SUPREME COURT
SECOND DIVISION

PHILIPPINE GEOTHERMAL, INC.,
***Petitioner*,**

-versus-

G.R. Nos. 82643-67
August 30, 1990

NATIONAL LABOR RELATIONS COMMISSION, TEODULO C. CUEBILLAS, ARMANDO CILOT, MARIANO CORULLO, YOLANDA CAL, EFREN CLERIGO, FELICISSIMO VARGAS, Et Al.,
***Respondents*.**
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D E C I S I O N

PARAS, *J.*:

This is a Petition for Review on *Certiorari* seeking to annul and set aside; (a) the Resolution of the National Labor Relations

Commission[*] dated November 9, 1987 in Labor Cases Nos. RAB-403-85 to 427-85 and RAB Nos. 0392-85 to 0393-85 entitled Teodulo C. Cuebillas, et. al. vs. Philippine Geothermal, Inc. et al. and Efren N. Clerigo et. al. vs. Phil. Geothermal Inc. respectively which declared respondent employees as regular and permanent employees of petitioner company and ordered their reinstatement and (b) the Resolution dated March 9, 1988 which denied the Motion for Reconsideration.

The facts of the case are as follows:

Petitioner Philippine Geothermal, Inc. is a U.S. corporation engaged in the exploration and development of geothermal energy resources as an alternative source of energy. It is duly authorized to engage in business in the Philippines and at present is the prime contractor of the National Power Corporation at the latter's operation of the Tiwi, Albay and the Makiling-Banahaw Geothermal Projects.[1]

Private respondents, on the other hand, are employees of herein petitioner occupying various positions ranging from carpenter to Clerk II who had worked with petitioner company under individual contracts, categorized as contractual employment, for a period ranging from fifteen (15) days to three (3) months. These contracts were regularly renewed to the extent that individual private respondents had rendered service from three (3) to five (5) years until 1983 and 1984 when petitioner started terminating their employment by not renewing their individual contracts. Subsequently petitioner entered into job contracting agreement with Dra. Generosa Gonzales who supplies it with skilled manpower.[2]

Sometime in July 1983, herein private respondents organized a separate labor union in view of their exclusion in the bargaining unit of the regular rank and file employees represented by the Federation of Free Workers. In August 1983, they filed a petition for certification election with the Ministry of Labor and Employment, NCR, docketed as Case No. NCD-LRD-8-242-84. Because of this, herein petitioner allegedly started harassing them and replaced them with so called `contract workers'. Thus, complainant union and herein respondent employees filed a case for illegal lock-out and unfair labor practice, docketed as Case No. 1420-83 and the instant consolidated cases RAB

Case Nos. 0403-85 to 427-85 and RAB Cases Nos. 0392-85 to 0393-85, involving 26 workers, for unfair labor practice and/or illegal dismissal, reinstatement backwages and service incentive.[3]

On March 3, 1987, Labor Arbiter Voltaire A. Balitaan rendered a decision in favor of the respondents the dispositive portion of which reads:

> "WHEREFORE, judgment is hereby rendered in favor of the petitioners and they are hereby declared regular and permanent employees of the respondent and finding their dismissal from the service illegal, respondent is ordered to reinstate them to their former positions without loss of seniority rights and with one year backwages without qualification or deduction in the amount of P590,021.76.
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> "SO ORDERED."[4]

On Appeal, the National Labor Relations Commission on November 9, 1987 rendered a decision dismissing the appeal and affirming the decision of the Labor Arbiter.[5] A motion for reconsideration was denied on March 9, 1988 for lack of merit.[6]

Hence, this petition which was filed on April 22, 1988.

In the meantime, a writ of execution was issued by Executive Arbiter Gelacio L. Rivera, Jr. on April 11, 1988 on the ground that no appeal was interposed hence the decision of the Labor Arbiter had become final and executory.[7]

On April 20, 1988, petitioner filed a motion for the issuance of a Temporary Restraining Order as the Sheriff tried to enforce the Writ of Execution dated April 11, 1988 against petitioner on April 18, 1988. They further alleged that they are ready, willing and able to post a supersedes bond to answer for damages which respondents may suffer.[8]

On June 29, 1988, this Court issued a Temporary Restraining Order enjoining respondents from enforcing the Resolution dated November 9, 1987, any writ of execution or notice of garnishment

issued in RAB Cases Nos. 0403-85 to 427-85 and RAB Cases Nos. 0392-85 to 393-85 of the National Labor Relations Commission, Department of Labor and Employment.[9]

On April 17, 1989, this Court resolved to dismiss the petition for failure to sufficiently show that the respondent commission had committed grave abuse of discretion in rendering the questioned judgment and lifted the Temporary Restraining Order issued on June 29, 1988.[10] A motion for reconsideration was filed by petitioner on May 25, 1989.[11]

On June 5, 1989, this Court granted the motion; and set aside the resolution dated April 17, 1989; gave due course to the petition and required the parties to submit simultaneously, their respective memoranda.[12]

Private respondents filed their memorandum on August 8, 1989[13] while public respondent filed its memorandum on September 1, 1989.[14] Petitioner filed its memorandum on September 8, 1989.[15]

The main issue in the case at bar is whether or not private respondents may be considered regular and permanent employees due to their length of service in the company despite the fact that their employment is on contractual basis.

Petitioner alleges that it engaged the services of private respondents on a monthly basis to ensure that manpower would be available when and where needed. Private respondents were fully aware of the nature of their employment as this was clearly spelled out in the employment contracts. What happened to them was not a case of unwarranted dismissal but simply one of expiration of the tenure of employment contracts and the completion of the phase of the project for which their services were hired.[16]

In the recent case of Kimberly Independent Labor Union for Solidarity, Activism, and Nationalism-Olalia vs. Hon. Franklin M. Drilon, G.R. Nos. 77629 and 78791 promulgated last May 9, 1990, this Court classified the two kinds of regular employees, as: 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 (1) year of service, whether continuous or broken with respect to the activity in which they are employed. While the actual regularization of these employees entails the mechanical act of issuing regular appointment papers and compliance with such other operating procedures, as may be adopted by the employer, it is more in keeping with the intent and spirit of the law to rule that the status of regular employment attaches to the casual employee on the day immediately after the end of his first year of service.

Assuming therefore, that an employee could properly be regarded as a casual (as distinguished from a regular employee) he becomes entitled to be regarded as a regular employee of the employer as soon as he has completed one year of service. Under the circumstances, employers may not terminate the service of a regular employee except for a just cause or when authorized under the Labor Code. It is not difficult to see that to uphold the contractual arrangement between the employer and the employee would in effect be to permit employers to avoid the necessity of hiring regular or permanent employees indefinitely on a temporary or casual status, thus to deny them security of tenure in their jobs. Article 106 of the Labor Code is precisely designed to prevent such result.[17]

It is the policy of the state to assure the right of workers to "security of tenure."[18] The guarantee is an act of social justice. When a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job. Article 280 of the Labor Code has construed 'security of tenure' as meaning that "the employer shall not terminate the services of the employee except for a just cause or when authorized by the Code."[19]

PREMISES CONSIDERED, the Decision of the National Labor Relations Commission is hereby **AFFIRMED** and the Temporary Restraining Order issued on June 29, 1988 is hereby **LIFTED** permanently.

SO ORDERED.

Melencio-Herrera, Padilla and Regalado, *JJ.*, concur.

Sarmiento, *J.*, is on leave.

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[*] Penned by Commissioner Mirasol Viniegra-Corleto and concurred in by Commissioners Ceferino E. Dulay and Roberto P. Tolentino.
[1] p. 8, Rollo.
[2] pp. 2-3, Ibid.
[3] Ibid.
[4] Rollo, p. 79.
[5] Rollo, pp. 92-97.
[6] Rollo, p. 98.
[7] Ibid., pp. 99-100.
[8] Ibid., pp. 5-6.
[9] Ibid., pp. 56-58.
[10] Ibid., p. 168.
[11] Ibid., p. 172.
[12] 189, Ibid.
[13] p. 198, Ibid.
[14] p. 226, Ibid.
[15] p. 237, Ibid.
[16] pp. 249-250, Ibid.
[17] Philippine Bank of Communications vs. National Labor Relations Commission, 146 SCRA 347 (1986).
[18] Article XII, Sec. 3 of the New Constitution.
[19] Rance vs. NLRC, 163 SCRA 279, June 30, 1988.
