Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HENRY T. PARAGELE, ROLAND ELLY C. JASO, JULIE B. APARENTE, RODERICO S. ABAD, MILANDRO B. ZAFE JR., RICHARD P. BERNARDO, JOSEPH C. AGUS, ROMERALD S. TARUC, ZERNAN BAUTISTA, ARNOLD MOTITA, JEFFREY CANARIA, ROMMEL F. BULIC, HENRY N. CHING, NOMER C. OROZCO, JAMESON M. FAJILAN, JAY ALBERT E. TORRES, RODEL P. GALERO, CARL LAWRENCE JASA NARIO, ROMEO SANCHEZ MANGALI III, FRANCISCO ROSALES JR., BONICARL PENAFLORIDA USARAGA, JOVEN P. LICON, NORIEL BARCITA SY, GONZALO MANABAT BAWAR, DAVID ADONIS S. VENTURA, SOLOMON PICO SARTE, JONY F. LIBOON, JONATHAN PERALTA ANITO, JEROME TORRALBA, AND JAYZON MARSAN, Petitioners, -versus- **GMA NETWORK, INC.,** Respondent.	**G.R. No. 235315** Present: LEONEN, *J., Chairperson,* GESMUNDO, ZALAMEDA, DELOS SANTOS,* and GAERLAN, *JJ.* **Promulgated:** July 13, 2020 MisPDCBatt

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* Designated additional Member per Raffle date July 13, 2020.

DECISION

LEONEN, *J.*:

Only casual employees performing work that is neither necessary nor desirable to the usual business and trade of the employer are required to render at least one (1) year of service to attain regular status. Employees who perform functions which are necessary and desirable to the usual business and trade of the employer attain regular status from the time of engagement.

This resolves a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure filed by petitioners Henry T. Paragele, Roland Elly C. Jaso, Julie B. Aparente, Roderico S. Abad, Milandro B. Zafe Jr., Richard P. Bernardo, Joseph C. Agus, Romerald S. Taruc, Zernan Bautista, Arnold Motita, Jeffrey Canaria, Rommel F. Bulic, Henry N. Ching, Nomer C. Orozco, Jameson M. Fajilan, Jay Albert E. Torres, Rodel P. Galero, Carl Lawrence Jasa Nario, Romeo Sanchez Mangali III, Francisco Rosales Jr., Bonicarl Penaflorida Usaraga, Joven P. Licon, Noriel Barcita Sy, Gonzalo Manabat Bawar, David Adonis S. Ventura, Solomon Pico Sarte, Jony F. Liboon, Jonathan Peralta Anito, Jerome Torralba, and Jayzon Marsan (collectively, "petitioners"), praying that the Decision[2] and Resolution[3] of the Court of Appeals in CA-G.R. SP No. 136396 be reversed and set aside.

The dispute subject of the present Petition arose from a consolidated Complaint for regularization, which was subsequently converted into one for "illegal dismissal, non-payment of salary/wages, and regularization"[4] filed by petitioners and other co-complainants against respondent GMA Network, Inc. (GMA).[5]

Petitioners claimed that they were regular employees of GMA, having been employed and dismissed as follows:

NAME	POSITION	SALARY *PER* TAPING	DATE HIRED	DATE DISMISSED
(1) Henry Paragele	Cameraman	P1,500.00	Sept. 2011	May 2013

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1 *Rollo*, pp. 9–26.

2 Id. at 978–990-A. The Decision dated March 3, 2017 was penned by Associate Justice (now Associate Justice of this Court) Rosmari D. Carandang (Chairperson) and concurred in by Associate Justices Mario V. Lopez (now Associate Justice of this Court) and Myra V. Garcia-Fernandez of the Third Division, Court of Appeals, Manila.

3 Id. at 1006–1007. The Resolution dated October 26, 2017 was penned by Associate Justice (now Associate Justice of this Court) Rosmari D. Carandang (Chairperson) and concurred in by Associate Justices Mario V. Lopez (now Associate Justice of this Court) and Myra V. Garcia-Fernandez of the Former Third Division, Court of Appeals, Manila.

4 Id. at 53.

5 Id. at 979.

(2) Roland Elly Jaso	Cameraman	P1,500.00	2008	May 2013
(3) Julie Aparente	Asst. Cameraman	P750.00	2011	May 2013
(4) Joseph Agus	Asst. Cameraman	P1,500.00	2011	May 2013
(5) Roxin Larazo	Cameraman	P1,500.00	2005	May 2013
(6) Francisco Rosales Jr.	Asst. Cameraman	P750.00	2011	May 2013
(7) Henry Ching	Cameraman	P1,500.00	2007	May 2013
(8) Carl Lawrence Nario	Cameraman	P1,500.00	Sept. 2011	May 2013
(9) Romerald Taruc	Asst. Cameraman	P750.00	2010	May 2013
(10) Adonis Ventura	Cameraman	P1,500.00	2011	May 2013
(11) Romeo S. Mangali III	Asst. Cameraman	P750.00	2011	May 2013
(12) Rodel Galero	Cameraman	P1,500.00	2010	May 2013
(13) Bonikarl Usaraga	Asst. Cameraman	P750.00	2011	May 2013
(14) Solomon P. Sarte	Cameraman	P1,500.00	2011	May 2013
(15) Nomer C. Orozco	Asst. Cameraman	P750.00	2010	May 2013
(16) Noriel Sy	Asst. Cameraman	P1,500.00	2011	May 2013
(17) Romel Bulic	Asst. Cameraman	P750.00	2011	May 2013
(18) Richard Bernardo	Asst. Cameraman	P750.00	2011	May 2013
(19) Joven Licon	Asst. Cameraman	P750.00	2011	May 2013
(20) Johnny Liboon	Asst. Cameraman	P750.00	2011	May 2013
(21) Milandro Zafe Jr.	Asst. Cameraman	P750.00	2011	May 2013
(22) Roderico Abad	Asst. Cameraman	P750.00	2011	May 2013
(23) Gonzalo Bawar	Cameraman	P1,500.00	2011	May 2013
(24) Jayson Marzan	Asst. Cameraman	P750.00	2011	May 2013
(25) Jameson Fajilan	Asst. Cameraman	P750.00	2011	May 2013
(26) Arnold Motita	Asst. Cameraman	P750.00	2011	May 2013
(27) Jerome T. Torralba	Cameraman	P1,500.00	2011	May 2013
(28) Zernan Bautista				

(29) Jefrey Canaria	Cameraman	P1,500.00	2009	May 2013
(30) Jay Albert Torres	Cameraman	P1,500.00	2000	May 2013
(31) Jonathan P. Anito[6]				

Countering petitioners, GMA denied the existence of an employer-employee relationship. It insisted that petitioners were engaged as mere "pinch-hitters or relievers" whose services were engaged only when there was a need for substitute or additional workforce.[7]

On December 16, 2014, Labor Arbiter Elias H. Salinas dismissed[8] the consolidated Complaint due to petitioners' failure to prove the existence of an employer-employee relationship. Conformably, as no employer-employee relationship existed for him, Labor Arbiter Salinas ruled that no illegal dismissal could have ensued.[9]

On appeal, the National Labor Relations Commission, in its March 28, 2014 Decision,[10] modified Labor Arbiter Salinas' Decision. The National Labor Relations Commission recognized petitioners as employees of GMA, but held that only one of their co-complainants, Roxin Lazaro (Lazaro), was a regular employee.[11]

The National Labor Relations Commission explained that GMA directly engaged petitioners as camera operators to perform services that were necessary and desirable to its business as a broadcasting company.[12] It added that GMA's mere designation that they are "pinch-hitters or relievers" cannot exclude them from what the law considers to be employees.[13]

However, the National Labor Relations Commission added that the existence of an employer-employee relationship between petitioners and GMA does not automatically mean that petitioners were regular employees of GMA.[14] It reasoned that, pursuant to Article 295 (formerly Article 280) of the Labor Code,[15] petitioners should have first rendered "at least one year of

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6 Id. at 979–981.
7 Id. at 982.
8 Id. at 788–803
9 Id. at 802.
10 Id. at 869–889.
11 Id. at 888.
12 Id. at 879.
13 Id. at 880.
14 Id. at 883–884.
15 LABOR CODE, art. 295 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

service, whether such service is continuous or broken"[16] before they can be considered regular employees of GMA. In view of this, only Lazaro, who had served a total of 477 days from June 2005 to April 2013, was considered to have attained regular status.[17]

Petitioners asked the National Labor Relations Commission to partially reconsider its March 28, 2014 Decision. However, their Motion was denied by the National Labor Relations Commission in a Resolution dated May 21, 2014.[18]

Aggrieved, petitioners filed before the Court of Appeals a Petition for Certiorari under Rule 65 of the 1997 Rules of Civil Procedure.[19]

On March 3, 2017, the Court of Appeals dismissed their Rule 65 Petition for lack of merit and sustained the March 28, 2014 Decision and May 21, 2014 Resolution of the National Labor Relations Commission.[20]

Citing the National Labor Relations Commission's March 28, 2014 Decision with approval, the Court of Appeals maintained that an employer-employee relationship existed between petitioners and GMA.[21] However, it explained that the existence of an employer-employee relationship does not automatically confer regular employment status on employees who were merely employed as "relievers for aggregate periods of less than a year each."[22]

On March 30, 2017, petitioners moved for the reconsideration of the March 3, 2017 Decision of the Court of Appeals, but their Motion was denied in a Resolution dated October 26, 2017.[23]

Petitioners then filed the present Petition for Review on Certiorari,[24] praying that: (1) the March 3, 2017 Decision and October 26, 2017 Resolution of the Court of Appeals be reversed and set aside; (2) they be declared regular employees of GMA who were illegally dismissed from their service; and ultimately (3) that they be reinstated with full backwages.

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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.

16 *Rollo*, p. 886.
17 Id. at 886–887.
18 Id. at 904–909.
19 Id. at 27–52.
20 Id. at 978–990.
21 Id. at 986.
22 Id. at 987.
23 Id. at 1006–1007.
24 Id. at 9–21.

Petitioners maintain that they are employees of GMA having satisfied the four-fold test of employer-employee relationship in this manner:

(1) GMA hired them as camera operators;
(2) GMA compensated them for their service;
(3) GMA exercised its power of dismissal, albeit unjustly, over them; and
(4) GMA had control over the means and methods of their work.[25]

With respect to the element of control, petitioners allege that their work schedules were provided by GMA and that they were required to stay in their work sites before and after every taping. GMA likewise provided the equipment they used for tapings such as cameras, lighting, and audio equipment.[26] Moreover, GMA assigned supervisors to monitor their work and ensure their compliance with company standards. Petitioners were likewise obliged to follow company rules and regulations.[27]

Petitioners assert that as camera operators assigned to several television programs of GMA, they performed functions that were necessary and desirable to GMA's business as both a television and broadcasting company. They further contend that their repeated and continuous employment with GMA after each television program they covered shows the necessity and desirability of their functions. Hence, they have already attained the status of regular employees.[28]

Ultimately, petitioners argue that, as regular employees, they are accorded the right to security of tenure and, therefore, their dismissal was illegal for want of just or authorized cause.[29]

In its Comment,[30] upon being required to submit by this Court through its April 2, 2018 Resolution,[31] GMA refutes the existence of an employer-employee relationship.[32] It maintains that petitioners were mere "pinch-hitters or relievers" who were engaged to augment its regular crew whenever there is a need for substitute or additional workforce.[33]

Further, GMA asserts that the "service fees" given to the workers were "not compensation paid to an employee, but rather remuneration for the

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25 Id. at 16–17.
26 Id. at 13.
27 Id. at 16.
28 Id. at 18–19.
29 Id. at 19.
30 Id. at 1023–1081.
31 Id. at 1015–1016.
32 Id. at 1062.
33 Id. at 1065.

services rendered" as pinch-hitters/freelancers.[34] Furthermore, GMA also belies the contention that it exercised control over the workers. It claims that it only monitored the performance of their work to ensure that the "end result" is compliant with company standards.[35]

GMA adds that, even assuming that an employer-employee relationship did exist between them, petitioners could not have attained regular status considering their failure to render "at least one year of service" as required by law.[36]

Specifically, with respect to petitioner Adonis S. Ventura (Ventura), GMA added that he was engaged as a fixed-term employee under a valid "Talent Agreement." Accordingly, Ventura's employment was automatically terminated upon the happening of the day certain stipulated in the contract. GMA further maintains that it may not be obliged to re-engage Ventura.[37]

Ultimately, GMA argues that petitioners could not have been illegally dismissed since they were not regular employees with tenurial security.[38] GMA maintains that as pinch-hitters/freelancers, petitioners' engagement ceased at the end of every shoot. Consequently, there exists no obligation on the part of GMA to re-engage them.[39]

For this Court's resolution are the following issues:

First, whether or not an employer-employee relationship existed between the petitioners and GMA;

Second—assuming the existence of an employer-employee relationship—whether or not the petitioners are regular employees of GMA;

Third, assuming regular employment status, whether or not the petitioners were illegally dismissed.

The petition is meritorious.

I

Labor cases are elevated to this Court through Rule 45 petitions, following Rule 65 petitions decided by the Court of Appeals on rulings made

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34 Id. at 1068.
35 Id.
36 Id. at 1059.
37 Id. at 1070.
38 Id. at 1078.
39 Id. at 1067.

by the National Labor Relations Commission. From this, two (2) chief considerations become apparent: (1) the general injunction that Rule 45 petitions are limited to questions of law; and (2) that the more basic underlying issue is the National Labor Relations Commission's potential grave abuse of its discretion. In labor disputes then, this Court may only resolve the matter of whether the Court of Appeals erred in determining "the presence or absence of grave abuse of discretion and deciding other jurisdictional errors of the National Labor Relations Commission."[40]

The general limitation on Rule 45 petitions being concerned with questions of law was discussed in *Abuda v. L. Natividad Poultry Farms*:[41]

> When a decision of the Court of Appeals decided under Rule 65 is brought to this Court through a petition for review under Rule 45, the general rule is that this Court may only pass upon questions of law. *Meralco Industrial Engineering Services Corp. v. National Labor Relations Commission* emphasized as follows:
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> > This Court is not a trier of facts. Well-settled is the rule that the jurisdiction of this Court in a petition for review on certiorari under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record, or the assailed judgment is based on a gross misapprehension of facts. Besides, factual findings of quasi-judicial agencies like the [National Labor Relations Commission], when affirmed by the Court of Appeals, are conclusive upon the parties and binding on this Court.[42] (Citations omitted, emphasis in the original)

In addition, *E. Ganzon, Inc. v. Ando, Jr.*,[43] citing *Montoya v. Transmed*,[44] is instructive:

> In labor cases, Our power of review is limited to the determination of whether the [Court of Appeals] correctly resolved the presence or absence of grave abuse of discretion on the part of the [National Labor Relations Commission]. The Court explained this in *Montoya v. Transmed Manila Corporation*:
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> > . . . In a Rule 45 review, we consider the correctness of the assailed [Court of Appeals] decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed [Court of Appeals] decision. In ruling for legal correctness, we have to view the

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40 *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 415 (2014) [Per J. Leonen, Second Division].

41 870 SCRA 468, July 4, 2018 [Per J. Leonen, Third Division].

42 Id. at 483–484 *citing Meralco Industrial Engineering Services v. National Labor Relations Commission*, 572 Phil. 94 (2008) [Per J. Chico-Nazario, Third Division].

43 806 Phil. 58 (2017) [Per J. Peralta, Second Division].

44 613 Phil. 696 (2009) [Per J. Brion, Second Division].

> [Court of Appeals] decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the [Court of Appeals] decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the [National Labor Relations Commission] decision before it, not on the basis of whether the [National Labor Relations Commission] decision on the merits of the case was correct. In other words, we have to be keenly aware that the [Court of Appeals] undertook a Rule 65 review, not a review on appeal, of the [National Labor Relations Commission] decision challenged before it. This is the approach that should be basic in a Rule 45 review of a [Court of Appeals] ruling in a labor case. In question form, the question to ask is: *Did the [Court of Appeals] correctly determine whether the [National Labor Relations Commission] committed grave abuse of discretion in ruling on the case?*[45] (Citation omitted, emphasis supplied)

It has been settled that the National Labor Relations Commission may be found to have committed grave abuse of discretion when its decision does not provide the following, as stated in *E. Ganzon, Inc.*:

> . . . not supported by substantial evidence or are in total disregard of evidence material to or even decisive of the controversy; when it is necessary to prevent a substantial wrong or to do substantial justice; when the findings of the [National Labor Relations Commission] contradict those of the [Labor Arbiter]; and when necessary to arrive at a just decision of the case."[46] (Citation omitted)

These parameters shall guide this Court in resolving the substantial issues in the present Petition.

II

GMA insists that petitioners were never hired as its employees, "whether probationary, casual[,] or any type of employment.'[47] According to it, petitioners were merely pinch-hitters or freelancers engaged on a per-shoot basis whenever the need for additional workforce arose.[48]

GMA's arguments fail to impress.

The question of whether an employer-employee relationship existed between petitioners and GMA has already been settled by the consistent

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45 *E. Ganzon, Inc. v. Ando Jr.*, 806 Phil. 58, 63–64 (2017) [Per J. Peralta, Second Division]. Citations omitted.

46 Id. at 65.

47 *Rollo*, p. 1065.

48 Id.

rulings of the National Labor Relations Commission and the Court of Appeals. To once and for all put this matter to rest, this Court further clarifies their pronouncements.

A four-fold test has been applied in determining the existence of an employer-employee relationship. In *Begino v. ABS-CBN*:[49]

> To determine the existence of [an employer-employee relationship], case law has consistently applied the four-fold test, to wit: (a) *the selection and engagement of the employee*; (b) the *payment of wages*; (c) the *power of dismissal*; and (d) the employer's *power to control* the employee on the means and methods by which the work is accomplished. Of these criteria, the so-called *"control test" is generally regarded as the most crucial and determinative indicator of the presence or absence of an employer-employee relationship.* Under this test, an employer-employee relationship is said to exist where the person for whom the services are performed reserves the right to control not only the end result but also the manner and means utilized to achieve the same.[50] (Citations omitted, emphasis supplied)

Thus, to be considered employees of GMA, petitioners must prove the following: (1) that GMA engaged their services; (2) that GMA compensated them; (3) that GMA had the power to dismiss them; and more importantly, (4) that GMA exercised control over the means and methods of their work.

On the power of hiring, there is no question that petitioners were engaged by and rendered services directly to GMA. Even GMA concedes that it engaged petitioners to perform functions, which had been found by the National Labor Relations Commission and the Court of Appeals to be necessary and desirable to GMA's usual business as both a television and broadcasting company.[51]

On the payment of wages, that petitioners were paid so-called "service fees" and not "wages"[52] is merely a matter of nomenclature. Likewise, it is of no consequence that petitioners were paid on a per-shoot basis, since this is only a mode of computing compensation and does not, in any way, preclude GMA's control over the distribution of their wages and the manner by which they carried out their work.

It is settled that the mode of computing compensation is not the decisive factor in ascertaining the existence of an employer-employee relationship. What matters is that the employee received compensation from the employer

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49 758 Phil. 467 (2015) [Per J. Perez, First Division].

50 Id. at 478–479 *citing Bernarte v. Philippine Basketball Association*, 673 Phil. 384 (2011) [Per J. Carpio, Second Division]; and *Abante, Jr. v. Lamadrid Bearing & Parts Corp.*, 474 Phil. 414 (2004) [Per J. Ynares-Santiago, First Division].

51 *Rollo*, p. 1064.

52 Id. at 1068.

for the services that he or she rendered.[53] Here, there is no question that GMA directly compensated petitioners for their services.

On the power to dismiss, the Court of Appeals correctly sustained the National Labor Relations Commission in noting that the power of dismissal "is implied and is concomitant with the power to select and engage; in other words, it is also the power to disengage."[54] GMA maintains that petitioners were merely "disengaged" from service. This, again, is a futile effort at splitting hairs. Disengagement in the context of an employer-employee relationship amounts to dismissal.

Finally, on the most important element of control, it becomes necessary to determine whether GMA exercised control over the means and methods of petitioners' work. Moreover, given GMA's specific representations on the nature of its engagement with petitioners, a review of the difference between an independent contractor and an employee is in order.

GMA rejects an explicit nomenclature recognizing it as having engaged petitioners as "talents" or independent contractors.[55] Yet, its denial of an employer-employee relationship, coupled with the claim that it merely exercised control over the output required of petitioners,[56] is an implicit assertion that it engaged petitioners as independent contractors. It also does not escape this Court's attention that the remuneration given to the petitioners was denominated as "*talent* fee."[57] This is consistent with petitioners' allegation that they were made to sign contracts indicating that they were "talents" or independent contractors of GMA.[58]

Chavez v. National Labor Relations[59] defines an independent contractor as:

> . . . one who carries on a distinct and independent business and undertakes to perform the job, work, or service on its own account and under its own responsibility according to its own manner and method, *free from the control and direction of the principal in all matters connected with the*

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53 *See Chavez v. National Labor Relations Commission*, 489 Phil. 444, 456–457 (2005) [Per J. Callejo, Second Division]:
Wages are defined as "remuneration or earnings, however designated, capable of being expressed in terms of money, whether fixed or ascertained on a time, task, piece or commission basis, or other method of calculating the same, which is payable by an employer to an employee under a written or unwritten contract of employment for work done or to be done, or for service rendered or to be rendered." That the petitioner was paid on a per trip basis is not significant. This is merely a method of computing compensation and not a basis for determining the existence or absence of employer-employee relationship. One may be paid on the basis of results or time expended on the work, and may or may not acquire an employment status, depending on whether the elements of an employer-employee relationship are present or not.

54 *Rollo*, p. 1067.

55 Id. at 1064.

56 Id. at 1069.

57 Id. at 738 and 98.

58 Id. at 14.

59 489 Phil. 444 (2005) [Per J. Callejo, Second Division].

performance of the work except as to the results thereof."[60] (Citation omitted, emphasis supplied)

An independent contractor "enjoys independence and freedom from the control and supervision of his principal" as opposed to an employee who is "subject to the employer's power to control the means and methods by which the employee's work is to be performed and accomplished."[61]

This Court exhaustively discussed the nature of an independent contractor relation in *Fuji Television Network, Inc. v. Espiritu*:[62]

> Independent contractors are recognized under Article 106 of the Labor Code:
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> > Art. 106. Contractor or subcontractor. — Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.
> > . . . .
> >
> > The Secretary of Labor and Employment may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.
> >
> > There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.
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> In Department Order No. 18-A, Series of 2011, of the Department of Labor and Employment, a contractor is defined as having:
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> > Section 3. . . .
> >
> > (c) . . . an arrangement whereby a principal agrees to put out or farm out with a contractor the performance or

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60 Id. at 457–458. Citing *Tan v. Lagrama*, 436 Phil. 190 (2002) [Per J. Mendoza, Second Division].
61 Id. at 458.
62 749 Phil. 388 (2014) [Per J. Leonen, Second Division].

> completion of a specific job, work or service within a definite or predetermined period, regardless of whether such job, work or service is to be performed or completed within or outside the premises of the principal.
>
> This department order also states that there is a trilateral relationship in legitimate job contracting and subcontracting arrangements among the principal, contractor, and employees of the contractor. There is no employer-employee relationship between the contractor and principal who engages the contractor's services, but there is an employer-employee relationship between the contractor and workers hired to accomplish the work for the principal.
>
> *Jurisprudence has recognized another kind of independent contractor: individuals with unique skills and talents that set them apart from ordinary employees.* There is no trilateral relationship in this case because the independent contractor himself or herself performs the work for the principal. In other words, the relationship is bilateral.
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> In *Orozco v. Court of Appeals*, Wilhelmina Orozco was a columnist for the Philippine Daily Inquirer. This court ruled that she was an independent contractor because of her "talent, skill, experience, and her unique viewpoint as a feminist advocate." In addition, the Philippine Daily Inquirer *did not have the power of control over Orozco, and she worked at her own pleasure.*
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> *Semblante v. Court of Appeals* involved a *masiador* and a *sentenciador*. This court ruled that "petitioners performed their functions as masiador and sentenciador *free from the direction and control of respondents*" and that the masiador and sentenciador "relied mainly on their 'expertise that is characteristic of the cockfight gambling.'" Hence, no employer-employee relationship existed.
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> *Bernarte v. Philippine Basketball Association* involved a basketball referee. This court ruled that "a referee is an independent contractor, *whose special skills and independent judgment are required specifically for such position and cannot possibly be controlled by the hiring party.*"
>
> In these cases, the workers were found to be independent contractors *because of their unique skills and talents and the lack of control over the means and methods in the performance of their work.*
>
> In other words, there are different kinds of independent contractors: those engaged in legitimate job contracting and those who have unique skills and talents that set them apart from ordinary employees.[63] (Citations omitted, emphasis supplied)

Evidently, the relationship between GMA and petitioners is bilateral since petitioners themselves performed work for GMA. Therefore, in order to be considered independent contractors and not employees of GMA, it must be shown that petitioners were hired because of their "unique skills and talents" and that GMA did not exercise control over the means and methods of their work.

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[63] Id. at 424–427.

Fuji's resolution of whether there existed an independent contractual relationship in that case entailed a comparison of the circumstances surrounding two (2) prior cases decided by this Court. *Fuji* considered *Sonza v. ABS-CBN*[64] and *Dumpit Murillo v. Court of Appeals*[65] in the following manner:

> Sonza was engaged by ABS-CBN *in view of his "unique skills, talent and celebrity status not possessed by ordinary employees."* His work was for radio and television programs. On the other hand, Dumpit-Murillo was hired by ABC as a newscaster and co-anchor.
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> Sonza's *talent fee amounted to P317,000.00 per month*, which this court found to be a substantial amount that indicated he was an independent contractor rather than a regular employee. Meanwhile, Dumpit-Murillo's monthly salary was P28,000.00, a very low amount compared to what Sonza received.
>
> Sonza was unable to prove that ABS-CBN could terminate his services apart from breach of contract. There was no indication that he could be terminated based on just or authorized causes under the Labor Code. In addition, ABS-CBN continued to pay his talent fee under their agreement, even though his programs were no longer broadcasted. Dumpit-Murillo was found to have been illegally dismissed by her employer when they did not renew her contract on her fourth year with ABC.
>
> In Sonza, this court ruled that ABS-CBN *did not control how Sonza delivered his lines, how he appeared on television, or how he sounded on radio.* All that Sonza needed was his talent. Further, "ABS-CBN could not terminate or discipline SONZA even if the means and methods of performance of his work . . . did not meet ABS-CBN's approval." In Dumpit-Murillo, the duties and responsibilities enumerated in her contract was a clear indication that ABC had control over her work.[66] (Citations omitted, emphasis supplied)

Here, petitioners were hired by GMA as camera operators. There is no showing at all that they were hired because of their "unique skills, talent and celebrity status not possessed by ordinary employees."

They were paid a meager salary ranging from ₱750.00 to ₱1500.00 per taping. Though wages are not a "conclusive factor in determining whether one is an employee or an independent contractor," it "may indicate whether one is an independent contractor."[67] In this case, the sheer modesty of the remuneration rendered to petitioners undermines the assertion that there was something particularly unique about their status, talents, or skills.

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64 475 Phil. 539 (2004) [Per J. Carpio, First Division].

65 551 Phil. 725 (2007) [Per J. Quisimbing, Second Division].

66 *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 432–433 (2014) [Per J. Leonen, Second Division].

67 Id. at 433.

More importantly, petitioners were subject to GMA's control and supervision. Moreover:

(1) Their recordings and shoots were never left to their own discretion and craft;
(2) They were required to follow the work schedules which GMA provided to them;
(3) They were not allowed to leave the work site during tapings, which often lasted for days;
(4) They were also required to follow company rules like any other employee.

GMA provided the equipment they used during tapings. GMA also assigned supervisors to monitor their performance and guarantee their compliance with company protocols and standards.[68]

Having satisfied the element of control in determining the existence of an employer-employee relationship, the next matter for resolution is whether petitioners were regular employees of GMA.

III

Petitioners maintain that as camera operators, petitioners performed functions that were necessary and desirable to GMA's usual business as a television and broadcasting company. They emphasize that their continuous employment with GMA, despite the end of shooting and recording for each television program to which they were assigned, further demonstrates the necessity and desirability of the functions they were performing. Accordingly, they were regular employees.[69]

Petitioners' assertions are well-taken.

Classifying employment, that is, whether an employee is engaged as a regular, project, seasonal, casual, or fixed-term employee, is "determined by law, regardless of any contract expressing otherwise."[70]

Article 295 of the Labor Code identifies four (4) categories of employees, namely: (1) regular; (2) project; (3) seasonal; and (4) casual employees. Furthermore:

> Article 295. Regular and casual employment. — The provisions of

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68 *Rollo*, p. 883.
69 Id. at 18–19.
70 *GMA Network, Inc. v. Pabriga*, 722 Phil. 161, 169 (2013) [Per J. Leonardo-De Castro, First Division].

> 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 [sic], 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. (Emphasis supplied)

Brent School, Inc. v. Zamora[71] recognized another category: fixed-term employees. Fixed-term employment sanctions the possibility of a purely contractual relationship between the employer and the fixed-term employee, provided that certain requisites are met. Consequently, terms and conditions stipulated in the contract govern their relationship, particularly with respect to the duration of employment.[72]

Pursuant to Article 295, *GMA Network, Inc. v. Pabriga* states:

> . . . employees performing activities which are usually necessary or desirable in the employer's usual business or trade can either be *regular, project or seasonal employees*, while, as a general rule, those performing activities not usually necessary or desirable in the employer's usual business or trade are *casual employees*."[73] (Emphasis supplied)

Nevertheless, though project and seasonal employees may perform functions that are necessary and desirable to the usual business or trade of the employer, the law distinguishes them from regular employees in that, project and seasonal employees are generally needed and engaged to perform tasks which only last for a specified duration. The relevance of this distinction finds support in how "only employers who constantly need the specified tasks to be performed can be justifiably charged to uphold the constitutionally protected security of tenure of the corresponding workers."[74]

Conformably, Article 294 of the Labor Code provides:

> Article 294. [279] *Security of Tenure*. — In cases of regular employment, the employer shall not terminate the services of an employee

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71 260 Phil. 747 (1990) [Per J. Narvasa, En Banc].
72 Id. at 760.
73 *GMA Network, Inc. v. Pabriga*, 722 Phil. 161, 170 (2013) [Per J. Leonardo-De Castro, First Division].
74 Id.

> 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 backwages, 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. (Citation omitted)

Here, GMA argues that petitioners should have rendered "at least one (1) year of service equivalent to 313 working days (6-day work per week) or 261 days (5-day work per week)" before they are deemed to have attained regular status.[75] It harps on the March 3, 2017 Decision of the Court of Appeals which noted that petitioners cannot be deemed regular employees since they failed to comply with the one-year period supposedly required by law. Quite notably, GMA does not refute the finding that petitioners performed functions necessary and desirable to its usual business, it merely insists on a supposedly requisite duration.

From the plain language of the second paragraph of Article 295 of the Labor Code,[76] it is clear that the requirement of rendering "at least one (1) year of service[,]" before an employee is deemed to have attained regular status, only applies to casual employees. An employee is regarded a casual employee if he or she was engaged to perform functions which are *not* necessary and desirable to the usual business and trade of the employer.[77] Thus, when one is engaged to perform functions which are necessary and desirable to the usual business and trade of the employer, engagement for a year-long duration is not a controlling consideration.

GMA's claim that petitioners were required to render at least one (1) year of service before they may be considered regular employees finds no basis in law. Petitioners were never casual employees precisely because they performed functions that were necessary and desirable to the usual business of GMA. They did not need to render a year's worth of service to be considered regular employees.

Of course, that petitioners performed functions which were necessary and desirable to GMA's usual trade business could nevertheless mean that they were project employees whose engagements were fundamentally time-bound. This Court finds that they were not.

As opposed to a regular employee, a project employee *may or may not*

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75 *Rollo*, p. 1060.

76 LABOR CODE, art. 295, par. 2 provides:
Article 295, par. 2. *Regular and casual employment.* -- An employment shall be deemed to be casual if it is not covered by the preceding paragraph: *Provided*, That [sic] 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.

77 *GMA Network, Inc. v. Pabriga*, 722 Phil. 161, 170–171 (2013) [Per J. Leonardo-De Castro, First Division].

perform functions that are usually necessary or desirable in the usual business or trade of the employer. This has been extensively discussed in *GMA Network, Inc. v. Pabriga*:[78]

> [T]he activities of project employees **may or may not** be usually necessary or desirable in the usual business or trade of the employer, as we have discussed in *ALU-TUCP v. National Labor Relations Commission*, and recently reiterated in *Leyte Geothermal Power Progressive Employees Union-ALU-TUCP v. Philippine National Oil Company-Energy Development Corporation*. In said cases, we clarified the term "project" in the test for determining whether an employee is a regular or project employee:
>
> > It is evidently important to become clear about the meaning and scope of the term "project" in the present context. The "project" for the carrying out of which "project employees" are hired would ordinarily have some relationship to the usual business of the employer. Exceptionally, the "project" undertaking might not have an ordinary or normal relationship to the usual business of the employer. In this latter case, the determination of the scope and parameters of the "project" becomes fairly easy. It is unusual (but still conceivable) for a company to undertake a project which has absolutely no relationship to the usual business of the company; thus, for instance, it would be an unusual steel-making company which would undertake the breeding and production of fish or the cultivation of vegetables. From the viewpoint, however, of the legal characterization problem here presented to the Court, there should be no difficulty in designating the employees who are retained or hired for the purpose of undertaking fish culture or the production of vegetables as "project employees," as distinguished from ordinary or "regular employees," so long as the duration and scope of the project were determined or specified at the time of engagement of the "project employees." For, as is evident from the provisions of Article [295] of the Labor Code, quoted earlier, **the principal test for determining whether particular employees are properly characterized as "project employees" as distinguished from "regular employees,"** ***is whether or not the "project employees" were assigned to carry out a "specific project or undertaking," the duration (and scope) of which were specified at the time the employees were engaged for that project.***
>
> > In the realm of business and industry, we note that **"project" could refer to one or the other of at least two (2) distinguishable types of activities.** ***Firstly*****, a project could refer to 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**. Such job or undertaking begins and ends at determined or determinable times. The typical example of

[78] 722 Phil. 170 (2013) [Per J. Leonardo-De Castro, First Division].

> this first type of project is a particular construction job or project of a construction company. A construction company ordinarily carries out two or more [distinct] identifiable construction projects: e.g., a twenty-five-[story] hotel in Makati; a residential condominium building in Baguio City; and a domestic air terminal in Iloilo City. Employees who are hired for the carrying out of one of these separate projects, the scope and duration of which has been determined and made known to the employees at the time of employment, are properly treated as "project employees," and their services may be lawfully terminated at completion of the project.
>
> **The term "project" could also refer to, secondly, a particular job or undertaking that is *not within the regular business of the corporation*.** Such a job or undertaking must also be identifiably separate and distinct from the ordinary or regular business operations of the employer. The job or undertaking also begins and ends at determined or determinable times...
>
> Thus, in order to safeguard the rights of workers against the arbitrary use of the word "project" to prevent employees from attaining the status of regular employees, employers claiming that their workers are project employees should not only prove *that the duration and scope of the employment was specified at the time they were engaged*, but also *that there was indeed a project*. As discussed above, the project could either be (1) 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 (2) a particular job or undertaking that is not within the regular business of the corporation. As it was with regard to the distinction between a regular and casual employee, the purpose of this requirement is to delineate whether or not the employer is in constant need of the services of the specified employee. If the particular job or undertaking is within the regular or usual business of the employer company *and* it is not identifiably distinct or separate from the other undertakings of the company, there is clearly a constant necessity for the performance of the task in question, and therefore said job or undertaking should not be considered a project.[79] (Citations omitted, emphasis and underscoring in the original)

From this, project employment ultimately requires the existence of a project or an undertaking which could either be: (1) a particular job within the regular or usual business of the employer, but which is distinct and separate, and identifiable as such, from the other undertakings of the company; or (2) a particular job not within the regular business of the company. It is not enough that the employee is made aware of the duration and scope of employment at the time of engagement. To rule otherwise would be to allow employers to easily circumvent an employee's right to security of tenure through the convenient artifice of communicating a duration or scope.

In this case, GMA repeatedly engaged petitioners as camera operators

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[79] Id. at 170–172.

for its television programs. As camera operators, petitioners performed activities which are: (1) within the regular and usual business of GMA; and (2) not identifiably distinct or separate from the other undertakings of GMA. It would be absurd to consider the nature of their work of operating cameras as distinct or separate from the business of GMA, a broadcasting company that produces, records, and airs television programs. From this alone, the petitioners cannot be considered project employees for there is no distinctive "project" to even speak of.

Neither should GMA's assertion that petitioners were merely engaged as pinch-hitters or substitutes, whose employment are for a specific duration or period, prevent them from being regular employees. Again, from *GMA Network, Inc. v. Pabriga*:[80]

> Every industry, even public offices, has to deal with securing substitutes for employees who are absent or on leave. Such tasks, whether performed by the usual employee or by a substitute, cannot be considered separate and distinct from the other undertakings of the company. *While it is management's prerogative to device a method to deal with this issue, such prerogative is not absolute and is limited to systems wherein employees are not ingeniously and methodically deprived of their constitutionally protected right to security of tenure. We are not convinced that a big corporation such as petitioner cannot device a system wherein a sufficient number of technicians can be hired with a regular status who can take over when their colleagues are absent or on leave, especially when it appears from the records that petitioner hires so-called pinch-hitters regularly every month.*[81] (Emphasis supplied)

Fuji,[82] citing *ABS-CBN Broadcasting Corporation v. Nazareno*,[83] explained the test for determining regular employment, as follows:

> The test for determining regular employment is whether there is a reasonable connection between the employee's activities and the usual business of the employer. Article [295] provides that the nature of work must be "necessary or desirable in the usual business or trade of the employer" as the test for determining regular employment. As stated in *ABS-CBN Broadcasting Corporation v. Nazareno*:
>
> > In determining whether an employment should be considered regular or non-regular, the applicable test is the *reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer*. The standard, supplied by the law itself, *is whether the work undertaken is necessary or desirable in the usual business or trade of the employer*, a fact that can be assessed by looking into the nature of the services rendered and its relation to the general scheme

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80 722 Phil. 161 (2013) [Per J. Leonardo-De Castro, First Division].
81 Id. at 174–175.
82 749 Phil. 388 (2014) [Per J. Leonen, Second Division].
83 534 Phil. 306 (2006) [Per J. Callejo, Sr., First Division].

> under which the business or trade is pursued in the usual course. It is distinguished from a specific undertaking that is divorced from the normal activities required in carrying on the particular business or trade.[84] (Emphasis supplied)

GMA is primarily engaged in the business of broadcasting, which encompasses the production of television programs. Following the nature of its business, GMA is naturally and logically expected to engage the service of camera operators such as petitioners, in case it ceases business by failing to shoot and record any television program. Again, that petitioners' work as camera operators was necessary and desirable to the usual business of GMA has long been settled by the consistent rulings of both the National Labor Relations Commission and the Court of Appeals. Even GMA fails to refute these findings.

This Court finds no cogent reason to depart from these rulings. There is no denying that a reasonable connection exists between petitioners' work as camera operators and GMA's business as both a television and broadcasting company. The repeated engagement of petitioners over the years only reinforces the indispensability of their services to GMA's business. Mindful of these considerations, this Court is certain that the petitioners were GMA's regular employees.

IV

Fuji,[85] citing *Pabriga*,[86] explained the standards on fixed-term employment contracts established in *Brent* in this manner:

> Cognizant of the possibility of abuse in the utilization of fixed-term employment contracts, we emphasized in *Brent* that *where from the circumstances it is apparent that the periods have been imposed to preclude acquisition of tenurial security by the employee, they should be struck down as contrary to public policy or morals*. We thus laid down indications or criteria under which "term employment" cannot be said to be in circumvention of the law on security of tenure, namely:
>
> 1) The fixed period of employment *was knowingly and voluntarily agreed upon* 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
>
> 2) It satisfactorily appears that the employer and the employee *dealt with each other on more or less equal terms with no moral dominance* exercised by the former or the latter.
>
> These indications, which must be read together, make the Brent doctrine applicable only in a few special cases wherein the employer and

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84 *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 435 (2014) [Per J. Leonen, Second Division].
85 749 Phil. 388 (2014) [Per J. Leonen, Second Division].
86 722 Phil. 161 (2013) [Per J. Leonardo-De Castro, First Division].

> employee are on more or less in equal footing in entering into the contract. The reason for this is evident: when a prospective employee, on account of special skills or market forces, is in a position to make demands upon the prospective employer, such prospective employee needs less protection than the ordinary worker. Lesser limitations on the parties' freedom of contract are thus required for the protection of the employee.[87] (Citation omitted, emphasis supplied)

That the contract was "knowingly and voluntarily agreed upon" and that the "employer and employee dealt with each other on more or less equal terms," when taken together, renders a contract for fixed-term employment valid and enforceable.

Nevertheless, this Court has not cowered in invalidating fixed-term employment contracts in instances where the employer fails to show that it dealt with the employee in "more or less equal terms." As discussed in *Pabriga*:[88]

> [W]hen a prospective employee, on account of special skills or market forces, is in a position to make demands upon the prospective employer, such prospective employee needs less protection than the ordinary worker. Lesser limitations on the parties' freedom of contract are thus required for the protection of the employee. These indications were applied in *Pure Foods Corporation v. National Labor Relations Commission*, where we discussed the patent inequality between the employer and employees therein:
>
> > [I]t could not be supposed that private respondents and all other so-called "casual" workers of [the employer] knowingly and voluntarily agreed to the 5-month employment contract. Cannery workers are never on equal terms with their employers. Almost always, they agree to any terms of an employment contract just to get employed considering that it is difficult to find work given their ordinary qualifications. Their freedom to contract is empty and hollow because theirs is the freedom to starve if they refuse to work as casual or contractual workers. Indeed, to the unemployed, security of tenure has no value. It could not then be said that petitioner and private respondents "dealt with each other on more or less equal terms with no moral dominance whatever being exercised by the former over the latter.["]
>
> To recall, it is doctrinally entrenched that in illegal dismissal cases, the employer has the burden of proving with clear, accurate, consistent, and convincing evidence that the dismissal was valid. It is therefore the employer which must satisfactorily show that it was not in a dominant position of advantage in dealing with its prospective employee. Thus, in *Philips Semiconductors (Phils.), Inc. v. Fadriquela*, this Court rejected the employer's insistence on the application of the Brent doctrine when the sole

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87 *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 422–423 (2014) [Per J. Leonen, Second Division].

88 722 Phil. 161 (2013) [Per J. Leonardo-De Castro, First Division].

employer's insistence on the application of the Brent doctrine when the sole justification of the fixed terms is to respond to temporary albeit frequent need of such workers:

> We reject the petitioner's submission that it resorted to hiring employees for fixed terms to augment or supplement its regular employment "for the duration of peak loads" during short-term surges to respond to cyclical demands; hence, it may hire and retire workers on fixed terms, ad infinitum, depending upon the needs of its customers, domestic and international. Under the petitioner's submission, any worker hired by it for fixed terms of months or years can never attain regular employment status. . . .[89] (Citations omitted)

Similarly, in this case, this Court cannot enable GMA in hiring and rehiring workers solely depending on its fancy, getting rid of them when, in its mind, they are bereft of prior utility, and with a view to circumvent their right to security of tenure. It would be improper to classify Ventura as a fixed-term employee considering that GMA did not even allege the manner as to how the terms of the contract with him were agreed upon.

It is "the employer which must satisfactorily show that it was not in a dominant position of advantage in dealing with its prospective employee."[90] Thus, the burden is upon GMA as the employer to prove that it dealt with Ventura in more or less equal terms in the execution of the talent agreements with him. Sweeping guarantees that the contract was knowingly and voluntarily agreed upon by the parties and that the employer and the employee stood on equal footing will not suffice.

That Ventura never contested the execution of his talent agreements cannot in any way operate to preclude him from attaining regular employment status. This Court is not blind to the unfortunate tendency for many employees to cede their right to security of tenure rather than face total unemployment.

V

As regular employees, petitioners enjoy the right to security of tenure. Thus, they may only be terminated for just or authorized cause, and after due notice and hearing. The burden to prove that a dismissal was anchored on a just or authorized cause rests on the employer. The employer's failure to discharge this burden leads to no other conclusion than that a dismissal was illegal.

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89 *GMA Network, Inc. v. Pabriga*, 722 Phil. 161, 179 (2013) [Per J. Leonardo-De Castro, First Division].
90 Id. at 179.

It was thus, incumbent upon GMA to ensure that petitioners' dismissals were made in keeping with the requirements of substantive and procedural due process. GMA, however, miserably failed to allege in its Comment, much less prove, that petitioners' dismissals were impelled by any of the just or authorized causes recognized in in Articles 297,[91] 298,[92] 299[93] or 279(a)[94] of the Labor Code.

As illegally dismissed employees, petitioners are entitled to reinstatement to their positions with full backwages computed from the time of dismissal up to the time of actual reinstatement. Where reinstatement is no longer feasible, petitioners should be given separation pay in addition to full backwages.

Further, petitioners are entitled to the payment of attorney's fees as they were forced to litigate. "It is settled that in actions for recovery of wages or

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91 LABOR CODE, art. 297 provides:
ARTICLE 297. [282] Termination by Employer. — An employer may terminate an employment for any of the following causes:
(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
(b) Gross and habitual neglect by the employee of his duties;
(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
(e) Other causes analogous to the foregoing.

92 LABOR CODE, art. 298 provides:
ARTICLE 298. [283] Closure of Establishment and Reduction of Personnel. — The employer may also terminate the employment of any employee due to the installation of labor-saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the workers and the Ministry of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (1/2) month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered one (1) whole year.

93 LABOR CODE, art. 299 provides:
ARTICLE 299. [284] Disease as Ground for Termination. — An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees: Provided, That he is paid separation pay equivalent to at least one (1) month salary or to one-half (1/2) month salary for every year of service, whichever is greater, a fraction of at least six (6) months being considered as one (1) whole year.

94 LABOR CODE, art. 279 provides:
ARTICLE 279. [264] Prohibited Activities. — (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.
No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.
Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.

where an employee was forced to litigate and, thus, incur expenses to protect his rights and interest, the award of attorney's fees is legally and morally justifiable."[95]

Finally, petitioners are entitled to interest at the legal rate at the rate of 6% per annum until the monetary awards due to them are fully paid, pursuant to *Nacar v. Gallery Frames*.[96]

WHEREFORE, this Court resolves to **GRANT** the Petition. The assailed March 3, 2017 Decision and October 26, 2017 Resolution of the Court of Appeals are **REVERSED** and **SET ASIDE.**

The following petitioners are **DECLARED** regular employees of respondent GMA Network Inc. and are **ORDERED REINSTATED** to their former positions and to be **PAID** backwages, allowances, and other benefits from the time of their illegal dismissal up to the time of their actual reinstatement:

1. Henry T. Paragele
2. Roland Elly C. Jaso
3. Julie B. Aparente
4. Roderico S. Abad
5. Milandro B. Zafe Jr.
6. Richard P. Bernardo
7. Joseph C. Agus
8. Romerald S. Taruc
9. Zernan Bautista
10. Arnold Motita
11. Jeffrey Canaria
12. Rommel F. Bulic
13. Henry N. Ching
14. Nomer C. Orozco
15. Jameson M. Fajilan
16. Jay Albert E. Torres
17. Rodel P. Galero
18. Carl Lawrence Jasa Nario
19. Romeo Sanchez Mangali III
20. Francisco Rosales Jr.
21. Bonicarl Penaflorida Usaraga
22. Joven P. Licon
23. Noriel Barcita Sy
24. Gonzalo Manabat Bawar
25. David Adonis S. Ventura
26. Solomon Pico Sarte

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95 *Aliling v. Feliciano*, 686 Phil. 889, 922 (2012) [Per J. Velasco, Jr., Third Division], *citing Rutaquio v. National Labor Relations Commission*, 375 Phil. 405, 418 (1999) [Per J. Purisima, Third Division].

96 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

27. Jony F. Liboon
28. Jonathan Peralta Anito
29. Jerome Torralba
30. Jayzon Marsan

Respondent GMA Network, Inc, is further ordered to pay each of the petitioners' attorney's fees equivalent to ten percent (10%) of total monetary award accruing to each of them.

The amounts due to each petitioner shall bear legal interest at the rate of six percent (6%) per annum, to be computed from the finality of this Decision until full payment.

The case is **REMANDED** to the Labor Arbiter for the computation of backwages and other monetary awards due to petitioners.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
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.

MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.

DIOSDADO M. PERALTA
Chief Justice

CERTIFIED TRUE COPY

MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

NOV 04 2020