

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**SANDOVAL SHIPYARDS, INC.,
*Petitioner,***

-versus-

**G.R. No. L-65689
May 31, 1986**

**NATIONAL LABOR RELATIONS
COMMISSION, ROGELIO DIAMANTE,
MANUEL PACRES, ROLANDO
CERVALES, DIONISIO CERVALES and
MACARIO SAPUTALO,
*Respondents.***

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**SANDOVAL SHIPYARDS, INC.,
*Petitioner,***

-versus-

**G.R. No. L-66119
May 31, 1986**

**VICENTE LEOGARDO, JR., Deputy
Minister of Labor and Employment,
DANILO DE LA CRUZ, RODRIGO
VILLARUZ, RODRIGO PEREZ,
AQUILINO TABILON, ARMANDO
ESGLANDA, MANUEL MEDINA,
FREDDIE ABADIEZ, FELICIANO
TOLANG, ALFREDO DE LA CRUZ,**

**NICOLAS MARIANO, VICENTE
CEBUANO, ROLANDO ROLDAN,
TEODORO ROLDAN, SOLOMON
GEMINO, MACARIO RICAFORT,
ROLANDO LOPEZ and ANGEL
SAMSON,**

Respondents.

X-----X

DECISION

AQUINO, J.:

These cases are about the dismissal of alleged project workers. Sandoval Shipyards, Inc. has been engaged in the building and repair of vessels. It contends that each vessel is a separate project and that the employment of the workers is terminated with the completion of each project.

The workers contend otherwise. They claim to be regular workers and that the termination of one project does not mean the end of their employment since they can be assigned to unfinished projects.

In G.R. No. 65689, Rogelio Diamante, Manuel Pacres, Macario Saputalo, Rolando Cervales and Dionisio Cervales were assigned to the construction of the LCT Catarman, Project No. 7511. After three months of work, the project was completed on July 26, 1979. The five workers were served a termination notice. The termination was reported to the Ministry of Labor on August 3, 1979. They filed a complaint for illegal dismissal.

The National Labor Relations Commission affirmed the decision of the Labor Arbiter ordering the reinstatement of the five complainants with backwages from July 27, 1979.

In G.R. No. 66119, respondents Danilo de la Cruz, et al., 17 in all, were assigned to work in Project No. 7901 for the construction of a tanker

ordered by Mobil Oil Philippines, Inc. There were 55 workers in that project. The tanker was launched on January 31, 1980. Upon the yard manager's recommendation, the personnel manager of Sandoval Shipyards terminated the services of the welders, helpers and construction workers effective February 4, 1980. The termination was duly reported to the Ministry of Labor and Employment.

Three days later, or on February 7, twenty-seven out of the 55 workers were hired for a new project. The 27 included four of the 17 respondents who filed a complaint for illegal dismissal on February 6.

After hearing, the Director of the Ministry's Capital Region ordered the reinstatement of the complainants. The Deputy Minister of Labor affirmed that order.

We hold that private respondents were project employees whose work was coterminous with the project for which they were hired. Project employees, as distinguished from regular or non-project employees, are mentioned in section 281 of the Labor Code as those "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."

Policy Instructions No. 20 of the Secretary of Labor, which was issued to stabilize employer-employee relations in the construction industry, provides:

"Project employees are those employed in connection with a particular construction project. Non-project (regular) employees are those employed by a construction company without reference to any particular project.

"Project employees are not entitled to termination pay if they are terminated as a result of the completion of the project or any phase thereof in which they are employed, regardless of the number of projects in which they have been employed by a particular construction company. Moreover, the company is not required to obtain clearance from the Secretary of Labor in connection with such termination."

The petitioner cited three of its own cases wherein the National Labor Relations Commission, Deputy Minister of Labor and Employment Inciong and the Director of the National Capital Region held that the layoff of its project employees was lawful. Deputy Minister Inciong in TFU Case No. 1530, In Re Sandoval Shipyards, Inc. Application for Clearance to Terminate Employees, rendered the following ruling on February 26, 1979:

“We feel that there is merit in the contention of the applicant corporation. To our mind, the employment of the employees concerned were fixed for a specific project or undertaking. For the nature of the business the corporation is engaged into is one which will not allow it to employ workers for an indefinite period.

“It is significant to note that the corporation does not construct vessels for sale or otherwise which will demand continuous productions of ships and will need permanent or regular workers. It merely accepts contracts for shipbuilding or for repair of vessels from third parties and, only, on occasion when it has work contract of this nature that it hires workers to do the job which, needless to say, lasts only for less than a year or longer.

“The completion of their work or project automatically terminates their employment, in which case, the employer is, under the law, only obliged to render a report on the termination of the employment.” (139-140, Rollo of G.R. No. 65689).

In NLRC Case No. RB-IV-7743-76, Nicanor San Pedro, et. al vs. Sandoval Shipyards, Inc., the NLRC in its resolution of May 16, 1978 held that the layoff of the 17 complainants (which include three respondents in G.R. No. 65689 and two respondents in G.R. No. 66119) after the construction of the tanker, M/T Oil Queen VII, in July, 1976 was justified because they were project employees (135-138, Rollo of G.R. No. 65689).

In Gaspar vs. Sandoval Shipyards, Inc., NCR-STF-3-1840-81, Director Estrella held in his order dated June 22, 1981 that two workers of the

petitioner were project workers whose employment was terminated upon the completion of the project.

Respondent Deputy Minister Leogardo, Jr. himself on October 25, 1984 affirmed that finding. He ruled that the complainants “are project workers whose employments are coterminous with the completion of the project, regardless of the number of projects in which they have worked, as provided under Policy Instructions No. 20 of the Ministry of Labor and Employment” and “as their employment is one for a definite period, they are not entitled to separation pay.” (187, Rollo of G.R. No. 65689)

The public respondents in the instant two cases acted with grave abuse of discretion amounting to lack of jurisdiction in disregarding these precedents.

WHEREFORE, the NLRC Resolution dated July 29, 1983 and the Order of Deputy Minister Leogardo, Jr., dated March 15, 1983 are reversed and set aside. The complaints for illegal layoff are dismissed. No costs.

SO ORDERED.

Escolin, Cuevas, De la Fuente and Alampay, JJ., concur.
Makasiar, J., (Chairman), reserves his vote.
Concepcion, Jr. and Abad Santos, JJ., took no part.