

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**HACIENDA BINO/HORTENCIA
STARKE, INC./HORTENCIA L.
STARKE,**
Petitioners,

-versus-

**G.R. No. 150478
April 15, 2005**

**CANDIDO CUENCA, FRANCISCO
ACULIT, ANGELINA ALMONIA,
DONALD ALPUERTO, NIDA
BANGALISAN, ROGELIO CHAVEZ,
ELMO DULINGGIS, MERCEDES
EMPERADO, TORIBIO EMPERADO,
JULIANA ENCARNADO, REYNALDO
ENCARNADO, GENE FERNANDO,
JOVEN FERNANDO, HERNANI
FERNANDO, TERESITA FERNANDO,
BONIFACIO GADON, JOSE GALLADA,
RAMONITO KILAYKO, ROLANDO
KILAYKO, ALFREDO LASTIMOSO,
ANTONIO LOMBO, ELIAS LOMBO,
EMMA LOMBO, LAURENCIA LOMBO,
LUCIA LOMBO, JOEL MALACAPAY,
ADELA MOJELLO, ERNESTO
MOJELLO, FRUCTOSO MOJELLO,
JESSICA MOJELLO, JOSE MOJELLO,
MARITESS MOJELLO, MERLITA
MOJELLO, ROMEO MOJELLO,
RONALDO MOJELLO, VALERIANA**

MOJELLO, JAIME NEMENZO,
RODOLFO NAPABLE, SEGUNDIA
OCDEN, JARDIOLINA PABALINAS,
LAURO PABALINAS, NOLI
PABALINAS, RUBEN PABALINAS,
ZALDY PABALINAS, ALFREDO
PANOLINO, JOAQUIN PEDUHAN,
JOHN PEDUHAN, REYNALDO
PEDUHAN, ROGELIO PEDUHAN,
JOSEPHINE PEDUHAN, ANTONIO
PORRAS, JR., LORNA PORRAS, JIMMY
REYES, ALICIA ROBERTO, MARCOS
ROBERTO, JR., MARIA SANGGA,
RODRIGO SANGGA, ARGENE SERON,
SAMUEL SERON, SR., ANGELINO
SENELONG, ARMANDO SENELONG,
DIOLITO SENELONG, REYNALDO
SENELONG, VICENTE SENELONG,
FEDERICO STA. ANA, ROGELIO
SUASIM, EDNA TADLAS, ARTURO
TITONG, JR., JOSE TITONG, JR.,
NANCY VINGNO, ALMA YANSON,
JIMMY YANSON, MYRNA
VILLANUEVA BELENARIO,
SALVADOR MALACAPAY, and
RAMELO TIONGCO,

Respondents.

X-----X

DECISION

CALLEJO, SR., J.:

Before us is a Petition for Review of the Decision^[1] of the Court of Appeals (CA), dated July 31, 2001, and the Resolution dated September 24, 2001 denying the petitioners' motion for reconsideration. The assailed decision modified the decision of the

National Labor Relations Commission (NLRC) in NLRC Case No. V-000099-98.

Hacienda Bino is a 236-hectare sugar plantation located at Barangay Orong, Kabankalan City, Negros Occidental, and represented in this case by Hortencia L. Starke, owner and operator of the said hacienda.

The 76 individual respondents were part of the workforce of Hacienda Bino consisting of 220 workers, performing various works, such as cultivation, planting of cane points, fertilization, watering, weeding, harvesting, and loading of harvested sugarcanes to cargo trucks.^[2]

On July 18, 1996, during the off-milling season, petitioner Starke issued an Order or Notice which stated, thus:

To all Hacienda Employees:

Please bear in mind that all those who signed in favor of CARP are expressing their desire to get out of employment on their own volition.

Wherefore, beginning today, July 18, only those who did not sign for CARP will be given employment by Hda. Bino.

(Sgd.) Hortencia Starke^[3]

The respondents regarded such notice as a termination of their employment. As a consequence, they filed a complaint for illegal dismissal, wage differentials, 13th month pay, holiday pay and premium pay for holiday, service incentive leave pay, and moral and exemplary damages with the NLRC, Regional Arbitration Branch No. VI, Bacolod City, on September 17, 1996.^[4]

In their Joint Sworn Statement, the respondents as complainants alleged inter alia that they are regular and permanent workers of the hacienda and that they were dismissed without just and lawful cause. They further alleged that they were dismissed because they applied as beneficiaries under the Comprehensive Agrarian Reform Program (CARP) over the land owned by petitioner Starke.^[5]

For her part, petitioner Starke recounted that the company's Board of Directors petitioned the Sangguniang Bayan of Kabankalan for authority to re-classify, from agricultural to industrial, commercial and residential, the whole of Hacienda Bino, except the portion earmarked for the CARP. She asserted that half of the workers supported the re-classification but the others, which included the herein respondents, opted to become beneficiaries of the land under the CARP. Petitioner Starke alleged that in July 1996, there was little work in the plantation as it was off-season; and so, on account of the seasonal nature of the work, she issued the order giving preference to those who supported the re-classification. She pointed out that when the milling season began in October 1996, the work was plentiful again and she issued notices to all workers, including the respondents, informing them of the availability of work. However, the respondents refused to report back to work. With respect to the respondents' money claims, petitioner Starke submitted payrolls evidencing payment thereof.

On October 6, 1997, Labor Arbiter Ray Allan T. Drilon rendered a Decision,^[6] finding that petitioner Starke's notice dated July 18, 1996 was tantamount to a termination of the respondents' services, and holding that the petitioner company was guilty of illegal dismissal. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal of the complainants illegal and ordering respondent Hortencia L. Starke, Inc. represented by Hortencia L. Starke, as President, to:

1. Reinstatement the complainants to their former position without loss of seniority rights immediately upon receipt of this decision;
2. PAY the backwages and wage differentials of the complainants, to wit: x x x in the total amount of Four Hundred Ninety-Five Thousand Eight Hundred Fifty-Two and 72/100 (P495,852.72) Pesos; and

3. TO PAY the complainants attorney's fee in the amount of Forty-Nine Thousand Five Hundred Eighty-Five and 27/100 (P49,585.27) Pesos.

Respondents are further directed to deposit to this Office the total judgment award of FIVE HUNDRED FORTY-FIVE THOUSAND AND FOUR HUNDRED THIRTY-SEVEN AND 99/100 (P545,437.99) PESOS within ten (10) days from receipt of this decision.

All other claims are hereby DISMISSED for lack of merit.

SO ORDERED.^[7]

Both the petitioners and the respondents appealed the case to the NLRC. On July 24, 1998, the NLRC affirmed with modification the decision of the Labor Arbiter. The dispositive part of its decision reads:

WHEREFORE, premises considered, the Decision of the Labor Arbiter is AFFIRMED WITH MODIFICATIONS. Respondent is further ordered to pay the complainants listed in the Holiday Pay Payroll the amounts due them.

SO ORDERED.^[8]

A motion for reconsideration of the said decision was denied by the NLRC.^[9] Dissatisfied, the respondents appealed the case to the CA where the following issues were raised:

- A. THE HONORABLE COMMISSION GRAVELY ABUSED ITS DISCRETION AND POWER BY VIOLATING THE DOCTRINE OF "STARE DECISIS" LAID DOWN BY THE SUPREME COURT AND THE APPLICABLE LAWS AS TO THE STATUS OF THE SUGAR WORKERS.
- B. THE HONORABLE COMMISSION COMMITTED SERIOUS ERRORS BY ADMITTING THE MOTION TO DISMISS AND/OR ANSWER TO PETITIONERS' APPEAL MEMORANDUM DATED MARCH 26, 1998 FILED BY

COUNSEL FOR THE HEREIN RESPONDENTS INSPITE OF THE FACT THAT IT WAS FILED WAY BEYOND THE REGLEMENTARY PERIOD.

C. THE HONORABLE COMMISSION COMMITTED GRAVE ERROR IN GIVING CREDENCE TO THE SWEEPING ALLEGATIONS OF THE COMPLAINANTS AS TO THE AWARD OF BACKWAGES AND HOLIDAY PAY WITHOUT ANY BASIS.^[10]

On July 31, 2001, the CA rendered a Decision,^[11] the dispositive portion of which reads:

WHEREFORE, the decision of the National Labor Relations Commission is hereby MODIFIED by deleting the award for holiday pay and premium pay for holidays. The rest of the Decision is hereby AFFIRMED.

SO ORDERED.^[12]

The CA ruled that the concept of stare decisis is not relevant to the present case. It held that the ruling in Mercado, Sr. vs. NLRC^[13] does not operate to abandon the settled doctrine that sugar workers are considered regular and permanent farm workers of a sugar plantation owner, considering that there are facts peculiar in that case which are not present in the case at bar. In the Mercado case, the farm laborers worked only for a definite period for a farm owner since the area of the land was comparatively small, after which they offer their services to other farm owners. In this case, the area of the hacienda, which is 236 hectares, simply does not allow for the respondents to work for a definite period only.

The CA also held that the petitioners' reliance on Bacolod-Murcia Milling Co. Inc. vs. NLRC^[14] was misplaced, as it in fact, bolstered the respondents' posture that they are regular employees. In that case, the Court held that a sugar worker may be considered as in regular employment even during those years when he is merely a seasonal worker where the issues concern the determination of an employer-employee relationship and security of tenure.

Further, the CA held that the respondents' appeal to the NLRC was not perfected since they failed to accompany their notice of appeal with a memorandum of appeal, or to timely file a memorandum of appeal. Thus, as to them, the decision of the Labor Arbiter became final and executory. The NLRC, therefore, gravely abused its discretion when it modified the decision of the Labor Arbiter and awarded to the respondents holiday pay and premium for holiday pay. Finally, the CA affirmed the award of backwages, finding no circumstance that would warrant a reversal of the findings of the Labor Arbiter and NLRC on this point.^[15]

On September 24, 2001, the CA denied the motion for reconsideration filed by the petitioners due to their failure to indicate the date of the receipt of the decision to determine the timeliness of the motion.^[16]

Hence, this petition for review.

The petitioners submit the following issues:

- A. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AND POWER BY VIOLATING THE DOCTRINE OF "STARE DECISIS" LAID DOWN BY THE SUPREME COURT AND THE APPLICABLE LAWS AS TO THE STATUS OF THE SUGAR WORKERS.
- B. WHETHER OR NOT THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN DISMISSING THE MOTION FOR RECONSIDERATION FOR FAILURE TO STATE THE DATE OF THE RECEIPT OF THE DECISION IN THE MOTION FOR RECONSIDERATION.^[17]

Petitioner Starke contends that the established doctrine that seasonal employees are regular employees had been overturned and abandoned by Mercado, Sr. vs. NLRC.^[18] She stresses that in that case, the Court held that petitioners therein who were sugar workers, are seasonal employees and their employment legally ends upon completion of the project or the season. Petitioner Starke argues that the CA violated the doctrine of stare decisis in not applying the said

ruling. She asserts that the respondents, who are also sugar workers, are seasonal employees; hence, their employment can be terminated at the end of the season and such termination cannot be considered an illegal dismissal. Petitioner Starke maintains that the determination of whether the workers are regular or seasonal employees is not dependent on the number of hectares operated upon by them, or the number of workers, or the capitalization involved, but rather, in the nature of the work. She asserts that the respondents also made their services available to the neighboring haciendas. To buttress her contention that the respondents are seasonal employees, petitioner Starke cites Rep. Act 6982, An Act Strengthening the Social Amelioration Program in the Sugar Industry, Providing the Mechanics for its Implementation, and for other Purposes, which recognizes the seasonal nature of the work in the sugar industry.^[19]

Petitioner Starke also takes exception to the denial of her motion for reconsideration due to failure to state the date of the receipt of the decision. She asserts that a denial of a motion for reconsideration due to such cause is merely directory and not mandatory on the part of the CA. Considering that the amount involved in this case and the fact that the motion was filed within the reglementary period, the CA should have considered the motion for reconsideration despite such procedural lapse.^[20]

On the other hand, the respondents aver that the petitioners erroneously invoke the doctrine of stare decisis since the factual backdrop of this case and the Mercado case is not similar. The respondents posit that the Mercado case ruled on the status of employment of farm laborers who work only for a definite period of time for a farm owner, after which they offer their services to other farm owners. Contrarily, the respondents contend that they do not work for a definite period but throughout the whole year, and do not make their services available to other farm owners. Moreover, the land involved in the Mercado case is comparatively smaller than the sugar land involved in this case. The respondents insist that the vastness of the land involved in this case requires the workers to work on a year-round basis, and not on an “on-and-off” basis like the farm workers in the Mercado case.

Finally, the respondents maintain that the requirement that the date of receipt of the decision should be indicated in the motion for reconsideration is mandatory and jurisdictional and, if not complied with, the court must deny the motion outright.^[21]

The petition is without merit.

On the substantial issue of whether the respondents are regular or seasonal employees, the petitioners contend that the CA violated the doctrine of stare decisis by not applying the ruling in the Mercado case that sugar workers are seasonal employees. We hold otherwise. Under the doctrine of stare decisis, when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. (*Villena vs. Chavez*, G.R. No. 148126, November 10, 2003, 415 SCRA 33).^[22] Where the facts are essentially different, however, stare decisis does not apply, for a perfectly sound principle as applied to one set of facts might be entirely inappropriate when a factual variance is introduced. (*Lee vs. Insurance Company of North America*, 70 Haw. 120, 763 P.2d 567 [1988]).^[23]

The CA correctly found that the facts involved in this case are different from the Mercado case; therefore, the ruling in that case cannot be applied to the case at bar, thus:

We do not find the concept of stare decisis relevant in the case at bench. For although in the Mercado case, the Supreme Court held the petitioners who were sugar workers not to be regular but seasonal workers, nevertheless, the same does not operate to abandon the settled doctrine of the High Court that sugar workers are considered regular and permanent farm workers of a sugar plantation owner, the reason being that there are facts present that are peculiar to the Mercado case. The disparity in facts between the Mercado case and the instant case is best exemplified by the fact that the former decision ruled on the status of employment of farm laborers, who, as found by the labor arbiter, work only for a definite period for a farm worker, after which they offer their services to other farm owners, considering the area in question being comparatively small, comprising of seventeen and a half (17^{1/2}) hectares of land, such

that the planting of rice and sugar cane thereon could not possibly entail a whole year operation. The herein case presents a different factual condition as the enormity of the size of the sugar hacienda of petitioner, with an area of two hundred thirty-six (236) hectares, simply do not allow for private respondents to render work only for a definite period.

Indeed, in a number of cases, the Court has recognized the peculiar facts attendant in the Mercado case. In *Abasolo vs. NLRC*, [G.R. No. 118475, November 29, 2000, 346 SCRA 293]^[24] and earlier, in *Philippine Tobacco Flue-Curing & Redrying Corporation vs. NLRC*, [G.R. No. 127395, December 10, 1998, 300 SCRA 37],^[25] the Supreme Court made the following observations:

In Mercado, although respondent constantly availed herself of the petitioners' services from year to year, it was clear from the facts therein that they were not in her regular employ. Petitioners therein performed different phases of agricultural work in a given year. However, during that period, they were free to work for other farm owners, and in fact they did. In other words, they worked for respondent, but were nevertheless free to contract their services with other farm owners. The Court was thus emphatic when it ruled that petitioners were mere project employees, who could be hired by other farm owners.^[26]

Recently, the Court reiterated the same observations in *Hacienda Fatima vs. National Federation of Sugarcane Workers-Food and General Trade*, [G.R. No. 149440, January 28, 2003, 396 SCRA 518]^[27] and added that the petitioners in the Mercado case were "not hired regularly and repeatedly for the same phase/s of agricultural work, but on and off for any single phase thereof."

In this case, there is no evidence on record that the same particulars are present. The petitioners did not present any evidence that the respondents were required to perform certain phases of agricultural work for a definite period of time. Although the petitioners assert that the respondents made their services available to the neighboring haciendas, the records do not, however, support such assertion.

The primary standard for determining regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual trade or business of the employer. (Tan vs. Lagrama, G.R. No. 151228, August 15, 2002, 387 SCRA 393).^[28] There is no doubt that the respondents were performing work necessary and desirable in the usual trade or business of an employer. Hence, they can properly be classified as regular employees.

For respondents to be excluded from those classified as regular employees, it is not enough that they perform work or services that are seasonal in nature. They must have been employed only for the duration of one season. (Hacienda Fatima vs. National Federation of Sugarcane Workers-Food and General Trade, G.R. No. 149440, January 28, 2003, 396 SCRA 518).^[29] While the records sufficiently show that the respondents' work in the hacienda was seasonal in nature, there was, however, no proof that they were hired for the duration of one season only. In fact, the payrolls,^[30] submitted in evidence by the petitioners, show that they availed the services of the respondents since 1991. Absent any proof to the contrary, the general rule of regular employment should, therefore, stand. It bears stressing that the employer has the burden of proving the lawfulness of his employee's dismissal. (Tan vs. Lagrama, G.R. No. 151228, August 15, 2002, 387 SCRA 393).^[31]

On the procedural issue, petitioner Starke avers that the CA should not have denied outright her motion for reconsideration, considering its timely filing and the huge amount involved. This contention is already moot. Petitioner Starke has already aired in this petition the arguments in her motion for reconsideration of the CA decision, which have been adequately addressed by this Court. Assuming *arguendo* that the CA indeed failed to consider the motion for reconsideration, petitioner Starke was not left without any other recourse.^[32]

IN LIGHT OF ALL THE FOREGOING, the petition is **DENIED**. The Decision of the Court of Appeals, dated July 31, 2001, and its Resolution dated September 24, 2001 are hereby **AFFIRMED**.

SO ORDERED.

PUNO, J., (Chairman), AUSTRIA-MARTINEZ, TINGA, and CHICO-NAZARIO, JJ., concur.

- [1] Penned by Associate Justice Romeo A. Brawner (now Presiding Justice of the Court of Appeals), with Associate Justices Remedios Salazar-Fernando and Rebecca de Guia-Salvador, concurring.
- [2] Rollo, p. 102.
- [3] CA Rollo, p. 43.
- [4] Rollo, p. 103.
- [5] Id. at 36.
- [6] Id. at 35-51.
- [7] Id. at 49-51.
- [8] CA Rollo, p. 47.
- [9] Id. at 56-58.
- [10] Id. at 5.
- [11] Rollo, pp. 19-28.
- [12] Id. at 27-28.
- [13] G.R. No. 79869, 5 September 1991, 201 SCRA 332.
- [14] G.R. No. 84272, 21 November 1991, 204 SCRA 155 .
- [15] Rollo, pp. 25-27.
- [16] Id. at 34.
- [17] Id. at 6.
- [18] Supra.
- [19] Rollo, pp. 87-96.
- [20] Id. at 14-16.
- [21] Rollo, pp. 105-108.
- [22] Villena vs. Chavez, G.R. No. 148126, 10 November 2003, 415 SCRA 33.
- [23] Lee vs. Insurance Company of North America, 70 Haw. 120, 763 P.2d 567 (1988).
- [24] G.R. No. 118475, 29 November 2000, 346 SCRA 293.
- [25] G.R. No. 127395, 10 December 1998, 300 SCRA 37.
- [26] Id. at 61.
- [27] G.R. No. 149440, 28 January 2003, 396 SCRA 518.
- [28] Tan vs. Lagrama, G.R. No. 151228, 15 August 2002, 387 SCRA 393.
- [29] Hacienda Fatima vs. National Federation of Sugarcane Workers-Food and General Trade, supra.
- [30] CA Rollo, pp. 58-60.
- [31] Tan vs. Lagrama, supra.
- [32] See Vergara vs. National Labor Relations Commission, G.R. No. 117196, 5 December 1997, 282 SCRA 486.