

EDMUND D. MANAHAY REPRESENTED HEREIN BY HIS LEGITIMATE WIFE MONA LISA V. MANAHAY, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (THIRD DIVISION), COCA COLA BOTTLERS PHILIP...

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the Petition for Certiorari[1] filed by Edmund Manahay (“petitioner Edmund”), imputing grave abuse of discretion on the part of the National Labor Relations Commission – Third Division (“NLRC”), in issuing the following: (1) Resolution[2] dated 15 October 2012 (“assailed Resolution”); (2) Resolution[3] dated 28 December 2012.

THE FACTS

Petitioner Edmund filed the Complaint[4] before the Labor Arbiter for illegal dismissal, non-payment of wages, overtime pay, 13[th] month pay, separation pay, illegal deductions of health card and Philhealth contributions, moral and exemplary damages, against the Coca-Cola Bottlers Philippines, Inc. (“private respondent CCBPI”), the Redsystems Company, Inc. (“private respondent TRCI”), Walter Wong (“private respondent Walter”), Ito So (“private respondent Ito”), and Eduardo Quintos (“private respondent Eduardo”).

Petitioner Edmund filed the Position Paper for the Complainant[5] before the Labor Arbiter, and alleged: petitioner Edmund started working with private respondent CCBPI in 2007 as a truck driver, receiving wages on a per trip basis, without service incentive leave pay and 13[th] month pay; Interserve Manpower Agency (“Interserve”) initially recruited petitioner Edmund, and deployed petitioner Edmund to private respondent CCBPI’s Dasmariñas Sales Office; petitioner Edmund transferred to Seven S. General Services, Inc. (“Seven S”), before joining private respondent TRCI in 2010; petitioner Edmund, as truck driver, was tasked to deliver products to the outlets and stores of private respondent CCBPI’s clients (i.e.: Tagaytay Cola, Silang Cola, CJJ, Romelo, EGR, Valley Forge), and to follow a specific set of guidelines (i.e.: load products to the truck; hand to driver the receipt; check the loaded products and the truck; check-out for delivery; deliver the products; return to the plant); during one of petitioner Edmund’s deliveries, petitioner Edmund was allegedly caught stealing the gasoline of the truck he was driving, and then selling the gasoline; private respondent CCBPI immediately suspended petitioner Edmund for one month, without giving petitioner Edmund the opportunity to explain; even after petitioner Edmund had served the one month suspension, private respondent CCBPI did not allow petitioner Edmund to return to work, and instead required petitioner Edmund to serve an extended suspension of 15 days, with the assurance that private respondent CCBPI will pay petitioner Edmund his wages, but private respondent CCBPI did not pay petitioner Edmund his salary (from 16 September 2011 to 3 October 2011), and the proportionate 13[th] month pay (January 2011 to September 2011), and then private respondent CCBPI dismissed petitioner Edmund per the Notice of Termination dated 22 September 2011;[6] private respondent CCBPI dismissed petitioner Edmund, without giving petitioner Edmund an opportunity to explain, and thus the termination was illegal; facts showed that petitioner Edmund was an employee of private respondent CCBPI, and

not of private respondent TRCI (i.e.: petitioner Edmund was servicing private respondent CCBPI's clients; the nature of petitioner Edmund's work was necessary and desirable to the business of private respondent CCBPI; petitioner Edmund drove trucks owned by private respondent CCBPI; private respondent CCBPI's employees exercised control and supervision over petitioner Edmund [private respondent TRCI's coordinators in private respondent CCBPI's plant merely monitored the truck drivers' attendance, and had no participation in the processing of the deliveries]; petitioner Edmund had to report bad orders or rejected deliveries to the plant supervisors who were employees of private respondent CCBPI; private respondent TRCI did not exercise control over petitioner Edmund [it was private respondent CCBPI that exercised control over the means and methods by which petitioner Edmund must accomplish his job]); private respondent TRCI was a labor-only contractor (private respondent TRCI's activities [delivery and logistic support] were directly related to the principal business of private respondent CCBPI); private respondent TRCI had no sufficient capitalization (i.e.: private respondent CCBPI owned the delivery trucks used by private respondent TRCI in its operations as indicated in the Certificate of Registration[7]).

Private respondent CCBPI filed the Position Paper[8] before the Labor Arbiter, and alleged: private respondent CCBPI implemented a cost-efficient business policy to concentrate its operations on its core business activity (the manufacturing of beverages), and sourced out non-core activities (activities other than manufacturing of beverages); private respondent CCBPI entered into the Service Agreement with private respondent TRCI, and signed the Master Terms and Conditions of the Service Agreement of Coca-Cola Bottlers Philippines, Inc. and the Redsystems Company, Inc.;[9] private respondent TRCI was a registered corporation engaged in the business of providing distribution and warehousing services; under the Service Agreement, private respondent TRCI performed logistics and/or delivery functions for private respondent CCBPI, and private respondent CCBPI required private respondent TRCI to provide all the necessary training, tools, equipment, and other support resources needed for the service; private respondent TRCI hired petitioner Edmund as Delivery Service Representative (or truck driver), to handle and deliver the products of private respondent TRCI's clients; in 2011, petitioner Edmund committed theft or unauthorized taking of private respondent TRCI's property, and thus private respondent TRCI dismissed petitioner Edmund; petitioner Edmund was an employee of private respondent TRCI because private respondent TRCI hired, paid, and exercised disciplinary authority and control over petitioner Edmund; private respondent TRCI was a legitimate contractor (i.e.: private respondent TRCI was registered in the Department of Labor and Employment ["DOLE"] as a legitimate contractor, per Certificate of Registration[10] dated 21 December 2009; private respondent TRCI had substantial capital, and substantial investment in tools, equipment, and machineries; private respondent TRCI carried out a separate and distinct business from that of private respondent CCBPI); private respondent TRCI had control over the duties and responsibilities of petitioner Edmund, thus petitioner Edmund was an employee of private respondent TRCI, and not of private respondent CCBPI.

Private respondent TRCI filed the Position Paper[11] before the Labor Arbiter, and alleged: private respondent TRCI hired petitioner Edmund as truck driver, apprised petitioner Edmund of his duties and responsibilities (i.e.: to deliver and distribute products of private respondent TRCI's clients based on scheduled routes), and furnished petitioner Edmund a copy of private respondent TRCI's Code of Conduct;[12] as part of private respondent TRCI's monitoring system, all of private respondent TRCI's trucks were equipped with Global Positioning System ("GPS"); as stated in the Letter[13] executed and subscribed by Edwin Besiyos ("Edwin"), in 2011, private respondent TRCI's Maintenance Specialists Edwin caught petitioner Edmund stealing diesel fuel from the truck that petitioner Edmund was driving, somewhere in Cabuyao, Laguna (outside of petitioner Edmund's usual route), thus private respondent TRCI issued the Notice to Explain,[14] requiring petitioner Edmund to answer the charge against him; petitioner Edmund submitted the hand-written letter[15] denying the accusations; after considering

petitioner Edmund's explanation, private respondent TRCI issued the Notice of Termination,[16] and dismissed petitioner Edmund; private respondent TRCI afforded petitioner Edmund due process, and validly dismissed petitioner Edmund for theft, thus he was not entitled to his monetary claims.

The Labor Arbiter issued the Decision.[17] The dispositive portion of the Decision read:

WHEREFORE, premises considered, as prayed for, judgment is hereby rendered declaring complainant as having been illegally dismissed. Accordingly, respondents Coca-Cola Bottlers Phils. Inc., and The Redsystems Company, Inc., are hereby ordered to immediately reinstate complainant to his former position without loss of seniority rights. Further, respondents Coca-Cola Bottlers Phils. Inc., and The Redsystems Company Inc., in solidum, are hereby ordered to pay complainant as follows:

1. P90,880.13 as backwages;
2. P5,252.00 as unpaid wages;
3. P6,060.10 as unpaid service incentive leave; and
4. P7,877.97 as proportionate 13[th] month pay from January to September 2011.

All other claims are hereby dismissed for lack of merit.

SO ORDERED.[18]

Private respondent CCBPI and private respondent TRCI appealed to the National Labor Relations Commission (NLRC).

The NLRC issued the assailed Resolution.[19] The dispositive portion of the assailed Resolution read:

WHEREFORE, premises considered, the separate appeals are partly GRANTED and the Decision dated 29 May 2012 is MODIFIED finding that respondent-appellant TRCI is the employer of complainant-appellee and it has validly terminated complainant-appellee on just grounds. Respondent-appellant TRCI is ordered to pay complainant-appellee his unpaid wages, service incentive leave and proportionate 13th month pay.

SO ORDERED.[20]

Petitioner Edmund moved for the reconsideration of the assailed Resolution.

The NLRC issued the Resolution denying the motion for reconsideration.[21]

Hence, this Petition, imputing the following errors on the NLRC:

THE NATIONAL LABOR RELATIONS COMMISSION (NLRC) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN RULING THAT REDSYSTEM (TRCI) IS THE REAL EMPLOYER OF HEREIN PETITIONER AND NOT THE RESPONDENT COCA COLA.

THE NLRC COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK JURISDICTION IN RULING THAT PETITIONER WAS VALIDLY DISMISSED BY TRCI AND IS NOT ENTITLED TO THE RELIEFS PRAYED FOR.[22]

The issues are: (1) whether the NLRC committed grave abuse of discretion in finding that private respondent TRCI was a legitimate labor contractor; and (2) whether the NLRC committed grave abuse of discretion in ruling that private respondent TRCI legally dismissed petitioner Edmund.

PETITION FOR CERTIORARI[23]

Anent the first issue, the Petition for Certiorari answers in the affirmative. The NLRC erred in finding that private

respondent TRCI was a legitimate labor contractor.

The Petition thrusts: private respondent TRCI was not a legitimate labor contractor because it failed to meet the conditions laid down by law to be considered a legitimate contractor (i.e.: there was no work contract between private respondent CCBPI and private respondent TRCI at the time of petitioner Edmund's engagement as a truck driver [private respondent TRCI hired petitioner Edmund on 16 February 2010, prior to the execution of the service agreement on 8 July 2010]; private respondent CCBPI exercised operational control over petitioner Edmund's work [private respondent CCBPI required petitioner Edmund to follow the delivery plan formulated by Hanz Trillanes of private respondent CCBPI; private respondent CCBPI's employees supervised the whole process of loading and unloading of private respondent's CCBPI products; petitioner Edmund received private respondent CCBPI's products which were considered bad orders, and petitioner Edmund returned the bad orders to private respondent CCBPI's plant]; private respondent TRCI had no substantial capital or investment in tools, equipment, or machinery [private respondent TRCI did not prove ownership of forklifts, delivery trucks, and pallet making tools, which were necessary for the contracted services; private respondent CCBPI owned the delivery trucks used by private respondent TRCI in its operations; private respondent TRCI's P10,000,000.00 capital did not suffice as substantial capitalization]; petitioner Edmund's employment contract did not indicate the terms and conditions required by law [specific description of the employee's work; the place of work, and term and conditions of employment; duration of employment]).

Anent the second issue, petitioner Edmund answers in the affirmative. The NLRC erred in ruling that private respondent TRCI legally dismissed petitioner Edmund.

The Petition thrusts: since private respondent TRCI was not a legitimate labor contractor, petitioner Edmund was an employee of private respondent CCBPI, and only private respondent CCBPI could dismiss petitioner Edmund, thus private respondent TRCI's dismissal of petitioner Edmund was illegal.

COMMENT (by private respondent CCBPI)[24]

Anent the first issue, private respondent CCBPI's Comment answers in the negative. The NLRC did not err in finding that private respondent TRCI was a legitimate labor contractor.

Private respondent CCBPI's Comment parries: private respondent TRCI was a registered legitimate contractor with the DOLE; private respondent TRCI carried out a separate, distinct, and independent business from that of private respondent CCBPI (i.e.: private respondent CCBPI was engaged in the manufacturing of beverages, while private respondent TRCI was engaged in providing distribution and warehousing services; private respondent TRCI performed its services free from control of private respondent CCBPI); private respondent TRCI exercised control over its employees (i.e.: private respondent TRCI had its own sets of rules and regulations, and code of conduct governing its employees); private respondent was substantially capitalized (i.e.: private respondent TRCI had an authorized capital stock amounting to P10,000,000.00, and owned considerable assets [including delivery trucks] used in its operations); Section 12 of the Master Terms and Conditions of the Service Agreement of Coca-Cola Bottlers Philippines, Inc., and the Redsystems Company, Inc., ensured private respondent TRCI's employees entitlement to all labor, and occupational and health standards, free exercise of the right to self-organization, security of tenure, and social welfare benefits.

Anent the second issue, private respondent CCBPI answers in the negative. The NLRC did not err in ruling that private respondent TRCI legally dismissed petitioner Edmund.

Private respondent CCBPI's Comment parries: private respondent TRCI validly dismissed petitioner Edmund for theft, a form of dishonesty, and a valid ground for dismissal recognized by law; private respondent TRCI complied with the twin-notice rule.

COMMENT (by private respondent TRCI)[25]

Anent the first issue, private respondent TRCI's Comment answers in the negative. The NLRC did not err in finding that private respondent TRCI was a legitimate labor contractor.

Private respondent TRCI's Comment parries: private respondent TRCI was a legitimate labor contractor, because it complied with the requirements under DOLE Department Order No. 18-A (i.e.: private respondent TRCI was a registered independent contractor with the DOLE; private respondent CCBPI entered into a contract for specific job or services with private respondent TRCI as indicated in the Service Level Agreement dated 25 January 2010, and with a term of one year; private respondent TRCI carried out its business independently, and free from private respondent CCBPI's control [i.e.: private respondent TRCI was free to choose the means and methods by which the contracted out services will be accomplished]; private respondent TRCI had substantial capitalization, and investment in tools, equipment, and machineries [i.e.: private respondent TRCI had a subscribed capital stock of P10,000,000.00; private respondent TRCI owned tools, equipment, and supplies (i.e.: delivery and hauling trucks), which are used by its employees in rendering their services; private respondent TRCI was adequately staffed with personnel and facilities for its daily operations]); the Master Terms and Conditions of the Service Agreement of Coca-Cola Bottlers Philippines, Inc. and the Redsystems Company, Inc. ensured private respondent TRCI's employees entitlement to all applicable benefits and rights under the Labor Code, and in fact, private respondent TRCI recently recognized the Redsystems Company, Inc. Employees Association-Federation of Free Workers ("TRCIEA-FFW") as private respondent TRCI's sole and exclusive bargaining agent), thus private respondent TRCI was not a labor-only contractor.

Anent the second issue, private respondent TRCI answers in the negative. The NLRC did not err in ruling that private respondent TRCI legally dismissed petitioner Edmund.

Private respondent TRCI's Comment parries: since private respondent TRCI was a legitimate contractor, petitioner Edmund was its employee, and private respondent TRCI could validly dismiss him from employment; the NLRC found substantial evidence for petitioner Edmund's dismissal thus private respondent TRCI validly dismissed petitioner Edmund.

The parties filed their separate memoranda,[26] reiterating their assertions.

THE COURT'S RULING

Anent the first issue, we rule in the negative. The NLRC did not err in finding that private respondent TRCI was a legitimate labor contractor.

Applicable is Section 4 of Department of Labor and Employment Department Order 18-A, series of 2011 ("DOLE D.O. 18-A"), which provides:

Section 4. Legitimate contracting or subcontracting. Contracting or subcontracting shall be legitimate if all the following circumstances concur:

- (a) The contractor must be registered in accordance with these Rules and carries a distinct and independent business and undertakes to perform the job, work or service on its own responsibility, according to its own manner and method, and free from control and direction of the principal in all matters connected with the performance of the work except as to the results thereof;
- (b) The contractor has substantial capital and/or investment; and
- (c) The Service Agreement ensures compliance with all the rights and benefits under Labor Laws.

Under Section 4 above-quoted, a contracting relationship is considered legitimate if the following elements are

present: (1) the contractor must be registered with the Department of Labor and Employment (“DOLE”); (2) the contractor carries a distinct and independent business, and undertakes to perform the job, work or service on its own responsibility, according to its own manner and method; (3) the contractor is free from control and direction of the principal in all matters connected with the performance of the work except as to the results thereof; (4) the contractor has substantial capital and/or investment; and (5) the Service Agreement ensures compliance with all the rights and benefits under Labor Laws.

All the elements of a legitimate labor contractor were present. Thus, private respondent TRCI is a legitimate labor contractor.

The first element was present. Private respondent TRCI registered with the DOLE as a labor contractor on 15 December 2009, per the Certificate of Registration No. NCR-MFO-75130-1209-024.[27] Private respondent TRCI renewed its registration on 15 November 2012, per the Certificate of Registration No. III-093-113-1112-193.[28]

The second element was present. Private respondent TRCI carried a distinct and independent business, separate and distinct from the business of private respondent CCBPI. As stated in private respondent TRCI's Articles of Incorporation[29] submitted to the Securities and Exchange Commission, private respondent TRCI was in the business of providing distribution and warehousing services to third persons, including management and administrative services. Private respondent CCBPI, on the other hand, was in the business of manufacturing of beverages. Clearly, private respondent TRCI and private respondent CCBPI are engaged in separate and distinct businesses.

Further, private respondent TRCI undertook to perform its work or service on its own, according to private respondent TRCI's own means and methods. Section 5(c) of the Master Terms and Conditions of the Service Agreement of Coca-Cola Bottlers Philippines, Inc. and the Redsystems Company, Inc. (“Master Terms and Conditions”)[30] clearly states that private respondent TRCI warranted that it had the skills and expertise to carry out the services, and on its own would adopt methods that would best accomplish the desired results of private respondent CCBPI.

The third element was present. Private respondent TRCI performed its duties and responsibilities under the Master Terms and Conditions free from the control and direction of private respondent CCBPI, except as to the results thereof.

As stated in the notarized Affidavit of Alvin Sumayo (an employee of private respondent TRCI, and one of the supervisors assigned at private respondent CCBPI's Sta. Rosa plant), private respondent TRCI's Delivery Service Representatives (“DSRs” [truck drivers]) assigned at private respondent CCBPI's Sta. Rosa plant were under Sumayo's supervision and control (i.e.: DSRs would report to Sumayo every morning, and Sumayo would hand out the delivery schedule and route for the day, including the documents needed for the deliveries; when the delivery trucks returned, Sumayo would check the trucks for undelivered goods, damaged products, and empty cases/ bottles, and coordinate the results to private respondent CCBPI; Sumayo would check the fuel consumption of the trucks and record them). Petitioner Edmund did not dispute the veracity of the notarized affidavit. Thus, under the law the contents of the sworn affidavit are presumed true and correct.

The fourth element was present. Private respondent TRCI had substantial capital and/or investment.

Section 3 (I) of DOLE D.O. 18-A defines substantial capital as “paid-up capital stocks/shares of at least Three Million Pesos (P3,000,000.00) in the case of corporations, partnerships and cooperatives; in the case of single proprietorship, a net worth of at least Three Million Pesos (P3,000,000.00).”

Private respondent TRCI's 2010 Audited Statements of Financial Position[31] indicates that it had a paid-up capital amounting to P10,000,000.00, and total assets in the amount of P253,294,802 (of which P37,053,092 were property, plant, and equipment). Further, private respondent TRCI's Certified List of Assets dated 18 August 2010[32] indicates that private respondent TRCI owned a number of delivery trucks. Petitioner Edmund did not dispute the veracity of the contents of the two documents. The conclusion is therefore, that private respondent TRCI had substantial capital, and owned not only sufficient capital, but also tools, implements, and other equipment necessary to operate its distribution and warehousing services.

The fifth element was present. The Master Terms and Conditions between private respondent CCBPI and private respondent TRCI ensured compliance with all the rights and benefits of employees under Philippine labor laws.

The Master Terms and Conditions is replete with provisions requiring private respondent TRCI to ensure compliance with rights and benefits provided by existing labor laws to employees. Thus: Section 4 of the Master Terms and Conditions[33] requires private respondent TRCI, as a precondition for the payment of its Statement of Account, to submit a sworn certification that private respondent TRCI complied with payment of minimum wages, premium pays and other mandatory contributions of its employees; Section 5(a) of the Master Terms and Conditions³⁴ requires private respondent TRCI, as part of the Contractor's Warranties, to comply with all applicable labor laws; Section 6(a)(iv) of the Master Terms and Conditions[35] requires private respondent TRCI, as part of the Contractor's Covenants, to submit proof that it paid the full amount of wages and salaries due to its employees in accordance with existing labor laws.

Since all the elements of a legitimate contractor were present, private respondent TRCI was a legitimate labor contractor. Under Section 5 of DOLE D.O. 18-A,[36] an employer-employee relationship exists between the contractor and the employees it engaged to perform the specific job, work or service being contracted. Thus, private respondent TRCI (as contractor) engaged petitioner Edmund to perform a service. In accordance with Section 5 of DOLE D.O. 18-A, petitioner Edmund was an employee of private respondent TRCI, and not of private respondent CCBPI.

With regard to the second issue, we rule in the negative. The NLRC did not err in ruling that private respondent TRCI legally dismissed petitioner Edmund.

Applicable is Article 282 of the Labor Code, which enumerates the grounds for valid termination of employment by an employer. It reads:

Article 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 representative; and

(e) Other causes analogous to the foregoing.

In the Notice of Termination dated 22 September 2011,[37] private respondent TRCI dismissed petitioner Edmund from employment effective 3 October 2011 for theft or unauthorized taking of property or funds, a category 4 offense under Rule 3, Section 20 of private respondent TRCI's Code of Conduct.[38] Under the Table of Corrective Actions,[39] a category 4 offense carries the penalty of dismissal for the first offense.

In *Firestone Tire and Rubber Company of the Philippines v. Lariosa*,[40] theft committed by an employee was considered as a valid reason for his dismissal by the employer, and in *Cosmos Bottling Corp. v. Fermin*,[41] theft was considered as a case analogous to serious misconduct.

Petitioner Edmund was guilty of theft, an analogous circumstance of serious misconduct. Petitioner Edmund's misconduct was serious and related to the performance of his duties. The Letter executed and subscribed by Edwin Besyos[42] alleged that Besyos caught petitioner Edmund stealing diesel fuel from the truck that petitioner Edmund was driving, somewhere in Cabuyao, Laguna (outside of petitioner Edmund's usual route). The Affidavit of Randy Ente[43] alleged that the GPS readings of petitioner Edmund's truck confirmed that at the time of the incident, petitioner Edmund was in Cabuyao, Laguna, which was out of petitioner Edmund's usual route. When confronted about the incident, petitioner Edmund merely denied the accusations, without giving any reasonable explanation.

Theft of company property is a serious offense. Since petitioner Edmund's position involved being entrusted with company property, his involvement in the theft of the diesel fuel rendered him unworthy of the trust and confidence demanded by his position.

Clearly, petitioner Edmund's dismissal on the ground of theft (analogous to serious misconduct) is recognized under Article 282 (e) of the Labor Code. Thus, private respondent TRCI validly dismissed petitioner Edmund from employment.

Petitioner Edmund's claim that private respondent TRCI did not accord him procedural due process is without merit.

Procedural due process in labor cases merely requires that the employee must be apprised of the charges against him. He must be given reasonable time to answer the charges, allowed ample opportunity to be heard and defend himself, assisted by a representative, if the employee so desires.[44]

The evidence shows that private respondent TRCI gave petitioner Edmund ample opportunities to explain his side.

In the Notice to Explain,[45] private respondent TRCI required petitioner Edmund to answer the charge (i.e.: theft of diesel from the truck) against him. Petitioner Edmund submitted the hand-written letter[46] denying the accusations. Private respondent TRCI conducted several administrative hearings to give petitioner Edmund opportunities to explain his side, as evidenced by the Minutes dated 10 May 2011, and 13 June 2011.[47] After considering petitioner Edmund's explanation as unacceptable, private respondent TRCI issued the Notice of Termination,[48] and dismissed petitioner Edmund.

We DISMISS the Petition for Certiorari.

IT IS SO ORDERED.

Lampas Peralta, F., Chairperson and Cruz, S.C., JJ., concur.

- [1] C.A. Rollo, p. 3.
- [2] Exhibit “G” of the Petition for Certiorari, C.A. Rollo, p. 433.
- [3] Exhibit “I” of the Petition for Certiorari, C.A. Rollo, p. 475.
- [4] Annex “B” of the Position Paper for the Complainant attached to the Petition for Certiorari, C.A. Rollo, p. 77.
- [5] Exhibit “A” of the Petition for Certiorari, C.A. Rollo, p. 70.
- [6] Exhibit “A” of the Position Paper for the Complainant attached to the Petition for Certiorari, C.A. Rollo, p. 68.
- [7] Various Certificates of Registration, Exhibits “B” to “B4” of the Position Paper for the Complainant attached to the Petition for Certiorari, C.A. Rollo, pp. 69-73.
- [8] Exhibit “B” of the Petition for Certiorari, C.A. Rollo, p. 101.
- [9] Annex “1” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 121.
- [10] Annex “3” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 149.
- [11] Exhibit “C” of the Petition for Certiorari, C.A. Rollo, p. 180.
- [12] Annex “6” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 205.
- [13] Annex “1” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 197.
- [14] Annex “3” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 201.
- [15] Annex “4” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 202.
- [16] Annex “5” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 204.
- [17] C.A. Rollo, p. 320.
- [18] Id. at p. 327.
- [19] Supra, note 1.
- [20] Supra, note 1 at p. 447.
- [21] Supra, note 2.
- [22] Petition for Certiorari, supra note 1, at p. 4.
- [23] Supra, note 1.
- [24] C.A. Rollo, p. 492.
- [25] C.A. Rollo, p. 504.
- [26] Petitioner’s Reply/Memorandum, C.A. Rollo, p. 657; Private respondent CCBPI’s Memorandum, C.A. Rollo, p. 699; Private respondent TRCI’s Memorandum, C.A. Rollo, p. 708.

[27] Annex “2” of the Reply of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 255.

[28] Annex “1” of the Comment, C.A. Rollo, p. 533.

[29] Annex “1-A” of the Reply of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 254.

[30] SECTION 5. THE CONTRACTOR'S WARRANTIES. - The CONTRACTOR warrants that:

(c) It has the skill, technology, expertise, and capability in serving the requirements of the COMPANY in a professional manner, in accordance with the COMPANY's standards, policies and procedure, and following methods that will best accomplish the desired results. It shall only deploy to the COMPANY duly trained personnel who will be able to meet the operating standards of the COMPANY.

[31] Annex “8” of the Reply of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 278.

[32] Annex “9” of the Reply of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 279.

[33] SECTION 4. THE CONTRACT PRICE. - In consideration of the faithful and satisfactory performance by the CONTRACTOR of the Services, the COMPANY shall pay the CONTRACTOR fees in accordance with the rates specified in the Service Agreement.

xxx

As a condition to the payment of the CONTRACTOR's Statement of Account, the CONTRACTOR shall submit to the COMPANY a sworn certification that:

- a. It has paid all the employees it assigned to the COMPANY salaries and wages not lower than the minimum rate, and rest day, overtime, and holiday pay due the employee for the period covered by the Statement of Account;
- b. Contributions for the Social Security System (“SSS”), the Home Development Mutual Fund (“HDMF”), Employees Compensation Commission (“ECC”), and remittances to the Bureau of Internal Revenue (“BIR”) due to its employees have been made during the period covered by the Statement of Account.

xxx

[34] SECTION 5. THE CONTRACTOR'S WARRANTIES. - The CONTRACTOR warrants that:

(a) It is in compliance with all applicable labor laws, rules and regulations and that it is duly registered contractor in good standing under Department of Labor and Employment (“DOLE”) Department Order (“DO”) No. 18-02;

[35] SECTION 6. THE CONTRACTOR'S COVENANTS. - The CONTRACTOR further covenants and agrees:

(a) To submit to the COMPANY the following:

xxx

(iv) Proof of payment, other than the sworn certification mentioned in Section 4 hereof, of all wages and salaries due to the employees for all Services rendered by them during the immediately preceding month in connection with the Service Agreement, including overtime, if any, and of such other payments and benefits as are required under the Labor Code of the Philippines, SSS Laws, Medicare, and the like, within the fifth (5th) day of the

month;

xxx

[36] Section 5. Trilateral relationship in contracting arrangements; Solidary liability. In legitimate contracting or subcontracting arrangement there exists:

(a) An employer-employee relationship between the contractor and the employees it engaged to perform the specific job, work or service being contracted; and

xxx

[37] Annex “5” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 204.

[38] Annex “6” of the Position Paper attached to the Petition for Certiorari, C.A. Rollo, p. 205, at p. 212.

[39] Id., at p. 207.

[40] G.R. No. 70479, 27 February 1987.

[41] G.R. No. 193676, 20 June 2012.

[42] Supra, note 13.

[43] Annex “7” of the Reply of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 276.

[44] Legahi v. NLRC, et al., G.R. No. 122240, 18 November 1999; Waterous Drug Corp. v. NLRC, et al., G.R. No. 113271, 16 October 1997.

[45] Supra, note 14.

[46] Supra, note 15.

[47] Annex “2” of the Rejoinder of respondent The Redsystems Company, Inc. attached to the Petition for Certiorari, C.A. Rollo, p. 307.

[48] Supra, note 16.

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