

SAN MIGUEL FOODS, INC., PETITIONER, V. HANNIVAL V. RIVERA, JOVICELL B. FUJA, ENCENARIO B. CORONADO, JR., LEYLANIE O. GULANE, JOSE PEDRO, REY RELLOSOSA, CHERRY MAY BRAGA, ROGELIO...

G.R. No. 220103. January 31, 2018

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

For review on certiorari under Rule 45 of the Rules of Court are the Decision[1] dated October 28, 2014 and the Resolution[2] dated August 18, 2015 of the Court of Appeals (CA) in CA-G.R. SP No. 118337, which reversed and set aside the Decision[3] dated September 28, 2010 and the Resolution[4] dated December 14, 2010 of the National Labor Relations Commission (NLRC) in NLRC LAC No. 04-000709-10 and, accordingly, ordered the herein petitioner San Miguel Foods, Inc. (SMFI) to reinstate the herein respondents with full status and rights of regular employees and to grant them all benefits as provided by law or by any existing collective bargaining agreement (CBA). The questioned CA Resolution, on the other hand, denied for lack of merit the motion for reconsideration thereof.

The factual antecedents, as culled from the records, are as follows:

The petitioner, a corporation organized and existing under Philippine laws, is engaged in the feeds, and poultry and meats businesses. Its poultry business involves growing, breeding, dressing, sale and marketing of poultry products. To maximize efficiency and cost effectiveness, the petitioner opted to outsource the invoicing services, which it deems merely ancillary to its business as it simply involved: (1) witnessing and checking the unloading of chicken products in designated outlets; (2) preparation of invoice, delivery receipt and other documents required to complete the delivery in designated outlets; (3) securing from designated outlets such receiving documents and/or information necessary for the liquidation and subsequent collection of the delivery; and (4) submission of reports to the petitioner on actual volumes delivered to designated outlets.[5]

Thus, sometime in 2005, the petitioner forged a six-month invoicing services contract,[6] that is from January 17, 2005 to July 16, 2005, with IMSHR Corporate Support, Inc. (ICSI), an independent contractor duly registered with the Department of Labor and Employment (DOLE) and engaged in the business of providing and supplying various services, like invoicing, to different companies.[7] The parties agreed that after the contract term expired and they still want to continue their relations but without having to execute a written renewal, they shall continue to be governed by the same contract in its entirety, except for the term, which should subsist on a month-to-month basis.[8]

In compliance therewith, ICSI assigned its employees, including the respondents, to the petitioner to perform the invoicing services. Sometime in 2009, however, the petitioner decided to discontinue its invoicing operations at its JMT/GMA office (head office), where the respondents were assigned, and set up a new one at its San Fernando, Pampanga, and Nueva Ecija Plants. This is to standardize its North and South Luzon operations, among

others. The petitioner accordingly informed ICSI of this decision and the latter, in turn, informed its employees, including the respondents, of the said development and that all the affected employees shall be considered for assignment in San Fernando, Pampanga. Those interested to be transferred were instructed to submit a Request for Transfer on or before July 13, 2009. Of all the respondents, only one complied with the said directive while the others submitted their resignation letters, some others continued working and some no longer reported to work.[9]

With the discontinuance of the invoicing operations at the petitioner's head office, the respondents filed their consolidated Complaints for Constructive Dismissal, Regularization, Underpayment of Salaries and Service Incentive Leave Pay, Non-Payment of 13th Month Pay, Vacation/Sick Leave, Maternity/Paternity Leave, Refund of Cash Bond, Tax Refund, Illegal Deduction - Variance Bond, Moral and Exemplary Damages, and Attorney's Fees (Complaints), against the former before the Labor Arbiter (LA).[10]

The respondents alleged that the petitioner employed them as Invoicers on different dates, the earliest of which is in January 2005 and the latest is in May 2009, and they were then assigned to its numerous clients, i.e., supermarkets, food chains, hotels and other business establishments. They claimed that the tasks they are performing as such, that is, checking and counting quantity of chickens upon unloading to various outlets, weighing chickens in the presence of customers' representatives, issuing delivery receipt or invoice, and preparing liquidation reports and submitting the same to the petitioner, are necessary and desirable in the latter's usual trade or business. They also averred that it was the petitioner that assigned their individual daily work assignments and the one that monitored their attendance, through an attendance form countersigned by the outlet/client's representative to confirm that they reported for work on that day. Then, at the end of the day, they were obliged to submit the liquidation report and to log out from work at the petitioner's office, where its finance officer, Ric Buena, supervised them. They similarly avowed that they represented the petitioner in their transactions with customers as they wore uniforms and utilized delivery receipts and other commercial documents, all bearing its name and label. Even the signatories in the receipts showed that they are under the direct supervision of the petitioner. Further, the latter exercises control over the means and methods of accomplishing their tasks and their result as evidenced by the various policies it directly issued to them, like the instructions on how to distribute the Chicken Station Receiving Report (CSRR); the utilization of delivery receipts, invoices and shrinkage forms; development of activity-based system to be strictly followed by them; and listing of its Key Account Managers (KAM) to whom they directly report based on their place of assignment.[11]

They further contended that on May 22, 2009, the petitioner issued a memorandum to ICSI declaring that it will not anymore renew the contract as to the invoicing operations at its head office, where they were all employed; in its stead, new operations will be set up at its San Fernando Plant in San Fernando, Pampanga, which will be subjected to Region 3 labor rates and terms; and those who would not accept these conditions should be properly separated under authorized causes. These prompted them to file a case against the petitioner initially for regularization due to the apparent threat to their employment and the discovery and enlightenment of its real identity as their true and lawful employer. On July 3, 2009, ICSI issued a similarly worded memorandum. On July 16, 2009, however, some of them did not anymore receive their respective schedules and assignments from the petitioner; thus, they amended their Complaints to include constructive dismissal and other monetary claims.[12]

For its part, the petitioner vehemently maintained that it is not the respondents' employer but ICSI as the latter was the one that hired and selected them and they were simply deployed to the former. Also, ICSI was the one that paid the respondents' salaries and made the necessary deductions thereto of their Social Security System (SSS), PAG-IBIG, and Philippine Health Insurance Corporation (Philhealth) contributions. The petitioner equally insisted that the power to control the means and manner of performance of the respondents' work rests upon ICSI. With these, the petitioner cannot be made answerable to the respondents' complaints. Moreover, even ICSI itself

supported petitioner's positions. ICSI affirmed that it is the respondents' employer having the power to hire, discipline, and terminate their services; it is the one responsible for the payment of their salaries; and it controlled the manner and method of their work. In fact, its Officer-in-Charge (OIC), Invoicing Account was the one who assigned the respondents' daily time records. The respondents received their work assignment or daily schedule from ICSFs Base Controller, Invoicing Account. Even though the respondents are field employees, they are still under the supervision of ICSI's Base Controller and OIC-Invoicing Account. The respondents only reported to the petitioner's KAM in exceptional cases, such as where there are diverted deliveries, meaning, when the outlets where the products are supposed to be delivered have rejected them. This is done merely to inform the petitioner's KAM that the products were rejected and to know where they can deliver the same. The petitioner, therefore, does not have control over the work premises of the respondents and the latter do not use the tools, materials and equipment of the former.[13]

After taking into consideration the parties' respective arguments, the LA rendered a Decision dated February 17, 2010 dismissing the Complaints for lack of merit.

The LA held that ICSI is a legitimate service contractor having substantial capital and investment to carry out its business independently. The right to control the performance of the work of its employees likewise rests upon it. Even the four-fold test to determine the existence of an employer-employee relationship revealed that the same exists between ICSI and the respondents, and not between the petitioner and the respondents. Notably, it was established on record that the respondents applied with and were hired by ICSI; the latter was also the one that paid their salaries and other labor standard benefits and made the necessary deductions thereto of their SSS, Philhealth, PAG-IBIG and Bureau of Internal Revenue (BIR) contributions; ICSI likewise has the authority to subject the respondents to disciplinary action when they have committed violations of the Basic Policy for Invoicers; and ICSI likewise has the control over the manner of performance of the respondents' functions, being under the direct supervision of its Base Controller, who gives them their work schedule, and its OIC, who monitors their attendance. Though the petitioner's representative at the outlet signs in the respondents' daily time monitoring sheets, the same is only for purposes of validating their presence thereat for that specific time and date. And while it is true that the respondents used the petitioner's invoice and other documents bearing its name, this is not an indication that they used its tools and equipment. Rather, it is just but natural that the invoices or receipts should bear the petitioner's name as they are the owner of the products being delivered and checked by the respondents. Even the fact that the respondents reported to the petitioner at the end of the day does not constitute the latter's control over them. The same is an indication that the petitioner is only after the result of their work, which is the invoice itself being handed to it after completion. Similarly, even if the petitioner had issued action plans or plans of activities on how the respondents should accomplish their work, the same should be considered as mere guidelines to attain the desired result and not to control the manner and means of performing their work. With all of these, the respondents cannot hold the petitioner liable for all the charges in its Complaints. The respondents cannot also be said to have been constructively dismissed as they were hired only for the duration of the petitioner's invoicing project. Their employment is co-terminus with ICSI's contract of invoicing with the petitioner, which is a clear manifestation that they were hired only for a fixed period or for the project's duration; thus, their claim for regularization has no leg to stand on.[14]

On appeal, the NLRC, in a Decision dated September 28, 2010, dismissed the appeal for lack of merit and affirmed the LA Decision. It also denied for lack of merit the respondents' subsequent Motion for Reconsideration.[15]

On further appeal, the CA, in its now assailed Decision dated October 28, 2014, reversed and set aside the NLRC Decision and Resolution.

The CA held that an employer-employee relationship exists between the petitioner and the respondents; and that ICSI was only its agent or intermediary. Applying the control test, it was the petitioner that exercises direct supervision and control over the respondents. The petitioner was the one that issued to respondents various orders on how to perform their respective tasks from menial instructions on how to distribute the CSSR and how to use delivery receipts, invoice and shrinkage forms, to the more complex ones of chart preparation on its activity-based system. The respondents were also instructed to report to the petitioner's various account managers. Even the power of dismissal appeared to have been exercised by the petitioner. This can be gleaned from its letter to ICSI dated May 22, 2009 ordering the dismissal under authorized causes of those unwilling to abide with the conditions set forth regarding the transfer of its invoicing operations at its San Fernando, Pampanga Plant. Apparently, the petitioner could give instructions to ICSI on how to deal with the employees and it could also direct the termination of their employment. Further, the petitioner could relocate the respondents' workplace relative to the performance of their duties as ICSI's "employees" as it is incapable of providing a suitable one for all of them. Equally, the CA held that the respondents' functions as Invoicers are necessary and desirable in the petitioner's usual trade or business, being engaged in the manufacturing and sale of food products. This too is a clear indication that the respondents are petitioner's employees. As such, both the petitioner and ICSI are solidarity liable for the respondents' rightful claims. And since their respective employments with the petitioner commenced between 2005 and 2009, thus, they have attained the status of regular employees. They cannot, therefore, be dismissed except for valid and lawful reasons. Being unjustly dismissed, the respondents are entitled to (1) reinstatement without loss of seniority rights and other privileges; and (2) payment of full backwages, inclusive of allowances, and other benefits or their monetary equivalent, computed from the time their compensation was withheld up to the time of their actual reinstatement.[16]

The petitioner sought reconsideration thereof but was denied in the questioned Resolution dated August 18, 2015.

Hence, this petition raising these arguments: (1) the CA erred in reversing the dismissal of the Complaints and the findings of the NLRC that the respondents are not the petitioner's employees; and (2) the CA erred in directing the petitioner to reinstate the respondents with full status and rights of regular employees and to grant them all benefits as may be provided for by law or any existing CBA.[17]

The petition is impressed with merit.

At the outset, the primordial issue that must first be addressed here is whether ICSI is a legitimate job contractor. On the resolution of this issue depends the determination of the ultimate issue of whether an employer-employee relationship exists between the petitioner and the respondents so as to hold the former liable for the dismissal and all the other claims of the latter.

Generally, this Court does not review factual questions (such as whether an employer-employee relationship exists between the parties), primarily because it is not a trier of facts. This notwithstanding, where, like in this case, there is a conflict between the factual findings of the LA and the NLRC, on one hand, and those of the CA, on the other, it becomes imperative for the Court, in the exercise of its equity jurisdiction, to review and re-evaluate the factual issues and to look into the records of the case and re-examine the questioned findings.[18]

Article 106 of the Labor Code clearly identified and distinguished the relations that may arise in a situation where there is an employer, a contractor, and employees of the contractor.[19] It provides, thus:

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.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this

Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

The Secretary of Labor 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 persons 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.

From the aforequoted provision, the two possible relations that may arise among the parties are: (1) the permitted legitimate job contract; or (2) the prohibited labor-only contracting.[20]

Obviously, the permitted or permissible or legitimate job contracting or subcontracting is the one allowed and permitted by law. It is an arrangement whereby a principal agrees to put out or farm out with the contractor or subcontractor the performance or 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. To determine its existence, these conditions must concur: (a) the contractor carries on a distinct and independent business and partakes the contract work on his account under his own responsibility according to his own manner and method, free from the control and direction of his employer or principal in all matters connected with the performance of his work except as to the results thereof; (b) the contractor has substantial capital or investment; and (c) the agreement between the principal and the contractor or subcontractor assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social welfare benefits.[21] Thus, in legitimate job contracting, the employer-employee relationship between the job contractor and his employees is maintained. While the law creates an employer-employee relationship between the employer and the contractor's employees, the same is only for the purpose of ensuring the payment of the employees' wages. In short, the employer becomes jointly and severally liable with the job contractor but only for the payment of the employees' wages whenever the contractor fails to pay the same. Other than that, the employer is not responsible for any claim made by the contractor's employees.[22]

In stark contrast, labor-only contracting is a prohibited act and it is not condoned by law. It is an arrangement where the contractor not having substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, supplies workers to an employer and the workers recruited are performing activities which are directly related to the principal business of such employer.[23] The guidelines to determine its existence[24] are set forth in Section 5 of Department Order No. 18-02 (DO 18-02),[25] the Rules Implementing Articles 106 to 109 of the Labor Code, as amended, to wit:

Section 5. Prohibition against labor-only contracting. - Labor-only contracting is hereby declared prohibited. For this purpose, labor-only contracting shall refer to an arrangement where the contractor or subcontractor merely recruits, supplies or places workers to perform a job, work or service for a principal, and any of the following elements are present:

- (i) The contractor or subcontractor does not have substantial capital or investment which relates to the job, work or service to be performed and the employees recruited, supplied or placed by such contractor or subcontractor are performing activities which are directly related to the main business of the principal; or
- (ii) the contractor does not exercise the right to control over the performance of the work of the contractual employee.

The foregoing provisions shall be without prejudice to the application of Article 248 (C) of the Labor Code, as amended.

"Substantial capital or investment" refers to capital stocks and subscribed capitalization in the case of corporations, tools, equipment, implements, machineries and work premises, actually and directly used by the contractor or subcontractor in the performance or completion of the job, work or service contracted out.

The "right to control" shall refer to the right reserved to the person for whom the services of the contractual workers are performed, to determine not only the end to be achieved, but also the manner and means to be used in reaching that end. (Emphases and italics in the original.)

Section 7 of the same implementing rules then provides for the consequences of a labor-only contracting, thus:[26]

Section 7. Existence of an employer-employee relationship. - The contractor or subcontractor shall be considered the employer of the contractual employee for purposes of enforcing the provisions of the Labor Code and other social legislation. The principal, however, shall be solidarity liable with the contractor in the event of any violation of any provision of the Labor Code, including the failure to pay wages.

The principal shall be deemed the employer of the contractual employee in any of the following cases as declared by a competent authority:

- (a) where there is labor-only contracting; or
- (b) where the contracting arrangement falls within the prohibitions provided in Section 6 (Prohibitions) hereof. (Emphases and italics in the original.)

Clearly therefrom, a finding of the existence of a labor-only contracting would definitely give rise to: (1) the creation of an employer-employee relationship between the principal and the employees of the contractor or sub-contractor; and (2) the solidary liability of the principal and the contractor to the employees in the event of any violation of the Labor Code.[27]

To distinguish prohibited labor-only contracting from permissible job contracting, the totality of the facts and the surrounding circumstances of the case shall be considered. Customarily, the contractor is presumed to be a labor-only contractor, unless such contractor overcomes the burden of proving that it has the substantial capital, investment, tools and the like. But then, where the principal is the one claiming that the contractor is a legitimate contractor, like in this case, the burden to prove the same rests on the principal.[28] Inescapably, the petitioner bears the burden of proving that ICSI is truly an independent contractor, which it successfully did.

Here, this Court is more inclined to sustain the findings of both the LA and the NLRC regarding the matter. As succinctly found by these administrative agencies, not only the petitioner but even ICSI had satisfactorily proven that the latter is truly a legitimate contractor and not just a fly-by-night one, and thus, the employer-employee relationship between ICSI and the respondents is maintained. First, ICSI has been incorporated and duly registered with the Securities and Exchange Commission (SEC), as well as with the BIR, SSS, Philhealth, PAG-IBIG, and the DOLE with DOLE Certificate of Registration No. NCR-8-0507-236. These may not be

conclusive evidence of the status of the petitioner as a contractor but the fact of its registration prevented the legal presumption of it being a mere labor-only contractor from arising.[29] Second, ICSI has substantial capital. Per its Articles of Incorporation, ICSI has an authorized capital stock of P4 Million while per an Independent Auditor's Report for the year ended on December 31, 2008, it has a gross income of P14,192,040 and a total assets amounting to P30,820,419.34.[30] Though it is unclear whether they have investment in the form of tools, equipments, machineries, etc., the same would not change the fact that they have substantial capital to be considered as a legitimate contractor. As this Court held in *Neri, et al. v. NLRC, et al.*,[31] the law does not require both substantial capital and investment in the form of tools, equipment, machineries, etc. and this is clear from the use of the conjunction "or." If it is otherwise, then the conjunction "and" should have been used.[32] Third, ICSI also has other A-list clients apart from the petitioner during the time that its contract with the former was subsisting,[33] which is an indication that it carries on a distinct and independent business. Fourth, ICSI also has the control on the performance of the work of its employees. It was the officer or officers of ICSI who has the direct supervision over the respondents. In particular, it was the ICSI's Base Controller, who gives the respondents their work schedule, while its OIC was the one who monitors their attendance. In relation to this, quite telling is the following observations of the LA and the NLRC, thus:

Lastly, the power of control over the means and manner of performance of the work, weighing the evidence presented by both parties, We find [herein petitioner's] evidence more credible. [Petitioner] outlines its arrangement with [ICSI], viz:

The Supply Chain Department upon finalization of the delivery schedule shall request through e-mail or fax invoicers from [ICSI's] OIC Invoicing Account, Ms. Jocelyn Lenchico, as may be required Ms. Lenchico would then contact [ICSI's] pool of invoicers and assign such number of invoicers as required and they shall be advised of the delivery route and meeting place with the trucker. Ms. Lenchico would likewise forward to the Route Planner of the company the names of the invoicers assigned for the day which shall be forwarded to the plant and the truckers. Contrary to [herein respondents'] claim that their daily schedule are given by employees of the [petitioner], it has been proven that the schedules are given by the OIC Invoicing Account, who is an employee of [ICSI].

The assigned invoicers would then meet the trucker either at the plant or at the first delivery drop-off point. The invoicers are then expected to:

- witness and check versus the Delivery manifest the unloading of products in the designated outlets;
- prepare invoice, delivery receipt and other documents required to complete the delivery at the designated outlets;
- obtain from the designated outlets such receiving documents and/or information necessary for the liquidation and subsequent collection.

Upon completion of the scheduled deliveries, the invoicer turns over the delivery documents and reports on actual volumes delivered to designated outlets to the Manual Liquidator.

From the foregoing, it is clear that the interaction between [respondents] and [petitioner's] employees are limited. And [ICSI] controls the means and manner of how they perform their work too.[34]

Further, these invoicing services have never been performed by the petitioner's regular employees, being merely incidental to its selling activities. And again, as held in *Neri*, while these services, like the invoicing services in this case, may be considered directly related to the principal business of the employer, nevertheless, they are not necessary in the conduct of the principal business of the employer. This Court has already taken judicial notice of the general practice adopted in several government and private institutions and industries of hiring independent

contractors to perform special services ranging from janitorial, security, and even technical or other specific services, like invoicing in this case.[35]

With the foregoing, it cannot be gainsaid that ICSI is a legitimate contractor. Being a legitimate contractor, the employer-employee relationship between ICSI and the respondents is maintained. Even with the application of the four-fold test to determine the existence of employer-employee relationship, to wit: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power of control,[36] all pointed to ICSI as the respondents' employer.

In the case under consideration, it was sufficiently found by both the LA and the NLRC that the respondents applied with and were hired by ICSI, as evidenced by their individual Personal Information Sheets, employment contracts and Letters of Appointment. Concomitantly, ICSI issued them their individual identification cards as borne by the records. Even the payment of respondents' wages and other labor standard benefits were also made by ICSI, as shown by their payrolls and disbursement vouchers. More so, ICSI itself reported the respondents as its employees with the SSS, Philhealth, PAG-IBIG, and BIR. Also, ICSI was the one that made the necessary deductions on the respondents' salaries for their contributions (their premium share) thereto, which were all properly remitted to the said agencies. As to the power of dismissal and to discipline, it was also ICSI that exercised the same. This is evident from the Notice to Explain and Memorandum it issued to its erring employees who violated its rules and regulations. Contrary to the claim of the respondents, which the CA affirmed, this Court holds that the controverted letter dated May 22, 2009 issued by the petitioner to ICSI contained no instruction from the former for the latter to transfer or even terminate the respondents. This Court finds satisfactory the petitioner's explanation that such letter merely informed ICSI of the changes in their agreement regarding the invoicing services that the invoicing operations at its head office would be discontinued and would be transferred to San Fernando, Pampanga. At the same time, the petitioner was just reminding ICSI to ensure that in the event there will be employees unwilling to comply with the new terms and conditions of their agreement, they should be properly dealt with in accordance with law. Stated differently, the petitioner only wanted to make sure that ICSI would not renege on its obligations to its employees. Lastly, the power of control similarly rests upon ICSI. As previously stated, it was ICSI's officers who have direct supervision over the respondents. ICSI's Base Controller and OIC were the ones who gave the respondents their work schedule and monitored their attendance, respectively.[37] As keenly observed by the LA, thus:

The only interaction [herein respondents] have with the representatives of [herein petitioner] is when the deliveries are rejected and the products need to be diverted. Thus, they call the KAM to inform them of the rejected products and also to inquire if there are other outlets where these rejects could be accommodated. At the end of the day, the invoices issued by [respondents] are submitted to [petitioner] precisely because these are used by the latter in monitoring their products. Moreover, the only function of [respondents] is the invoicing and not to keep the records. The fact that they report to [petitioner] at the end of the day does not constitute control by [the latter] over them. On the contrary, this is an indication that [petitioner] is only after the result of [respondents'] work, which is the invoice itself that is being handed to them after completion of their work. Moreover, if [petitioner has] issued action plans or plans of activities on how [respondents] should accomplish their work, these should be considered as mere guidelines to attain the desired result and not to control the manner and means of performing their work.[38]

It is worthy to note this Court's pronouncement in *Royale Homes Marketing Corporation v. Alcantara*,[39] citing *Insular Life Assurance Co., Ltd. v. National Labor Relations Commission*,[40] viz.:

Not every form of control is indicative of employer-employee relationship. A person who performs work for another and is subjected to its rules, regulations, and code of ethics does not necessarily become an employee. As long as the level of control does not interfere with the means and methods of accomplishing the assigned

tasks, the rules imposed by the hiring party on the hired party do not amount to the labor law concept of control that is indicative of employer-employee relationship. In *Insular Life Assurance Co., Ltd. v. National Labor Relations Commission* (citation omitted) it was pronounced that:

Logically, the line should be drawn between rules that merely serve as guidelines towards the achievement of the mutually desired result without dictating the means or methods to be employed in attaining it, and those that control or fix the methodology and bind or restrict the party hired to the use of such means. The first, which aim only to promote the result, create no employer-employee relationship unlike the second, which address both the result and the means used to achieve it. x x x (Emphases and italics supplied.)

With all the foregoing, this Court holds that no employer-employee relationship exists between the petitioner and the respondents. It is an error, therefore, on the part of the CA to order the petitioner to reinstate the respondents and to grant them all the benefits and privileges of regular employees. Not being petitioner's employees, thus, they cannot attain the regular status. Along side, the petitioner cannot be charged of constructive illegal dismissal for it is beyond its power to dismiss the respondents as they were never its employees.

WHEREFORE, premises considered, the present petition is hereby GRANTED. The CA Decision and Resolution dated October 28, 2014 and August 18, 2015, respectively, in CA-G.R. SP No. 118337 are hereby REVERSED and SET ASIDE. The NLRC Decision and Resolution dated September 28, 2010 and December 14, 2010, respectively, are hereby REINSTATED.

SO ORDERED.

Bersamin, Leonen, and Gesmundo, JJ., concur.
Martires, J., on official leave.

[1] Penned by Associate Justice Sesinando E. Villon with Associate Justices Florito S. Macalino and Pedro B. Corales, concurring, rollo, pp. 32-42.

[2] Id. at 44-45.

[3] Penned by Presiding Commissioner Benedicto R. Palacol with Commissioners Isabel G. Panganiban-Ortiguerra and Nieves Vivar-De Castro, concurring, id. at 277-290.

[4] Id. at 305-309.

[5] Id. at 11-12.

[6] Id. at 202-212.

[7] Id. at 280.

[8] Id. at 204, 212.

[9] Letters dated May 22, 2009 and July 3, 2009, id. at 96, 97-98; Petition for Review on Certiorari dated October 21, 2015, id. at 12-13; CA Decision dated October 28, 2014, id. at 34-35; NLRC Decision dated September 28, 2010, id. at 283; LA Decision dated February 17, 2010, id. at 327-328.

[10] Id. at 282.

[11] Id. at 316-318.

[12] Id. at 318-319.

- [13] Id. at 325-327, 282, 284-285.
- [14] Id. at 333-337.
- [15] Id. at 289, 308.
- [16] Id. at 37-40.
- [17] Id. at 14.
- [18] Reyes v. Glaucoma Research Foundation, Inc., et al., G.R. No. 189255, June 17, 2015.
- [19] Coca-Cola Bottlers Phils., Inc. v. Agito, et al., G.R. No. 179546, February 13, 2009.
- [20] Coca-Cola Bottlers Phils., Inc., id.
- [21] Petron Corporation v. Caberte, et al., G.R. No. 182255, June 15, 2015.
- [22] Coca-Cola Bottlers Phils., Inc., supra note 19.
- [23] Petron Corporation v. Caberte, et al., supra note 21.
- [24] Coca-Cola Bottlers Phils., Inc., supra note 19.
- [25] The applicable issuance at the time of the filing of the Complaints. The current one is DO No. 174-17.
- [26] Coca-Cola Bottlers Phils., Inc., supra note 19.
- [27] Id.
- [28] Alilin, et al. v. Petron Corporation, G.R. No. 177592, June 9, 2014.
- [29] Valencia v. Classic Vinyl Products Corporation, et al., G.R. No. 206390, January 30, 2017.
- [30] Rollo, pp. 333, 288.
- [31] G.R. Nos. 97008-09, July 23, 1993.
- [32] Neri, id.
- [33] Rollo, p. 333.
- [34] Id. at 287-288.
- [35] Neri, supra note 31.
- [36] Valencia v. Classic Vinyl Products Corporation, et al., supra note 29.
- [37] LA Decision dated February 17, 2010, id. at 335-336; NLRC Decision dated September 28, 2010, id. at 286-287; Petition for Review on Certiorari dated October 21, 2015, id. at 17.
- [38] Id. at 336-337.
- [39] G.R. No. 195190, July 28, 2014.
- [40] 259 Phil. 65 (1989).

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