Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

VANESSA LAURA ARCILLA,
Petitioner,

-versus-

SAN SEBASTIAN COLLEGE-RECOLETOS, MANILA,
Respondent.

G.R. No. 235863

Present:

LEONEN, *J., Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J.,
KHO, JR., *JJ.*

Promulgated:
OCT 10 2022

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DECISION

LEONEN, *J.*:

When a full-time employee's probationary status overlaps with a fixed-term contract not specifically used for the fixed term it offers—as when the fixed term is merely for a convenient arrangement to coincide with the school's academic year—the probationary nature of the employment prevails. The employer cannot simply invoke the expiration of the fixed term. The employment may only be terminated for a just or authorized cause or due to the employee's failure to meet the reasonable standards made known to the employee at the time of the engagement.[1]

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[1] *See Mercado v. AMA Computer College-Parañaque City, Inc.*, 632 Phil. 228 (2010) [Per J. Brion, Second Division].

This Court resolves a Petition for Review on Certiorari[2] assailing the Decision[3] of the Court of Appeals, which nullified the Decision[4] and Resolution[5] of the National Labor Relations Commission and reinstated the Labor Arbiter's Decision[6] dismissing Vanessa Laura Arcilla (Arcilla)'s Complaint for illegal dismissal.

Arcilla is a master's degree holder in counseling psychology, a certified specialist in counseling psychology, a registered guidance counselor, and a registered psychometrician.[7]

San Sebastian College-Recoletos, Manila (San Sebastian) is a private educational institution duly established and existing under the laws of the Philippines, and duly authorized by the Commission on Higher Education. It is operated by the Augustinian Recollect Fathers.[8]

On December 17, 2014, San Sebastian appointed Arcilla as a full-time probationary faculty member of the College of Arts and Sciences' Area of Psychology for the second semester of School Year 2014 to 2015. The employment contract stated that Arcilla's appointment commenced on November 21, 2014 and would end on March 31, 2015, unless extended by San Sebastian. It also stated, among others, that its renewal or extension was discretionary upon San Sebastian, and that Arcilla's appointment could be revoked before the expiration period if she would be found to have violated the employment contract or committed acts inimical to San Sebastian's interests, students, or moral values.[9]

San Sebastian did not assign any classes to Arcilla for the summer semester, but it reappointed her on April 24, 2015 for the first semester of School Year 2015 to 2016.[10] Her contract for the period of June 1, 2015 until October 31, 2015 had the same terms and conditions as the first contract.[11]

San Sebastian did not reappoint Arcilla for the following semester. On October 9, 2015, the college dean told her that she could not be given a teaching load purportedly due to a low turnout of enrollees. In an October 21,

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2 *Rollo*, pp. 3–29.

3 Id. at 30–48. The November 29, 2017 Decision was penned by Associate Justice Fernanda Lampas Peralta, and concurred in by Associate Justices Elihu A. Ybañez and Carmelita Salandanan Manahan of the Fourth Division, Court of Appeals, Manila.

4 Id. at 196–205. The November 15, 2016 Decision was penned by Presiding Commissioner Grace E. Maniquiz-Tan, and concurred in by Commissioner Dolores M. Peralta-Beley of the Fifth Division, National Labor Relations Commission, Quezon City.

5 Id. at 213–217. The January 31, 2017 Resolution was penned by Presiding Commissioner Grace E. Maniquiz-Tan, and concurred in by Commissioner Dolores M. Peralta-Beley of the Fifth Division, National Labor Relations Commission, Quezon City.

6 Id. at 158–172. The Decision was penned by Labor Arbiter Marita V. Padolina.

7 Id. at 64.

8 Id. at 109.

9 Id. at 81.

10 Id. at 85.

11 Id. at 165–166.

2015 letter, Arcilla was informed that her probationary contract would not be renewed.[12]

Thus, on February 2, 2016, Arcilla filed before the National Labor Relations Commission a Complaint for illegal dismissal, unpaid 13th month pay, and over-deduction from salary against San Sebastian and some of its officers.[13] After undergoing conciliation-mediation conferences, San Sebastian paid Arcilla ₱15,278.21 as 13th month pay for 2015 and returned ₱3,750.00 as refund for the over-deduction from Arcilla's salary.[14] The other claims were referred to the Labor Arbiter.[15]

On March 16, 2016, Arcilla filed before the Labor Arbiter a Complaint for illegal dismissal against San Sebastian and some of its officers. She prayed for full backwages, separation pay in lieu of reinstatement, moral and exemplary damages, and attorney's fees.[16]

In the July 28, 2016 Decision,[17] the Labor Arbiter found that Arcilla was not illegally dismissed from employment,[18] but her employment contract merely expired.[19] Thus, the Labor Arbiter dismissed Arcilla's Complaint for lack of merit.[20]

On appeal,[21] the National Labor Relations Commission issued a November 15, 2016 Decision[22] reversing the Labor Arbiter's Decision:

> WHEREFORE, premises considered, complainant's appeal is GRANTED. The assailed Decision of the Labor Arbiter dated July 28, 2016 is VACATED and a new one is issued DECLARING complainant Vanessa Laura S. Arcilla to have been illegally dismissed by respondent San Sebastian College-Reco[l]etos, Manila.
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> In view of the illegal dismissal of complainant, respondent San Sebastian-Recoletos, Manila is hereby ORDERED to pay complainant Vanessa Laura S. Arcilla the following:
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> 1) Backwages form the time of her illegal dismissal on October 31, 2015 up to October 30, 2017;
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> 2) Three-month salary as her separation pay;
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> [3)] Attorney's Fees equivalent to 10% of the monetary award[.]

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12 Id. at 67.
13 Id. at 52.
14 Id. at 38.
15 Id. at 55.
16 Id. at 56–57.
17 Id. at 158–172.
18 Id. at 169.
19 Id. at 169–171.
20 Id. at 172.
21 Id. at 173–189.
22 Id. at 196–205.

> Attached is the computation which forms part of the Decision.
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> SO ORDERED.[23]

In a January 31, 2017 Resolution,[24] the National Labor Relations Commission denied San Sebastian's Motion for Reconsideration.

Thus, San Sebastian filed a Petition for Certiorari[25] before the Court of Appeals. On November 29, 2017, the Court of Appeals issued its Decision[26] granting San Sebastian's Petition and reinstating the Labor Arbiter's Decision:

> WHEREFORE, the Decision dated November 15, 2016 and Resolution dated January 31, 2017 of public respondent National Labor Relations Commission are NULLIFIED. Accordingly, the Decision dated July 28, 2016 of the labor arbiter is REINSTATED.
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> SO ORDERED.[27]

The Court of Appeals first agreed with the National Labor Relations Commission that there was no merit to San Sebastian's claim that it did not renew Arcilla's appointment due to a K to 12 program-related retrenchment scheme. There was no evidence that the Department of Labor and Employment was notified of such a retrenchment, and Arcilla was not paid the required separation pay.[28]

However, the Court of Appeals found that since Arcilla's employment was probationary, her appointment could be validly terminated. It noted that it was not only the Labor Code that governed the probationary employment of teaching personnel. Under the Manual of Regulations for Private Higher Education, as well as the Guidelines on Status of Employment of Teachers and Academic Personnel of Private Educational Institutions, the maximum probationary period for academic personnel in the tertiary level was three years, or six consecutive semesters, or nine consecutive trimesters of satisfactory service. A teaching employee's vested right to a permanent position shall only accrue after the three-year period. Moreover, the mere rendition of employment for three consecutive years did not automatically ripen into permanent appointment since the employer may still determine if the employee has met its reasonable standards of competence and efficiency.[29]

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23 Id. at 204–205.
24 Id. at 214–217.
25 Id. at 219–239.
26 Id. at 30–48.
27 Id. at 47.
28 Id. at 41–42.
29 Id. at 43–44.

Here, the Court of Appeals found that Arcilla completed her second semester, or one year of service, when she received the notice of nonrenewal. There was no illegal dismissal since she was still under probation and the fixed period of her probationary contract had expired. Hence, it found that in holding that Arcilla was illegally dismissed, the National Labor Relations Commission gravely abused its discretion.[30]

On December 21, 2017, Arcilla filed before this Court a Petition for Review on Certiorari[31] against San Sebastian.

First, petitioner argues that she was correct in filing a petition for review before this Court instead of moving for reconsideration of the Court of Appeals' Decision. She points out that a motion for reconsideration was not a condition precedent for the filing of a petition for review. Further, she claims that the issue she brought before this Court is a pure question of law.[32]

Second, petitioner claims that respondent's Petition for Certiorari with the Court of Appeals was filed out of time. She claims that respondent's counsel failed to report the date of actual receipt of the National Labor Relations Commission's Resolution denying its Motion for Reconsideration. She points out that respondent's counsel received a copy of the Resolution on February 17, 2017, such that respondent should have had until April 18, 2017 to file its Petition for Certiorari. However, it only did so on April 21, 2017.[33]

Third, petitioner argues that respondent illegally dismissed her. She argues that when an employee's probationary status overlaps with a fixed-term contract not specifically used for the fixed term it offers, Article 281 (now Article 296) of the Labor Code should apply.[34] She cites *Mercado v. AMA Computer College-Parañaque City, Inc.*,[35] where this Court held that the probationary status of teachers should not be disregarded simply because their contract terms were fixed.[36] She argues that her employment could only be terminated for a just cause, or for failing to qualify as a regular employee based on her employer's reasonable standards made known to her at the time of her engagement. She points out that the National Labor Relations Commission found that there was only a bare allegation of just cause—dismal performance—but no evidence to prove it.[37]

In its Comments-Opposition,[38] respondent counters that the National Labor Relations Commission's Resolution was improperly served on the

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30 Id. at 45–47.
31 Id. at 3–29.
32 Id. at 13–15.
33 Id. at 15–17.
34 Id. at 17–19.
35 632 Phil. 228 (2010) [Per J. Brion, Second Division].
36 *Rollo*, p. 20.
37 Id. at 21–25.
38 Id. at 332–351.

security guard of the building where respondent's counsel held office. It argues that this did not constitute valid service under the 2011 NLRC Rules of Procedure and the Rules of Court.[39] It also posits that petitioner should have moved for reconsideration of the Court of Appeals' Decision before filing a petition before this Court because she raises questions of fact.[40] Finally, it argues that it had full discretion not to renew petitioner's contract after the fixed term had expired. To it, petitioner's employment was probationary and had not attained permanent status.[41]

In her Reply,[42] petitioner argues that "the person receiving the notices and processes of the court at the address duly specified by the parties is deemed to have been authorized to receive such."[43] She points out that there is no conflict between the National Labor Relations Commission's and the Court of Appeals' factual findings. She argues that the issue is a pure question of law that does not require the filing of a motion for reconsideration.[44] On the substantive aspect, petitioner asserts that respondent is attempting to circumvent the law on probationary employment.[45] She claims that respondent implemented an illegal dismissal, not a retrenchment.[46]

The issue for this Court's resolution is whether or not the Court of Appeals erred in ruling that the National Labor Relations Commission gravely abused its discretion in finding that petitioner Vanessa Laura Arcilla was illegally dismissed.

This Court grants the Petition.

For labor cases that originate from the National Labor Relations Commission, the remedy is to file a petition for certiorari before the Court of Appeals under Rule 65 of the Rules of Court. In it, the petitioner must establish the National Labor Relations Commission's grave abuse of discretion.[47] The remedy from the Court of Appeals' ruling is to file a petition for review on certiorari before this Court under Rule 45 of the Rules of Court. This Court explained in *Montoya v. Transmed Manila Corporation*[48] the parameters for its review of labor cases:

> In a Rule 45 review, we consider the correctness of the assailed CA 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

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39 Id. at 334–339.
40 Id. at 339–340.
41 Id. at 340–344.
42 Id. at 355–376. Entitled "Reply to Respondent's Comment."
43 Id. at 356.
44 Id. at 358–359.
45 Id. at 359–366.
46 Id. at 366.
47 *Securities and Exchange Commission v. Price Richardson Corporation*, 814 Phil. 589, 610 (2017) [Per J. Leonen, Second Division].
48 613 Phil. 696 (2009) [Per J. Brion, Second Division].

> raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it. This is the approach that should be basic in a Rule 45 review of a CA ruling in a labor case. In question form, the question to ask is: Did the CA correctly determine whether the NLRC committed grave abuse of discretion in ruling on the case?[49] (Citations omitted)

The same procedural antecedents are present in this case. Thus, we examine whether the Court of Appeals correctly ascribed grave abuse of discretion to the National Labor Relations Commission.

As early as 1941, in *Alafriz v. Nable*,[50] this Court has characterized grave abuse of discretion as:

> . . . such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, in other words, where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[51] (Citations omitted)

In *Quebral v. Angbus Construction, Inc.*,[52] this Court applied the definition to labor cases:

> In labor cases, grave abuse of discretion may be ascribed to the NLRC when its findings and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion. Thus, if the NLRC's ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare and, accordingly, dismiss the petition.[53] (Citations omitted)

Using these parameters, this Court finds that the Court of Appeals erred in finding that the National Labor Relations Commission gravely abused its discretion in reversing the Labor Arbiter's dismissal of petitioner's Complaint for illegal dismissal.

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49 Id. at 707.
50 72 Phil. 278 (1941) [Per J. Moran, First Division].
51 Id. at 280.
52 798 Phil. 179 (2016) [Per J. Perlas-Bernabe, First Division].
53 Id. at 188.

In resolving the Petition for Certiorari, the Court of Appeals' duty was to determine the presence or absence of grave abuse of discretion in the National Labor Relations Commission's Decision.[54] It was not for the Court of Appeals to decide whether the National Labor Relations Commission's Decision on the merits of the case was correct.[55] "[I]f the [National Labor Relations Commission's] ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the [Court of Appeals] should so declare and, accordingly, dismiss the petition."[56]

We recognize the need to strike a balance between the protection of labor and the exercise of academic freedom—both of which are enshrined in the Constitution. Article XIII, Section 3 of the Constitution provides:

> SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.
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> It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.
>
> The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.
>
> The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

On the other hand, Article XIV, Section 5(2) of the Constitution guarantees that "[a]cademic freedom shall be enjoyed in all institutions of higher learning."

In *Garcia v. The Faculty Admission Committee*,[57] this Court discussed the academic freedom enjoyed by institutions of higher learning:

> [I]t is to be noted that the reference is to the "institutions of higher learning" as the recipients of this boon. It would follow then that the school or college itself is possessed of such a right. It decides for itself its aims and objectives and how best to attain them. It is free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint. It

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54 *Montoya v. Transmed Manila Corporation*, 613 Phil. 696, 707 (2009) [Per J. Brion, Second Division].
55 Id.
56 *Quebral v. Angbus Construction, Inc.*, 798 Phil. 179, 188 (2016) [Per J. Perlas-Bernabe, First Division].
57 160-A Phil. 929 (1975) [Per J. Fernando, En Banc].

> has a wide sphere of autonomy certainly extending to the choice of students. This constitutional provision is not to be construed in a niggardly manner or in a grudging fashion. That would be to frustrate its purpose, nullify its intent.[58]

This concept of academic freedom finds its roots in the fundamental freedom of expression. In ancient Greece, philosophers and their students were persecuted and silenced in their pursuit of knowledge:

> Since Socrates, numberless individuals of the same heroic mold have similarly defied the stifling strictures of authority, whether State, Church, or various interest groups, to be able to give free rein to their ideas. Particularly odious were the insidious and blatant attempts at thought control during the time of the Inquisition until even the Medieval universities, renowned as intellectual centers in Europe, gradually lost their autonomy.
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> In time, such noble strivings, gathering libertarian encrustations along the way, were gradually crystallized in the cluster of freedoms which awaited the champions and martyrs of the dawning modern age. This was exemplified by the professors of the new German universities in the 16th and 17th centuries such as the Universities of Leiden (1575), Helmstadt (1574) and Heidelberg (1652). The movement back to freedom of inquiry gained adherents among the exponents of fundamental human rights of the 19th and 20th centuries. "Academic freedom", the term as it evolved to describe the emerging rights related to intellectual liberty, has traditionally been associated with freedom of thought, speech, expression and the press; in other words, with the right of individuals in university communities, such as professors, researchers and administrators, to investigate, pursue, discuss and, in the immortal words of Socrates, "to follow the argument wherever it may lead," free from internal and external interference or pressure.[59]

The academic freedom enjoyed by institutions of higher learning protects the unbridled pursuit of knowledge. More knowledge facilitates better, more meaningful participation. As Constitutional Commissioner Rosario Braid said, "[c]ommunication and information provide the leverage for power. They enable the people to act, to make decisions, to share consciousness in the mobilization of the nation."[60]

Ultimately, better education fosters a better democracy. In *Valmonte v. Belmonte, Jr.*,[61] this Court stated:

> An informed citizenry with access to the diverse currents in political, moral and artistic thought and data relative to them, and the free exchange

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58 Id. at 943.

59 *Ateneo de Manila University v. Capulong*, 294 Phil. 654, 672–673 (1993) [Per J. Romero, En Banc].

60 *Akbayan Citizens Action Party v. Aquino*, 580 Phil. 422, 579 (2008) [Per J. Carpio Morales, En Banc] *citing* V Record, Constitutional Commission 83 (September 25, 1986).

61 252 Phil. 264 (1989) [Per J. Cortes, En Banc].

> of ideas and discussion of issues thereon, is vital to the democratic government envisioned under our Constitution.[62]

Institutional academic freedom carries with it the right to select who are worthy to take part in the education of its students. Therefore, relationships between institutions of higher learning and their faculty members should not be viewed as simple employer-employee relationships. In evaluating them, the courts must accord institutions of higher learning the prerogative to determine who may teach. This includes setting standards for their teachers and determining whether they have been met.

Thus, this Court has acknowledged that academic personnel may be placed on probation pending the school's determination that they satisfy the prescribed standards:

> The standards by which the service of the probationary teacher may be adjudged satisfactory so that he may acquire permanence in his employment or security of tenure, are set by the school. The setting of those standards, and the determination of whether or not they have been met, have been held by this Court to be the prerogative of the school, consistent with academic freedom and constitutional autonomy by which educational institutions have the right to choose who should teach.[63] (Citation omitted)

Nevertheless, the autonomy of institutions of higher learning to set standards for their faculties must be tempered with the protection of labor. In determining who may teach, they cannot be arbitrary. One limitation is that the period of probation cannot exceed, among others, six consecutive regular semesters of satisfactory service for those in the tertiary level, or nine consecutive trimesters of satisfactory service for those in the tertiary level where collegiate courses are offered on a trimester basis.[64] Sections 92 and 93 of the 1992 Manual of Regulations for Private Schools state:

> SECTION 92. Probationary Period. — Subject in all instances to compliance with Department and school requirements, the probationary period for academic personnel shall not be more than three (3) consecutive years of satisfactory service for those in the elementary and secondary levels, six (6) consecutive regular semesters of satisfactory service for those in the tertiary level, and nine (9) consecutive trimesters of satisfactory service for those in the tertiary level where collegiate courses are offered on a trimester basis.
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> SECTION 93. Regular or Permanent Status. — Those who have served the probationary period shall be made regular or permanent. Full-time teachers who have satisfactorily completed their probationary period shall be considered regular or permanent.

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62 Id. at 270.

63 *La Salette of Santiago, Inc. v. National Labor Relations Commission*, 272-A Phil. 33, 38 (1991) [Per J. Narvasa, First Division].

64 1992 Manual of Regulations for Private Schools 8th Edition (1992), sec. 92.

During this period, the standards imposed on the probationary faculty members must be reasonable, well laid, and properly communicated.[65] The standards for regularization must be made known to the probationary faculty members with some specificity and measurability at the time of engagement. The employee must be clearly informed of the job's functions.[66] This Court only excuses the employer's failure to elaborate specific standards when the job is self-descriptive in nature, as in the case of maids, cooks, drivers, or messengers.[67]

The timing of the notice is equally important:

> In all cases of probationary employment, the employer shall make known to the employee the standards under which he will qualify as a regular employee at the time of his engagement. Where no standards are made known to the employee at the time of engagement, the employee shall be deemed a regular employee.[68]

Without having been previously informed of the standards to be applied during the period of probation, the employee cannot be deemed to have been on probation during that period.[69] The employee "is deemed to have been hired from day one as a regular employee."[70]

Notice of the standards at the time of the employee's engagement allows the employee the opportunity to decide whether to proceed with the contract of employment. It is important that the faculty member fully understands the standards, their rationale, and the measures that will be used by the school. This is manifested by the faculty member's acceptance of the contract's terms, giving rise to the special relationship between them and the school.

Finally, the employee must be notified on how the established standards have been applied to disqualify them from becoming a regular employee:

> Labor, for its part, is given the protection during the probationary period of knowing the company standards the new hires have to meet during the probationary period, *and to be judged on the basis of these standards*, aside from the usual standards applicable to employees after they achieve permanent status. Under the terms of the Labor Code, these standards

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65 *Mercado v. AMA Computer College-Parañaque City, Inc.*, 632 Phil. 228, 257 (2010) [Per J. Brion, Second Division].

66 *See Philippine Daily Inquirer v. Magtibay, Jr.*, 555 Phil. 326 (2007) [Per J. Garcia, First Division].

67 *Robinsons Galleria/Robinsons Supermarket Corporation v. Ranchez*, 655 Phil. 133, 142 (2011) [Per J. Nachura, Second Division].

68 LABOR CODE, Omnibus Rules Implementing the Labor Code (1974), Book VI, Rule I, sec. 6(d).

69 *ATCI Overseas Corporation v. Court of Appeals*, 414 Phil. 883, 892–893 (2001) [Per J. Gonzaga-Reyes, Third Division].

70 *Hacienda Primera Development Corporation v. Villegas*, 663 Phil. 86, 93 (2011) [Per J. Nachura, Second Division].

> should be made known to the teachers on probationary status at the start of their probationary period, or at the very least under the circumstances of the present case, at the start of the semester or the trimester during which the probationary standards are to be applied. *Of critical importance in invoking a failure to meet the probationary standards, is that the school should show — as a matter of due process — how these standards have been applied. This is effectively the second notice in a dismissal situation that the law requires as a due process guarantee supporting the security of tenure provision, and is in furtherance, too, of the basic rule in employee dismissal that the employer carries the burden of justifying a dismissal.* These rules ensure compliance with the limited security of tenure guarantee the law extends to probationary employees.[71] (Emphasis supplied, citations omitted)

This Court has likewise affirmed the validity of fixed-term contracts between academic personnel and institutions of higher learning so long as they do not circumvent the employee's right to security of tenure,[72] as where:

> . . . a fixed period of employment was agreed upon knowingly and voluntarily by the parties, without any force, duress or improper pressure being brought to bear upon the employee and absent any other circumstances vitiating his [or her] consent, or where it satisfactorily appears that the employer and employee dealt with each other on more or less equal terms with no moral dominance whatever being exercised by the former over the latter.[73]

Here, the Labor Arbiter,[74] the National Labor Relations Commission,[75] and the Court of Appeals[76] consistently found that the nature of petitioner's employment was both probationary and for a fixed term. This is supported by petitioner's employment contracts[77] annexed to her Position Paper.

In *Mercado v. AMA Computer College-Parañaque City, Inc.*,[78] this Court discussed the difference between probationary status and fixed-term employment, and why the probationary character prevails in case of an overlap:

> The fixed-term character of employment essentially refers ***to the period*** agreed upon between the employer and the employee; employment exists only for the duration of the term and ends on its own when the term expires. In a sense, employment on probationary status also refers to a period because of the technical meaning *"probation"* carries in Philippine labor law — a maximum period of six months, or in the academe, a period

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71 *Mercado v. AMA Computer College-Parañaque City, Inc.*, 632 Phil. 228, 255–256 (2010) [Per J. Brion, Second Division].

72 *Palgan v. Holy Name University*, G.R. No. 219916, February 10, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67208> [Per J. Hernando, Third Division].

73 *Brent School, Inc. v. Zamora*, 260 Phil. 747, 763 (1990) [Per J. Narvasa, En Banc].

74 *Rollo*, pp. 165–171.

75 Id. at 201–203.

76 Id. at 43–47.

77 Id. at 81 and 85.

78 632 Phil. 228 (2010) [Per J. Brion, Second Division].

of three years for those engaged in teaching jobs. Their similarity ends there, however, because of the overriding meaning that being *"on probation"* connotes, *i.e.*, a process of testing and observing the character or abilities of a person who is new to a role or job.

Understood in the above sense, the *essentially protective character of probationary status for management* can readily be appreciated. But this same protective character gives rise to the countervailing but equally protective rule that the probationary period can only last for a specific maximum period and under reasonable, well-laid and properly communicated standards. Otherwise stated, within the period of the probation, any employer move *based on the probationary standards* and affecting the continuity of the employment must strictly conform to the probationary rules.

Under the given facts where the school year is divided into trimesters, the school apparently utilizes its fixed-term contracts as a convenient arrangement dictated by the trimestral system and not because the workplace parties really intended to limit the period of their relationship to any fixed term and to finish this relationship at the end of that term. If we pierce the veil, so to speak, of the parties' so-called fixed-term employment contracts, what undeniably comes out at the core is a fixed-term contract conveniently used by the school to define and regulate its relations with its teachers *during their probationary period.*

To be sure, nothing is illegitimate in defining the school-teacher relationship in this manner. The school, however, cannot forget that its system of fixed-term contract is a system that operates during the probationary period and for this reason is subject to the terms of Article 281 of the Labor Code. ***Unless this reconciliation is made, the requirements of this Article on probationary status would be fully negated as the school may freely choose not to renew contracts simply because their terms have expired. The inevitable effect of course is to wreck the scheme that the Constitution and the Labor Code established to balance relationships between labor and management.***

Given the clear constitutional and statutory intents, we cannot but conclude that in a situation where the probationary status overlaps with a fixed-term contract *not specifically used for the fixed term it offers*, Article 281 should assume primacy and the fixed-period character of the contract must give way. This conclusion is immeasurably strengthened by the petitioners' and the AMACC's hardly concealed expectation that the employment on probation could lead to permanent status, and that the contracts are renewable unless the petitioners fail to pass the school's standards.

To highlight what we mean by a fixed-term contract *specifically used for the fixed term it offers,* a replacement teacher, for example, may be contracted for a period of one year to *temporarily* take the place of a permanent teacher on a one-year study leave. The expiration of the replacement teacher's contracted term, under the circumstances, leads to no probationary status implications as she was never employed on probationary basis; her employment is for a specific purpose with particular focus on the term and with every intent to end her teaching relationship with the school upon expiration of this term.

If the school were to apply the probationary standards (as in fact it

> says it did in the present case), these standards must not only be reasonable but must have also been communicated to the teachers at the start of the probationary period, or at the very least, at the start of the period when they were to be applied. These terms, *in addition to those expressly provided by the Labor Code,* would serve as the just cause for the termination of the probationary contract. As explained above, the details of this finding of just cause must be communicated to the affected teachers as a matter of due process.[79] (Emphasis in the original, citation omitted)

In other words, when an employee's probationary status overlaps with fixed-term employment not specifically used for a fixed term, the probationary nature of the employment prevails. Thus, the employee may not be dismissed solely because the fixed term expired. The employment may only be terminated for a just or authorized cause or when the employee fails to meet the reasonable standards made known to the employee at the time of the engagement.[80]

This rule in *Mercado* has been affirmed in *Colegio Del Santisimo Rosario v. Rojo*,[81] *Universidad de Sta. Isabel v. Sambajon, Jr.*,[82] *De La Salle Araneta University, Inc. v. Magdurulang*,[83] and *University of St. La Salle v. Glaraga*.[84]

Here, petitioner's probationary status overlapped with a fixed-term contract not specifically used for the fixed term offered. She was appointed with a probationary status for a fixed-term contract of one semester, then reappointed for another semester under the same terms and conditions. It is not shown that her fixed-term contracts were specifically used for the fixed terms they offer, but instead were adopted for convenience in accordance with respondent's academic calendar. When the second contract expired, petitioner was merely informed that her contract would not be renewed.

Pursuant to *Mercado*, between the probationary character and the fixed term of petitioner's employment, the probationary character will prevail. Thus, as the National Labor Relations Commission correctly did, Article 296 of the Labor Code should apply in this case:

> ARTICLE 296. [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*

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79 Id. at 256–258.
80 Id.
81 717 Phil. 265 (2013) [Per J. Del Castillo, Second Division].
82 731 Phil. 235 (2014) [Per J. Villarama, Jr., First Division].
83 820 Phil. 1133 (2017) [Per J. Perlas-Bernabe, Second Division].
84 G.R. No. 224170, June 10, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66255> [Per J. J. Reyes, Jr., First Division].

> *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. (Emphasis supplied)

Respondent may only terminate petitioner's employment for just or authorized causes, or if petitioner failed to qualify as a regular employee per respondent's reasonable standards set at the time of her engagement. However, the Court of Appeals failed to point to any just or authorized cause for petitioner's termination. It even affirmed the National Labor Relations Commission's finding that respondent failed to satisfy the requirements for a valid retrenchment.[85] Moreover, there is no allegation or proof that the nonrenewal of petitioner's contract was due to her failure to meet respondent's standards for regular employment. For merely invoking the expiration of the fixed term to terminate petitioner's employment, respondent illegally dismissed petitioner.

In finding that petitioner was not illegally dismissed, the Court of Appeals cited *Brent School v. Zamora*,[86] which stated that an educational institution may lawfully terminate the employment of a probationary employee-teacher who was under a fixed-term contract:

> Accordingly, and since the entire purpose behind the development of legislation culminating in the present Article 280 of the Labor Code clearly appears to have been, as already observed, to prevent circumvention of the employee's right to be secure in his tenure, the clause in said article indiscriminately and completely ruling out all written or oral agreements conflicting with the concept of regular employment as defined therein should be construed to refer to the substantive evil that the Code itself has singled out: agreements entered into precisely to circumvent security of tenure. It should have no application to instances where a fixed period of employment was agreed upon knowingly and voluntarily 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 where it satisfactorily appears that the employer and employee dealt with each other on more or less equal terms with no moral dominance whatever being exercised by the former over the latter. Unless thus limited in its purview, the law would be made to apply to purposes other than those explicitly stated by its framers; it thus becomes pointless and arbitrary, unjust in its effects and apt to lead to absurd and unintended consequences.
>
> Such interpretation puts the seal on *Bibiso* upon the effect of the expiry of an agreed period of employment as still good rule — a rule reaffirmed in the recent case of Escudero vs. Office of the President where, in the fairly analogous case of a teacher being served by her school a notice of termination following the expiration of the last of three successive fixed-term employment contracts, the Court held:
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> "Reyes' (the teacher's) argument is not persuasive. It loses sight of the fact that her employment was probationary,

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[85] *Rollo*, pp. 41–42.

[86] 260 Phil. 747 (1990) [Per J. Narvasa, En Banc].

> contractual in nature, and one with a definitive period. At the expiration of the period stipulated in the contract, her appointment was deemed terminated and the letter informing her of the non-renewal of her contract is not a condition sine qua non before Reyes may be deemed to have ceased in the employ of petitioner UST. The notice is a mere reminder that Reyes' contract of employment was due to expire and that the contract would no longer be renewed. It is not a letter of termination. The interpretation that the notice is only a reminder is consistent with the court's finding in Labajo, . . ."
>
> Paraphrasing Escudero, respondent Alegre's employment was terminated upon the expiration of his last contract with Brent School on July 16, 1976 without the necessity of any notice. The advance written advice given the Department of Labor with copy to said petitioner was a mere reminder of the impending expiration of his contract, not a letter of termination, nor an application for clearance to terminate which needed the approval of the Department of Labor to make the termination of his services effective. In any case, such clearance should properly have been given, not denied.[87] (Citations omitted)

However, the rule in *Brent* has been qualified in *Mercado*, as cited by petitioner. In *Mercado*, this Court noted that, while *Brent* settled the validity of fixed-term contracts, courts should take care in applying the case since it did not involve any issue of probationary employment.[88]

The Labor Arbiter[89] and the Court of Appeals[90] also relied on *Magis Young Achievers' Learning Center v. Manalo*[91] to say that petitioner had no vested right to a permanent position since she did not complete the three-year probationary period.

This reliance on *Magis* was misplaced. In *Magis*, this Court ruled that the teacher who was on probation may only be terminated for a just cause or for failure to meet the reasonable standards set by the employer at the time of the employee's engagement:

> As above discussed, probationary employees enjoy security of tenure during the term of their probationary employment such that they may only be terminated for cause as provided for by law, or if at the end of the probationary period, the employee failed to meet the reasonable standards set by the employer at the time of the employee's engagement. Undeniably, respondent was hired as a probationary teacher and, as such, it was incumbent upon petitioner to show by competent evidence that she did not meet the standards set by the school. This requirement, petitioner failed to discharge. To note, the termination of respondent was effected by that letter

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87 Id. at 763–764.

88 *Mercado v. AMA Computer College-Parañaque City, Inc.*, 632 Phil. 228, 250–251 (2010) [Per J. Brion, Second Division].

89 *Rollo*, p. 170.

90 Id. at 44–45.

91 598 Phil. 886 (2009) [Per J. Nachura, Third Division].

> stating that she was being relieved from employment because the school authorities allegedly decided, as a cost-cutting measure, that the position of "Principal" was to be abolished. Nowhere in that letter was respondent informed that her performance as a school teacher was less than satisfactory.[92]

All told, the National Labor Relations Commission's findings had basis in the evidence, the applicable law, and jurisprudence. Consequently, the Court of Appeals erroneously ascribed grave abuse of discretion to the National Labor Relations Commission.

ACCORDINGLY, the Petition for Review on Certiorari is **GRANTED**. The Court of Appeals' November 29, 2017 Decision in CA-G.R. SP No. 150537 is **REVERSED** and **SET ASIDE**. The National Labor Relations Commission's November 15, 2016 Decision is **REINSTATED**. Petitioner Vanessa Laura Arcilla is entitled to backwages from the time of her illegal dismissal on October 31, 2015 up to October 30, 2017; her three months' salary as her separation pay; and attorney's fees equivalent to 10% of the monetary award.

All monetary awards shall be subject to 6% interest per annum from the finality of this Decision until fully paid.[93]

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

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92 Id. at 907.

93 *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

ANTONIO T. KHO, JR.
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
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ALEXANDER G. GESMUNDO
Chief Justice