performed vital and indispensable tasks to the employer's business, thereby vesting them with regular status. But if the Court were to take the reasoning in *Liganza* and *Freyssinet* a few steps further, once the employee has obtained regular status, even if by reason of the employer's omission to substantiate the project-based engagement, then the security of tenure characteristic of regular employment already attaches, and the subsequent execution of project employment contracts will undermine such tenurial security. In other words, the supervening execution of project employment contracts should not strip the employee of regular status already conferred, and such subsequent projects will simply be considered a continuation of the regular employment.

Finally, *PNOC-Energy Development Corporation v. National Labor Relations Commission*[65] sets the standards for the language that must be used for project employment contracts, in order that the same comply with Article 295 of the Labor Code. Finding that the employer had simply submitted a list of employees along with the projects to which they were assigned, the Court remarked:

> x x x However, petitioner failed to substantiate its claim that respondents were hired merely as project employees. A perusal of the records of the case reveals that the supposed specific project or undertaking of petitioner was not satisfactorily identified in the contracts of respondents. To illustrate, the following is a list of the names of respondents and the projects written in their employment contracts:
>
> x x x x
>
> Unmistakably, the alleged projects stated in the employment contracts were either too vague or imprecise to be considered as the 'specific undertaking' contemplated by law. Petitioner's act of repeatedly and continuously hiring respondents to do the same kind of work belies its contention that respondents were hired for a specific project or undertaking. The absence of a definite duration for the project/s has led the Court to conclude that respondents are, in fact, regular employees.[66]

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64 *Id.* (Emphasis, underscoring, and italics in the original)

65 549 Phil. 733 (2007).

66 *Id.* at 743-744. (Underscoring supplied)

Aside from form, fixed-term employment under project contracts may be upheld provided that "the period was agreed upon knowingly and voluntarily by the parties, without any force, duress or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his consent, or where it satisfactorily appears that the employer and employee dealt with each other on more or less equal terms with no moral dominance whatever being exercised by the former over the latter."[67]

Extracting vital principles from this strand of jurisprudence, these cases demonstrate that, despite the employer's claims of project-based employment, the workers were still deemed regular employees to begin with because: (1) despite the execution of employment contracts for certain projects, the workers were actually engaged to work in-house, for services vital and necessary to the employer's usual trade or business;[68] or (2) the employer failed to substantiate the allegations of project-based employment, even if for just a fraction of the employee's service. Thus, benefitting from the accumulated wisdom of subsequent jurisprudence, the earlier cases of *Tomas Lao Construction* and *Brahm Industries* must be understood in that, while not explicitly ruling as such, therein workers were deemed regular employees from the start for failure of the employer to substantiate the project-based engagements. Consequently, discussions in these cases on the ripening of project-based to regular status must properly be appraised as a secondary argument; no ripening would be necessary if the employees were conferred regular status to begin with.

Cases Where Initially Project-Based Employment Ripened into Regular Employment

Under the second strand of jurisprudence, workers initially engaged as project employees may attain regular status. Notably, however, despite factual similarity with the latter set of cases, a sub-strand of jurisprudence held that therein project employees remained as such.

Caramol v. National Labor Relations Commission [69] (*Caramol*) involved a rigger hired on a project-to-project basis, whose engagement was renewed forty-four (44) times, spanning thirteen (13) years of service. The Court found that the employer had failed to submit termination reports, and considered the successive re-hiring of the employee as evidence that his tasks were usually necessary or desirable to the usual trade or business of the employer. Most importantly, the Court upheld the validity of fixed-term employment, provided the parties had dealt on equal terms, but imposed a caveat "where from the circumstances it is apparent that periods have been imposed to preclude the acquisition of tenurial security by the employee,

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67 *Caramol v. National Labor Relations Commission*, 296-A Phil. 609, 615 (1993).
68 *Capitol Industrial Construction Groups v. NLRC, Third Division*, 293 Phil. 508, 513 (1993).
69 *Supra.*

they should be struck down as contrary to public policy, morals, good custom or public order."[70] Thus, while initially engaged as a project employee, his status ripened into regular employment.

This doctrine was reiterated in *Salinas v. National Labor Relations Commission*,[71] where, while the workers were hired as laborers, bulk cement operators, plant or carrier operators, crane drivers, lubemen operators, carpenters, and forklift operators for several projects over the course of five (5) to ten (10) years, the Court observed that the periods were imposed to undermine tenurial security and that the gaps between the project contracts spanned only a day or so.

In *Phesco, Inc. v. National Labor Relations Commission*,[72] apart from the employer's failure to submit termination reports, the Court found that the workers were engaged as project employees to work on a project site but, due to a strike, were later reassigned to the employer's aggregate processing plant. While the project site sourced its crushed rock inputs from the aggregate processing plant, the Court found that the plant also supplied to the general public, thereby untethering the initially-project employees' work from just the project site.

Samson v. National Labor Relations Commission[73] involved a rigger engaged for various projects for almost thirty (30) years. The Court distinguished the import of the submission of termination reports in the then-prevailing Policy Instruction No. 20 and the present D.O. 19-93, noting that non-submission of such reports under the former constituted a "clear indication" of non-project employment, whereas such was only among the "indicators" in the latter rule. Moreover, the Court found the worker's successive contracts for the same kind of work over twenty-eight (28) years as evidence of the necessity and indispensability of his services to the employer. In applying *Caramol*'s doctrine regarding circumvention of tenurial security, the Court found that the worker was hired on a "continuing basis", and that he would be re-hired immediately, save for gaps of one (1) day to one (1) week, in between projects.

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70 This pronouncement would later on be cited as authority in similar cases. *See Samson v. National Labor Relations Commission*, 323 Phil. 135 (1996); *Palomares v. National Labor Relations Commission*, 343 Phil. 213 (1997); *Tomas Lao Construction v. National Labor Relations Commission, supra* note 53; *Salinas v. National Labor Relations Commission*, 377 Phil. 55 (1999); *E. Ganzon, Inc. v. National Labor Relations Commission*, 378 Phil. 1048 (1999); *Integrated Contractor and Plumbing Works, Inc. v. National Labor Relations Commission*, 503 Phil. 875 (2005); *Hanjin v. Court of Appeals*, 521 Phil. 224 (2006); *Liganza v. RBL Shipyard Corp., supra* note 63; *San Miguel Corp. v. National Labor Relations Commission*, 539 Phil. 236 (2006); *Agusan Del Norte Electric Cooperative, Inc. v. Cagampang*, 589 Phil. 306 (2008); and *Freyssinet Filipinas Corp. v. Lapuz, supra* note 41.

71 337 Phil. 55 (1999).

72 309 Phil. 402 (1994).

73 323 Phil. 135 (1996).

Then came the seminal case of *Maraguinot, Jr. v. National Labor Relations Commission*[74] (*Maraguinot*), which, while involving the film production industry, nevertheless cited numerous decisions factually grounded in the construction industry, and would be oft-cited in cases involving said industry. The Court laid down the twin requisites so project employees can acquire regular status: "1) There is a continuous rehiring of project employees even after cessation of a project; and 2) The tasks performed by the alleged 'project employee' are vital, necessary and indispensable to the usual business or trade of the employer[.]"[75] adding as a caveat that "the length of time during which the employee was continuously re-hired is not controlling, but merely serves as a badge of regular employment." Sensing the adjustments such ruling would require of businesses, the Court made assurances to balance the interests of workers and employers:

> At this time, we wish to allay any fears that this decision unduly burdens an employer by imposing a duty to re-hire a project employee even after completion of the project for which he was hired. The import of this decision is not to impose a positive and sweeping obligation upon the employer to re-hire project employees. What this decision merely accomplishes is a judicial recognition of the employment status of a project or work pool employee in accordance with what is fait accompli, i.e., the continuous re-hiring by the employer of project or work pool employees who perform tasks necessary or desirable to the employer's usual business or trade. Let it not be said that this decision 'coddles' labor, for as Lao has ruled, project or work pool employees who have gained the status of regular employees are subject to the 'no work-no pay' principle, x x x.[76]

The doctrines distilled in *Maraguinot* would eventually revert applicability in the construction industry. Thus, *Integrated Contractor and Plumbing Works, Inc. v. National Labor Relations Commission*[77] concerned a worker repeatedly hired for various construction projects for four (4) years. The Court was convinced that the worker was initially a project employee, considering the duration and scope of each project to which he was hired. Nevertheless, the Court appreciated "the pattern of re-hiring and the recurring need for his services" as an indication of the necessity and indispensability of such services to the employer's business, and that his employment "ceased to be coterminous with specific projects when he was repeatedly re-hired due to the demands of petitioner's business."[78]

Then, in *D.M. Consunji v. Jamin*,[79] the worker was engaged as a laborer and carpenter for various construction projects, each covered by separate contracts, for which the employer submitted the necessary termination reports to the DOLE Field Office. The Court found that "(1) Jamin's repeated

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74 348 Phil. 580 (1998).
75 *Id.* at 601. (Underscoring supplied)
76 *Id.* at 605. (Underscoring supplied)
77 503 Phil. 875 (2005).
78 *Id.* at 882-883. (Underscoring supplied)
79 686 Phil. 220 (2012).

and successive engagements in DMCI's construction projects, and (2) Jamin's performance of activities necessary or desirable in DMCI's usual trade or business" had conferred him with regular status. Notable was that the worker's "employment history with DMCI stands out for his continuous, repeated and successive rehiring in the company's construction projects" so as to constitute an "unbroken string"[80] of rehiring.

Finally, *D.M. Consunji Corp. v. Bello*[81] (*Bello*) concerned a mason who was engaged for various projects, his service spanning around eight (8) years. The Court conceded that the worker was a project employee at the start, but ruled that he had "acquired in time the status of a regular employee by virtue of his continuous work as a mason[.]"[82] How the employer "chose to categorize the employment status of Bello was not decisive[.]" The Court rejected the employer's insistence that each engagement be "treated separately" over the eight (8) years of service, considering that the "successive re-engagement in order to perform the same kind of work as a mason firmly manifested the necessity and desirability of his work[.]"[83]

A common thread in all the foregoing is that a project employee may attain regular status if he performs functions usually necessary or desirable to the employer's usual trade or business. Indeed, a "project" may pertain to (a) "a particular job or undertaking that is within the regular or usual business of the employer company, but which is distinct and separate, and identifiable as such, from the other undertakings of the company" or (b) "a particular job or undertaking that is not within the regular business of the corporation."[84] Only project employment of the first type may ripen into regularity, while project employees of the second type—*e.g.*, engineers and surveyors hired to construct structures only to augment the capacity of a steel manufacturing firm,[85] and a bricklayer who was engaged specifically to repair and upgrade a glass manufacturer's plant[86]—may not do so, relative to such employer.

As an added layer of analysis, the Court would also disregard the project contracts, even if the same clearly set forth the nature and limited duration of employment, if the same were mere pretenses to hinder the project employee from obtaining the tenurial security endowed to a regular employee.

Ultimately, the most prominent circumstance from the above cases is the employee's repeated and successive re-hiring for the same nature of work,

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80 *Id.* at 232-233. (Underscoring supplied)
81 715 Phil. 335 (2013).
82 *Id.* at 345. (Underscoring supplied)
83 *Id.* at 346. (Underscoring supplied)
84 *Associated Labor Unions-Trade Union Congress of the Philippines v. National Labor Relations Commission*, 304 Phil. 844 (1994).
85 *Id.* at 851-852.
86 *San Miguel v. National Labor Relations Commission*, 357 Phil. 954 (1998).

such that the focal point for his engagement ceases to be with respect to particular projects with specific durations, but shifts towards his continuing vitality and indispensability to the ongoing business of the employer. To ground the foregoing in the language of D.O. 19-93, the construction worker who remains project-based is one who is employed in connection with a particular construction project or phase thereof and whose employment is co-terminus therewith. Yet, the same project-based construction worker may graduate into a regular employee if, due to the contractor's continuous reliance on such worker, his engagement ceases to be with reference to any particular construction project or phase thereof, but is pegged to the employer's ongoing business.

However, there is a sub-strand of jurisprudence where, despite apparent similarity with the facts of the foregoing cases, and notwithstanding the existence of the foregoing doctrines in jurisprudence, the project employee was deemed never to have acquired regular status.

Cioco, Jr. v. National Labor Relations Commission[87] (*Cioco*) involved various laborers and carpenters engaged for various construction projects over a span of ten (10) years, with each employment contract stipulating that the employment would be co-terminus with each project. Significantly, the Court stated that it would no longer resolve the issue on the nature of employment, such being factual in nature, and considering that the Labor Arbiter, the NLRC, and the Court of Appeals uniformly found that the workers were project employees. The Court nevertheless made pronouncements thereon, that despite finding the workers to have been successively and repeatedly hired for the same nature of work, found that such circumstance "did not confer" regular status. The Court downplayed such practice as "dictated by the practical consideration that experienced construction workers are more preferred."

Filipinas Pre-Fabricated Building Systems v. Puente[88] was decided similarly, citing *Cioco* as authority. The worker served as an installer and mobile crane operator stationed at the company premises for ten (10) years. While hired for various projects, the Court found that his contracts expressly made his tenure dependent on the duration of the project.

Then came *William Uy Construction Corp. v. Trinidad*[89] (*William Uy*) where, while finding that the company had repeatedly hired the worker for around thirty-five (35) projects that spanned around sixteen (16) years, the Court pointed out that the worker was contracted for specific projects, the durations of which were clearly set forth in his contracts. Thus, he remained a project employee. The Court heavily emphasized the peculiar nature of the construction industry where, since obtaining projects is not a matter of

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87 481 Phil. 270 (2004).
88 493 Phil. 923 (2005).
89 629 Phil. 185 (2010).

course and companies have no control over the decisions and resources of project proponents or owners, length of service would not serve as a fair yardstick in determining the nature of employment. Curiously, the Court did not fault the employer for failing to regularly submit termination reports most times a project was completed, finding sufficient that, for purposes only of the most recent project, the employer had submitted such report. It behooved the worker to file a complaint for illegal dismissal each time a project was completed, if regular employment was the assertion. Finally, the Court underscored the peculiar nature of the construction industry:

> Generally, length of service provides a fair yardstick for determining when an employee initially hired on a temporary basis becomes a permanent one, entitled to the security and benefits of regularization. But this standard will not be fair, if applied to the construction industry, simply because construction firms cannot guarantee work and funding for its payrolls beyond the life of each project. And getting projects is not a matter of course. Construction companies have no control over the decisions and resources of project proponents or owners. There is no construction company that does not wish it has such control but the reality, understood by construction workers, is that work depended on decisions and developments over which construction companies have no say.[90]

However, as discussed in *Maraguinot*, idle construction workers, even if regularized, are still subject to the "no work, no pay" principle. In case the contractor is faced with an oversupply of regularized construction workers, then it can exercise its management prerogative in deciding whom to engage for the limited projects and whom to consider as still "on leave." Indeed, under such principle, the "employer has the inherent right to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, the time, place and manner of work, work supervision, transfer of employees, lay-off of workers, and discipline, dismissal, and recall of employees."[91] Still, the employer must use fair and reasonable standards in deciding, *e.g.*, experience, skills-match, availability.

In *Felipe v. Tamayo*,[92] construction aides, whose service spanned three (3) to five (5) years were found to have retained their project-based status despite repeated and continuous engagement. The Court found that they were hired "for a specific task within a particular period already determined at the time of their hiring[.]" Like *Cioco*, the Court herein found no reason to depart from the uniform rulings of the Labor Arbiter, the NLRC, and the Court of Appeals, that the employees remained project-based.

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90 *Id.* at 190.

91 *Rural Bank of Cantilan, Inc. v. Julve*, 545 Phil. 619, 624 (2007). (Underscoring supplied)

92 795 Phil. 891 (2016).

Finally, *Bajaro v. Metro Stonerich Corp.*[93] covered a concrete pump operator hired for several construction projects over a period of six (6) years. Citing *William Uy*, the Court underscored the peculiar nature of the construction industry, concluding that the worker's "rendition of six years of service, and his repeated re-hiring are not badges of regularization."

A deeper reading of this second sub-strand would show that, consistent with the dichotomy set by D.O. 19-93, the employer consistently employed the laborers with reference only to specific projects or phases, even if successively, so that they never acquired regular status. In short, the employer never treated them as an ongoing resource to be deployed for each and every project it might perform. Hence, so long as the construction worker was truly engaged as project-based, and between each successive project, the employer made no manifestations of any intent to treat the worker as a continuing resource for the main business, then the project-based construction worker remains as such.

Evident from the two (2) strands of jurisprudence, including the conflicting sub-strands in the second, are the competing interests between laborers and businesses. On the side of the workers is their Constitutional right to security of tenure,[94] for which, as discussed above, regular and project employees are not similarly situated. Inasmuch as businesses benefit from the increasing reliability and dependability of project workers, after having worked numerous construction projects, they must deservedly be assured more permanence and stability in their jobs. On the other hand, construction businesses unavoidably experience contract booms and busts, possibly leading to disproportionate labor resources for pending and imminent projects. For such reason, *Maraguinot* pointed to the "no work, no pay" principle as relief for such down-turns, whereby employers need not pay idle workers and the latter, even if regularized, may seek gainful employment elsewhere in the meantime.

Thus, synthesizing all the above-discussed jurisprudence, and to obviate further confusion regarding the nature of employment for workers in the construction industry, the Court articulates the following principles for the guidance of workers, employers, labor tribunals, the bench, bar, and public:

First, a worker is presumed a regular employee, unless the employer establishes that (1) the employee was hired under a contract specifying that the employment will last only for a specific undertaking, the termination of which is determined at the time of engagement; (2) there was indeed a project undertaken; and (3) the parties bargained on equal terms, with no vices of consent.

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93 830 Phil. 714 (2018).

94 Constitution, Article XIII, Section 3.

Second, if considered a regular employee at the outset, security of tenure already attaches, and the subsequent execution of project employment contracts cannot undermine such security, but will simply be considered a continuation in the regular engagement of such employee.

Third, even if initially engaged as a project employee, such nature of employment may ripen into regular status if (1) there is a continuous rehiring of project employees even after cessation of a project; and (2) the tasks performed by the alleged "project employee" are vital, necessary and indispensable to the usual business or trade of the employer. Conversely, project-based employment will not ripen into regularity if the construction worker was truly engaged as a project-based employee, and between each successive project, the employer made no manifestations of any intent to treat the worker as a continuing resource for the main business.

Fourth, regularized construction workers are subject to the "no work, no pay" principle, such that the employer is not obligated to pay them a salary when "on leave." In case of an oversupply of regularized construction workers, then the employer can exercise management prerogative to decide whom to engage for the limited projects and whom to consider as still "on leave."

Finally, submission of termination reports to the DOLE Field Office "may be considered" only as an indicator of project employment; conversely, non-submission does not automatically grant regular status. By themselves, such circumstances do not determine the nature of employment.

Carpio is a Regular Employee of Modair for the Entire Duration of His Service

Applying the principles just laid down, the Court finds that Carpio was a regular employee of Modair, from the time of his engagement in 1998 until the completion of the NYK Project in 2013. In fact, the circumstances of the instant controversy closely resemble that of *Liganza* and *Freyssinet*.

While conclusive details on the nature of Carpio's engagement from 1998 to 2008 are unavailable, the existence of an employer-employee relationship during such period stood unrebutted. The Certificate of Employment indicated that Carpio served as Modair's Electrician 3 since 1998, which Modair did not deny. Also, Carpio presented regular payslips from 2001 to 2010. Since Modair failed to present evidence showing his purported project employment during such time, he is presumed to be Modair's regular employee.

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The Memoranda between 2008 and 2013, providing notices of completion of the Back End Extension Project, PIL Green Project, UTIL. Works Project, Ibiden CPU Project and NYK Project, do not establish that Carpio was hired under a contract specifying that his employment would last only for such specific undertakings, the completion of which were determined at the time of his engagement. These Memoranda were mere notices issued in anticipation of the completion of the pertinent projects, and did not embody the agreements, if any, covering Carpio's purported project-based engagements.

Even while the Certificate of Employment designates Carpio as a "contractor's employee (per project basis)," *Bello* instructs that the employer's categorization of the worker's employment status is not decisive.

True, Modair managed to present project employment contracts covering the tail-end of Carpio's engagement. Still, the Court finds that, by this time, Carpio's successive service as Electrician 3 in numerous construction projects manifested the vitality and indispensability of his work to the construction business of Modair. Very revealing also are the terms of Modair's Memoranda, which state that Carpio will be "notified accordingly for re-contract if [his] services will again be needed." Such language discloses Modair's continuing reliance on Carpio's services, for which he would naturally make himself available at Modair's disposal. In sum, Carpio's engagement, if it were at all project-based at the outset, had already ripened to regular status.

Finally, the Court lends no evidentiary weight to the Resignation Letter since a resignation without acceptance produces no legal effect.[95] While Modair presented the Resignation Letter, it did not prove its assent thereto. Going into the substance thereof, the Resignation Letter merely informed Modair "that the undersigned will tender his voluntary resignation x x x due to career advancement[,]" without so much as a reference to his then-engagement. Finally, as aptly pointed out by the NLRC, the Resignation Letter dated February 14, 2000 is contradicted by the Certificate of Employment, attesting to Carpio's engagement from October 27, 1998 to April 10, 2013.

Carpio Was Not Illegally Dismissed

Nevertheless, while the Court accords Carpio's regular employment status, the Court finds that he was not illegally dismissed.

The point of reference of Carpio's cause of action for illegal dismissal was the NYK Project. Following completion thereof, Carpio claimed that

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95 *Intertrod Maritime, Inc. v. National Labor Relations Commission*, 275 Phil. 351 (1991); and *Philippines Today, Inc. v. National Labor Relations Commission*, 334 Phil. 854 (1997).

Modair no longer provided him any work despite numerous pending construction projects. However, Modair's Deputy General Manager established that, after the NYK Project, Modair's ongoing projects had no need for an electrician, and that, even when Carpio was offered a project in Palawan, he declined, owing to the distance from his family.[96] Essentially being a regular employee in the construction industry, Carpio was "on leave" during such time.

While Modair's assertion, that Carpio never reported for the FUNAI Project,[97] hints at Carpio's possible abandonment of work, such bare assertion cannot support a finding of abandonment. To constitute work abandonment, (1) the employee must have failed to report for work or must have been absent without justifiable reason; and (2) there must have been a clear intention on the part of the employee to sever the employer-employee relationship as manifested by overt acts.[98] Abandonment as a just ground for dismissal requires the deliberate, unjustified refusal of the employee to perform his employment responsibilities. Mere absence or failure to work, even after notice to return, is not tantamount to abandonment.[99] The evidence provides no further details regarding Carpio's possible abandonment, most damning of which would have been a return-to-work order that deliberately went unheeded. In the absence of any evidence to the contrary, Carpio remains to be Modair's regular employee.

Lastly, the Court clarifies that Carpio has no outstanding money claims against Modair. Upon completing the NYK Project, Carpio signed his Final Release of Pay dated April 25, 2013, which incorporated a Quit Claim whereby he waived any claims against Modair and confirmed the full payment of everything due him from the NYK Project. He also executed an Affidavit of Release and Quitclaim dated May 24, 2013, acknowledging cessation of his employment upon termination of the project, stating that he had no claims against Modair, and that a Modair official explained the affidavit to him.

Once an employee resigns and executes a quitclaim in favor of the employer, he is thereby estopped from filing any further money claims against the employer arising from his employment. Such money claims may be given due course only when the voluntariness of the execution of the quitclaim or release is put in issue, or when it is established that there is an unwritten agreement between the employer and employee which would entitle the employee to other renumeration or benefits upon his or her resignation.[100] Tellingly, Carpio never renounced his Final Release of Pay dated April 25, 2013, with Quit Claim, and Affidavit of Release and Quitclaim dated May 24, 2013.

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96 *Rollo*, pp. 158-178.

97 *Id.* at 43.

98 *R.P. Dinglasan Construction, Inc. v. Atienza*, 477 Phil. 305, 314 (2004).

99 *Miñano v. Sto. Tomas General Hospital*, G.R. No. 226338, June 17, 2020.

100 *Philippine National Construction Corp. v. National Labor Relations Commission*, 345 Phil. 324, 330 (1997).

WHEREFORE, the Petition for Review on *Certiorari* dated July 18, 2018 is **PARTIALLY GRANTED.** The Court of Appeals Seventh Division's Decision dated December 27, 2017 and the Resolution dated April 30, 2018 in CA-G.R. SP No. 143736 are **MODIFIED** in that: (1) Ruben Carpio is deemed a regular employee of Modair Manila Co. Ltd., Inc.; and (2) while Carpio was not illegally dismissed, such conclusion is not by reason of his lawful severance following the completion of the NYK TECH PARK Project, but because he remains to be Modair's regular employee.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

On wellness leave
MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

I attest 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.

RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Third Division Acting Chairperson's Attestation, 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.

ALEXANDER G. GESMUNDO
Chief Justice