

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**JUANITO VILLANUEVA,
*Petitioner,***

-versus-

**G.R. No. 127448
September 10, 1998**

**NATIONAL LABOR RELATIONS
COMMISSION, (Second Division) HON.
COMMISSIONERS: ROGELIO AYALA,
RAUL T. AQUINO, INNO-DATA PHILS.
INC./INNODATA PROCESSING CORP.
and TODD SOLOMON,**

Respondents.

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DECISION

DAVIDE, JR., J.:

In this Special Civil Action for *Certiorari*, petitioner Juanito Villanueva seeks to annul the Decision^[1] of the National Labor Relations Commission (NLRC) in NLRC Case No. 00-09-06202-95 and its Resolution^[2] denying petitioner's motion for reconsideration. The former reversed the Decision^[3] of the Labor Arbiter of 21 May 1996 finding that the petitioner was illegally dismissed from his employment.

The factual and procedural antecedents of this case are as follows:

Petitioner Juanito M. Villanueva started working with respondent Innodata Philippines, Inc./Innodata Processing Corporation as an “abstractor” with a daily salary of P180.

The contract of employment^[4] provided for a period of effectivity of “one year commencing on Feb. 21, 1994, until Aug. 21, 1995.” It was also stipulated that from 21 February 1994 to 21 August 1994, or for a period of six months, petitioner’s employment would be “contractual” and could be terminated at whatever date within this period by mere service of notice to that effect. However, should his employment be continued beyond 21 August 1994, he would become a regular employee upon demonstration of sufficient skill to meet the standards set by the respondent company. Should he fail to demonstrate the ability to master his task during the first six months, he could be placed on probation for another six months; after which, he could be evaluated for promotion as a regular employee.

On 21 February 1995, petitioner’s services were terminated by reason of “end of contract.”^[5]

Three weeks thereafter, the petitioner was rehired by the respondent corporation, this time, as a data encoder effective 13 March 1995 to 15 August 1995, with a lesser pay of P164.10 per day.^[6]

On 13 August 1995, the petitioner was again separated from the respondent company also on account of “end of contract.”^[7] This prompted the petitioner to file a complaint against the respondent company and its president, Todd Solomon, for illegal dismissal with prayer for moral and exemplary damages and attorney’s fees.

In his 21 May 1996 Decision, Labor Arbiter Manuel R. Caday held that as an abstractor engaged in processing, encoding of data, precoding, editing, proofreading and scoring — activities which were necessary and desirable in the usual business of the respondent corporation — the petitioner was a regular employee pursuant to Article 280 of the Labor Code, who enjoyed security of tenure. Moreover, when he was allowed to work after 21 August 1994, when

his probationary employment of six months expired, he acquired a vested right to a permanent employment and could only be dismissed for a valid cause.

Accordingly, after finding petitioner's dismissal to be illegal, the Labor Arbiter ordered the respondent company to immediately reinstate the petitioner to his former position without loss of seniority rights, with full back wages and benefits computed from the date of his dismissal until his actual reinstatement, less the salaries he received under his second employment contract.

On appeal, respondent NLRC reversed the Labor Arbiter's decision and upheld the validity of petitioner's separation from the respondent company on the ground that his employment contract was for a fixed period of one year and six months, certain to end on 21 August 1994.

His motion for reconsideration having been denied, the petitioner filed this special civil action for *certiorari* contending that respondent NLRC palpably erred and committed grave abuse of discretion in reversing the decision of the Labor Arbiter. Section 2 of the contract of employment itself recognized the status of the petitioner as a probationary employee. Having worked beyond 21 August 1994 and for six months thereafter until his dismissal on 21 February 1995, he had become a regular employee "not only by operation of law (Articles 280 and 281) but also by virtue of the contract."

In its Comment, the respondent company supports the assailed decision and maintains that the petitioner was hired on a fixed-term basis and was never placed on probation. The termination of his services was not due to his dismissal but the expiration of his term of employment; thus, he is not entitled to reinstatement, back wages, and damages.

On the other hand, in its Manifestation in Lieu of Comment, the Office of the Solicitor General (OSG) agrees with the petitioner. Hence, we required the NLRC to file its own comment. As expected, the NLRC urged affirmance of the challenged decision.

The only question before us is whether the NLRC committed grave abuse of discretion in reversing the decision of the Labor Arbiter,

which ordered the reinstatement of the petitioner with full back wages.

We resolve the issue in the affirmative. The NLRC committed grave abuse of discretion when it reversed the findings of fact of the Labor Arbiter by giving undue, if not unwarranted, emphasis on the dates fixed in the contract and failing to consider the rest of the terms of the contract, as well as the attendant circumstances surrounding petitioner's employment. Section 2 of the Contract of Employment in question provided:

Section 2. This contract shall be effective for a period of one year commencing on Feb. 21, 1994 until Aug. 21, 1995, unless sooner terminated pursuant to the provision hereof.

From Feb. 21, 1994 to August 21, 1994, or for a period of six (6) months, the EMPLOYEE shall be contractual during which the EMPLOYER can terminate the EMPLOYEE's services by serving written notice to that effect. Such termination shall be immediate, or at whatever date within this six-month period, as the EMPLOYER may determine. Should the EMPLOYEE continue his employment beyond Aug. 21, 1994, he shall become a regular employee upon demonstration of sufficient skill in terms of his ability to meet the standards set by the EMPLOYER. If the EMPLOYEE fails to demonstrate the ability to master his task during the first six months he can be placed on probation for another six (6) months after which he will be evaluated for promotion as regular employee.

We agree with the OSG that the contract cannot be strictly construed as one for a fixed term. For one, while the first paragraph of Section 2 spoke of the contract's duration to be "one" year, it was in fact, for one year and six months because it was to commence on 21 February 1994 and terminate on 21 August 1995. For another, while the second paragraph specified the first six-month period of employment, 21 February to 21 August 1994, as "contractual," the third sentence of that paragraph granted the petitioner regular employment status should he "continue his employment beyond August 21, 1994, upon demonstration of sufficient skill in terms of his ability to meet the standards" set by the respondent company. It is clear that the first six months was in reality the "probation period" under Article 281 of the

Labor Code,^[8] since petitioner would become a regular employee if the employment would continue beyond that period upon demonstration of sufficient skill in accord with the standards set by the respondent corporation.

Significantly, the respondent company alleges that it has never placed the petitioner on probation.^[9] This could only mean that petitioner's continuance in employment beyond 21 August 1994 was not for probation purposes under the fourth sentence of the second paragraph of Section 2 reading as follows: "If the employee fails to demonstrate the ability to master his task during the first six months he can be placed on probation for another six (6) months after which he will be evaluated for promotion as a regular employee." If the petitioner was thus allowed to remain in employment beyond 21 August 1994, it could be for no other reason than that he demonstrated "sufficient skill in terms of his ability to meet the standards set" by the respondent company. He, therefore, became a regular employee by virtue of the third sentence of the second paragraph of Section 2 of the contract.

Besides, the Labor Arbiter found that as an abstractor, the petitioner was engaged in "processing, encoding of data, precoding, editing, proofreading and scoring, all of which activities are deemed necessary and desirable in the usual business^[10] of respondent company." The employment then was "regular" under the first paragraph of Article 280 of the Labor Code, which reads:

ART. 280. Regular and casual employment. — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

The termination of petitioner's employment contract on 21 February 1995, as well as the subsequent issuance on 13 March 1995 of a "new" contract for five months as "data encoder," was a devious, but crude, attempt to circumvent petitioner's right to security of tenure as a regular employee guaranteed by Article 279 of the Labor Code.^[1] Hence, the so-called "end of contract" on 21 February 1995 amounted to a dismissal without any valid cause.

Notably, the respondent company prepared the contract of employment. It was a contract of adhesion, and petitioner had only to adhere to it by signing it. Its terms should be construed strictly against the party who prepared it.^[2] Any ambiguity therein must be resolved against the respondent company^[3] especially because under Article 1702 of the Civil Code, in case of doubt, all labor contracts shall be construed in favor of the laborer. We cannot allow the respondent company to construe otherwise what appears to be clear from the wordings of the contract. The interpretation which the respondent company seeks to wiggle out is wholly unacceptable, as it would result in a violation of petitioner's right to security of tenure guaranteed in Section 3 of Article XIII of the Constitution and in Articles 279 and 281 of the Labor Code.

WHEREFORE, the challenged Decision of 11 October 1996 and Resolution of 29 November 1996 of the National Labor Relations Commission are **SET ASIDE**, and the decision of the Labor Arbiter of 21 May 1996 in NLRC-NCR-00-09-06202-95 is **REINSTATED**.

Costs against private respondent Innodata Philippines, Inc.

SO ORDERED.

Bellosillo, Vitug, Panganiban and Quisumbing, JJ., concur.

[1] Rollo, 22-31. Per Commissioner Rogelio I. Rayala, with Presiding Commissioner Raul T. Aquino and Commissioner Victoriano R. Calaycay concurring.

[2] *Id.*, 32.

[3] *Id.*, 33-42.

[4] Rollo, 43-45.

- [5] Id., 46.
- [6] Id., 47.
- [7] Id., 48.
- [8] This Article 281 reads as follows:
ART 281. Probationary employment. — Probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.
- [9] Memorandum for the Private Respondents, 12-13; Rollo, 278-279.
- [10] Rollo, 37-38.
- [11] This Article reads:
Art. 279. Security of Tenure. — In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full back wages, inclusive of allowances and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.
- [12] BPI Credit Corporation vs. Court of Appeals, 204 SCRA 601, 616-617 [1991].
- [13] Philippine Integrated Labor Assistance Corp. vs. NLRC, 264 SCRA 418, 424 [1996].