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SECOND DIVISION

[G.R. No. 250311; January 5, 2022]

CONQUEROR INDUSTRIAL PEACE MANAGEMENT COOPERATIVE, *Petitioner*, *v.* **JOEY BALINGBING, ERNESTO QUING, ARIEL VELASQUEZ, ELVIN JOHN FERNANDEZ, and LEAN DENNIS OSENA, for themselves and as representatives of BRANDO G. BINAS, LORENCE R. TESALONA, REYMAR VILLAPANDO, JOEL LORENCE DELA CRUZ, EUGENIO V. ILAO, HERMINIO V. RUBING, JR., RANIEL A. CRUZAT, JAYSON ADORNADO, JESUS MATEO, FLORY JANE BLESRUBIO, JERRY MENDOZA, NILO MILLAR, JENELIL NAKANAR, MARK ANTHONY MENDOZA, RENWEL A. REGALADO, JOHN ROMMEL PARDUCHO, SHIELA MARIE FACTOR, RENATO SANTOS, WINSTON OSTIA, AGRIPINO B. PERNICE, JR., ARNOLD G. HERVERA, RUBEN OREZA, VINCENT MANALO, JERWIN JOHN PANGAN, ERICKSON GOMEZ, KEEMPEE TAJALA, ANTONIO PRECIOSO, ALEJANDRO ANINION, RONALD JOSEPH GUEVARRA, JERRY VALLESTEROS, BENEDICT ARBOLEDA, JANNLOWEL MAGPANTAY, MELVIN MENDOZA, LESTER BALOTO, RAMIL ACLIZAS, MARK JOHN ANTHONY LAPELLAN, RALP V. MARPA, EVAN CHRISTOPER C. PAMPLONA, DIELMAR MONTALBO, RUEL MATA, EDMON DAVID, REDEN CELACIO, MARK MOTIL, RODEL RODRIGO, JERWIN GARCIA, REYMARK SANTANDER, MA. JENALYN C. CABUYAO, RODEL COMPANERO, JONATHAN DE GUZMAN, ROWENA F. TALANAY, SIGIN D. NALING, JESUS A. PEREZ, JOEY D. CARIAGE, CRIS A. MERDIDO, MARVIN BARRAMEDA, DANIEL ANASTACIO, ERIC SILVA, RONALD APGITI, REYMAR VALENCIA, MARK ANTHONY H. LADIP, ROMNICK PUERTON, MILDRED BERNARDO, JAY BAUTISTA, ROMEL**

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LAZO, ANTHONY HELERA, WALTER T. ASIDERA, JOHN DAVID CORPUZ, FELICIDAD M. MENDOZA, ERWIN DIMAANO, LESTER GARCIA, RYAN BOOC, JEREMIAH OCAMPO, EDWARD EBARULA, ELBERT CARANGALAN, WILSON GAMUIN, GHALLOYD R. ESPENDE, JENNIFER FANG, JUANITO RODRIGUEZ, JESSIE ALLAN ODVINA, ARIEL VICTORIA, JHON MARON BANAS, ROLDAN DEL MUNDO and RODOLFO LIZA, *Respondents*.

[G.R. No. 250501; January 5, 2022]

SAGARA METRO PLASTICS INDUSTRIAL CORPORATION, *Petitioner*, *v.* **JOEY BALINGBING, ERNESTO QUING, ARIEL VELASQUEZ, ELVIN JOHN FERNANDEZ, and LEAN DENNIS OSENA, for themselves and as representatives of BRANDO G. BINAS, LORENCE R. TESALONA, REYMAR VILLAPANDO, JOEL LORENCE DELA CRUZ, EUGENIO V. ILAO, HERMINIO V. RUBING, JR., RANIEL A. CRUZAT, JAYSON ADORNADO, JESUS MATEO, FLORY JANE BLESRUBIO, JERRY MENDOZA, NILO MILLAR, JENELIL NAKANAR, MARK ANTHONY MENDOZA, RENWEL A. REGALADO, JOHN ROMMEL PARDUCHO, SHIELA MARIE FACTOR, RENATO SANTOS, WINSTON OSTIA, AGRIPINO B. PERNICE, JR., ARNOLD G. HERVERA, RUBEN OREZA, VINCENT MANALO, JERWIN JOHN PANGAN, ERICKSON GOMEZ, KEEMPEE TAJALA, ANTONIO PRECIOSO, ALEJANDRO ANINION, RONALD JOSEPH GUEVARRA, JERRY VALLESTEROS, BENEDICT ARBOLEDA, JANNLOWEL MAGPANTAY, MELVIN MENDOZA, LESTER BALOTO, RAMIL ACLIZAS, MARK JOHN ANTHONY LAPELLAN, RALP V. MARPA, EVAN CHRISTOPER C. PAMPLONA, DIELMAR MONTALBO, RUEL MATA, EDMON DAVID, REDEN CELACIO, MARK MOTIL, RODEL RODRIGO, JERWIN GARCIA, REYMARK**

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SANTANDER, MA. JENALYN C. CABUYAO, RODEL COMPANERO, JONATHAN DE GUZMAN, ROWENA F. TALANAY, SIGIN D. NALING, JESUS A. PEREZ, JOEY D. CARIAGE, CRIS A. MERDIDO, MARVIN BARRAMEDA, DANIEL ANASTACIO, ERIC SILVA, RONALD APGITI, REYMAR VALENCIA, MARK ANTHONY H. LADIP, ROMNICK PUERTON, MILDRED BERNARDO, JAY BAUTISTA, ROMEL LAZO, ANTHONY HELERA, WALTER T. ASIDERA, JOHN DAVID CORPUZ, FELICIDAD M. MENDOZA, ERWIN DIMAANO, LESTER GARCIA, RYAN BOOC, JEREMIAH OCAMPO, EDWARD EBARULA, ELBERT CARANGALAN, WILSON GAMUIN, GHALLOYD R. ESPENDE, JENNIFER FANG, JUANITO RODRIGUEZ, JESSIE ALLAN ODVINA, ARIEL VICTORIA, JHON MARON BANAS, ROLDAN DEL MUNDO and RODOLFO LIZA, *Respondents*.

D E C I S I O N

INTING, *J.*:

Before the Court are consolidated Petitions for Review on *Certiorari*[1] filed under Rule 45 of the Rules of Court assailing the Decision[2] dated June 28, 2019 and the Resolution[3] dated October 29, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 148896. The CA reversed and set aside the Resolutions dated May 16, 2016[4] and October 24, 2016[5] of the Secretary of the Department

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[1] *Rollo* (G.R. No. 250311), Vol. I, pp. 10-62; *rollo* (G.R. No. 250501), Vol. I, pp. 10-49.

[2] *Rollo* (G.R. No. 250501), Vol. I, pp. 52-63; penned by Associate Justice Ruben Reynaldo G. Roxas with Associate Justices Marlene Gonzales-Sison and Victoria Isabel A. Paredes, concurring.

[3] *Id.* at 64-66.

[4] *Rollo* (G.R. No. 250311), Vol. I, pp. 534-541; signed by Undersecretary Rebecca C. Chato.

[5] *Rollo* (G.R. No. 250501), Vol. II, pp. 844-846; signed by Secretary Silvestre H. Bello III.

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of Labor and Employment (DOLE) in OS-LS-0455-0425-2016/ RO4A-LPO-CV-0615-0017 and held that Conqueror Industrial Peace Management Cooperative (Conqueror) was a labor-only contractor and that Sagara Metro Plastics Industrial Corporation (Sagara) was the employer of respondents.[6]

The Antecedents

Sagara is a domestic corporation engaged in the manufacture of various plastic parts and tubes for automotive wiring harness, non-automative applications, and fabrication of molding dies.[7] Conqueror, on the other hand, is a service cooperative engaged in performing specific jobs which require special services to different clientele.[8]

On June 8, 2015, respondents Joey Balingbing, Ernesto Quing, Ariel Velasquez, Elvin John Fernandez, and Lean Dennis Osena,

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[6] The following are the respondents: Joey Balingbing, Ernesto Quing, Ariel Velasquez, Elvin John Fernandez, Lean Dennis Osena, Brando G. Binas, Lorence R. Tesalona, Reymar Villapando, Joel Lorence Dela Cruz, Eugenio V. Ilao, Herminio V. Rubing, Jr., Raniel A. Cruzat, Jayson Adornado, Jesus Mateo, Flory Jane Blesrubio, Jerry Mendoza, Nilo Millar, Jenelil Nakanar, Mark Anthony Mendoza, Renwel A. Regalado, John Rommel Parducho, Shiela Marie Factor, Renato Santos, Winston Ostia, Agripino B. Pernice, Jr., Arnold G. Hervera, Ruben Oreza, Vincent Manalo, Jerwin John Pangan, Erickson Gomez, Keempee Tajala, Antonio Precioso, Alejandro Aninion, Ronald Joseph Guevarra, Jerry Vallesteros, Benedict Arboleda, Jannlowel Magpantay, Melvin Mendoza, Lester Baloto, Ramil Aclizas, Mark John Anthony Lapellan, Ralp V. Marpa, Evan Christoper C. Pamplona, Dielmar Montalbo, Ruel Mata, Edmon David, Reden Celacio, Mark Motil, Rodel Rodrigo, Jerwin Garcia, Reymark Santander, Ma. Jenalyn C. Cabuyao, Rodel Companero, Jonathan De Guzman, Rowena F. Talanay, Sigin D. Naling, Jesus A. Perez, Joey D. Cariage, Cris A. Merdido, Marvin Barrameda, Daniel Anastacio, Eric Silva, Ronald Apgiti, Reymar Valencia, Mark Anthony H. Ladip, Romnick Puerton, Mildred Bernardo, Jay Bautista, Romel Lazo, Anthony Helera, Walter T. Asidera, John David Corpuz, Felicidad M. Mendoza, Erwin Dimaano, Lester Garcia, Ryan Booc, Jeremiah Ocampo, Edward Ebarula, Elbert Carangalan, Wilson Gamuin, Ghalloyd R. Espende, Jennifer Fang, Juanito Rodriguez, Jessie Allan Odvina, Ariel Victoria, Jhon Maron Banas, Roldan Del Mundo and Rodolfo Liza, *rollo* (G.R. No. 250501), Vol. I, pp. 10-11.

[7] *Id.* at 13.

[8] *Rollo* (G.R. No. 250311), Vol. I, p. 14.

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for themselves and on behalf of 149 other employees including respondents, filed a *Sama Samang Sinumpaang Reklamong Salaysay para sa* Complaint for Inspection[9] (Complaint for Inspection) against Sagara and Conqueror for alleged violation of labor laws, particularly DOLE Department Order No. (DO) 18-A, Series of 2011 (18-A-11).[10] According to respondents, Conqueror was a mere labor-only contractor and that Sagara was their true employer for the following reasons: (1) Conqueror was not registered with the DOLE; (2) it had no substantial capital or investment in the form of tools or equipment; and (3) it was Sagara which exercised control and supervision over them.[11]

Respondents prayed that they be declared as regular employees of Sagara and be entitled to the benefits enjoyed by its regular employees according to their existing Collective Bargaining Agreement.[12]

Acting on the Complaint for Inspection, the Compliance Officers of DOLE Region IV-A (DOLE Compliance Officers) visited the plant of Sagara and noted the following observations:[13]

x x x

NON-COMPLIANCE WITH D.O. 18-A UNDER SECTION 9.

NON-COMPLIANCE WITH D.O. 18-A UNDER SECTION 6 (SUPERVISION & CONTROL).[14]

During the inspection, Conqueror also failed to present the following documents:

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[9] *Id.* at 167-184.

[10] Rules Implementing Articles 106 to 109 of the Labor Code, as Amended, approved on November 14, 2011.

[11] *Rollo* (G.R. No. 250311), Vol. I, pp. 175-179.

[12] *Id.* at 181-182. See Collective Bargaining Agreement dated November 13, 2009, *id.* at 298-309.

[13] See Notice of Results dated June 23, 2015, *id.* at 310.

[14] *Id.*

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1. Solo Parent Leave Policy;
2. list of appointed safety officers and first-aiders;
3. administrative reports on health, safety, work accident or illness exposure of employees; and
4. employment contracts.[15]

Thus, the DOLE Compliance Officers gave Conqueror 10 days to submit the required documents. Conqueror submitted them on June 29, 2015.[16]

Aggrieved by the observations of the DOLE Compliance Officers, Sagara filed an Opposition and manifested that the question of whether an employer-employee relationship exists is evidentiary in nature and cannot be determined by a mere ocular inspection.[17]

During the mandatory conference on July 13, 2015, Conqueror also filed its Opposition averring that it is a legitimate job contractor and submitted its current and previous Certificates of Registration issued by the DOLE.[18]

As the parties failed to settle their dispute, the DOLE Regional Director required them to submit their respective position papers.[19]

In their *[Pinagsama-samang] Sinumpaang Salaysay at* Position Paper,[20] respondents reiterated their previous arguments and attached the following documents as evidence that they were regular employees of Sagara:

1. List of employees who did not render overtime work;

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[15] *Rollo* (G.R. No. 250501), Vol. II, p. 584.

[16] *Id.* at 585.

[17] *Id.*

[18] *Id.* at 586.

[19] *Id.*

[20] *Rollo* (G.R. No. 250501), Vol. I, pp. 67-92.

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2. Company Identification cards;

3. Machine Operator and Reliever Schedule; and

4. Finishing Inspection Production Plan.

For its part, Sagara denied that respondents were its employees and pointed out that Conqueror merely deployed them to its plant to perform non-core activities. According to Sagara, while the job titles of respondents seemed usual and necessary to the operation of the company, their actual services only referred to non-core activities such as: (1) manual transporting of materials; (2) printing of product labels; (3) loading of finished goods to the delivery trucks; (4) recycling of waste materials; and (5) other logistic support services.[21] To substantiate its claim, Sagara presented the affidavits of its employees who explained the nature of the respondents' work and testified that Sagara exercised no supervision over respondents.[22]

On the other hand, Conqueror asserted that it is a legitimate job contractor providing production support and other ancillary services to Sagara under their Contract of Service.[23] To support its claim, Conqueror submitted its Certificates of Registration from 2008 to 2014 and its audited financial statement for the year 2014 showing that it met the required substantial capitalization of ₱3,000,000.00.[24]

Ruling of the DOLE

In the Order[25] dated October 6, 2015, the DOLE Regional Director dismissed the Complaint for Inspection of respondents and found Sagara and Conqueror compliant with DO 18-A-11.

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[21] *Rollo* (G.R. No. 250501), Vol. I, pp. 402-403.

[22] *Id.* at 45-48.

[23] *Id.* at 230.

[24] *Id.* at 264-280.

[25] *Rollo* (G.R. No. 250501), Vol. II, pp. 577-621.

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Aggrieved, respondents filed an appeal[26] with the Secretary of DOLE reiterating their stand that Conqueror and Sagara violated Sections 6[27] and 9[28] of DO 18-A-11.

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[26] See Appeal Memorandum dated October 17, 2015, *id.* at 623-669.

[27] Section 6 of Department of Labor and Employment (DOLE) Department Order No. 18-A, Series of 2011 (DO 18-A-11) provides:

SECTION 6. *Prohibition Against Labor-only Contracting*. — Labor-only contracting is hereby declared prohibited. For this purpose, labor only contracting shall refer to an arrangement where:

(a) The contractor does not have substantial capital or investments in the form of tools, equipment, machineries, work premises, among others, and the employees recruited and placed are performing activities which are usually necessary or desirable to the operation of the company, or directly related to the main business of the principal 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; or

(b) The contractor does not exercise the right to control over the performance of the work of the employee.

[28] Section 9 of DO 18-A-11 provides:

SECTION 9. *Required Contracts under these Rules*. —

(a) Employment contract between the contractor and its employee. Notwithstanding any oral or written stipulations to the contrary, the contract between the contractor and its employee shall be governed by the provisions of Articles 279 and 280 of the Labor Code, as amended. It shall include the following terms and conditions:

i. The specific description of the job, work or service to be performed by the employee;

ii. The place of work and terms and conditions of employment, including a statement of the wage rate applicable to the individual employee; and

iii. The term or duration of employment that must be co-extensive with the Service Agreement or with the specific phase of work for which the employee is engaged.

The contractor shall inform the employee of the foregoing terms and conditions of employment in writing on or before the first day of his/her employment.

(b) Service Agreement between the principal and the contractor. The Service Agreement shall include the following:

i. The specific description of the job, work or service being subcontracted.

ii. The place of work and terms and conditions governing the contracting arrangement, to include the agreed amount of the services

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In the Resolution[29] dated May 16, 2016, the Secretary of DOLE affirmed the ruling of the DOLE Regional Director holding that Conqueror proved the following: (1) it met the substantial capital to operate as a legitimate labor contractor; and (2) it exercised control and supervision over the means and methods of respondents' work.[30]

Aggrieved, respondents moved[31] for reconsideration of the Resolution of the Secretary of DOLE, but the latter denied it on October 24, 2016.[32]

Ruling of the CA

In the Decision[33] dated June 28, 2019, the CA reversed and set aside the Decision of the Secretary of DOLE and held that the

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to be rendered, the standard administrative fee of not less than ten percent (10%) of the total contract cost.

iii. Provisions ensuring compliance with all the rights and benefits of the employees under the Labor Code and these Rules on: provision for safe and healthful working conditions; labor standards such as, service incentive leave, rest days, overtime pay, 13th month pay and separation pay; retirement benefits; contributions and remittance of SSS, PhilHealth, Pag-IBIG Fund, and other welfare benefits; the right to self-organization, collective bargaining and peaceful concerted action; and the right to security of tenure.

iv. A provision on the Net Financial Contracting Capacity of the contractor, which must be equal to the total contract cost.

v. A provision on the issuance of the bond/s as defined in Section 3 (m) renewable every year.

vi. The contractor or subcontractor shall directly remit monthly the employers' share and employees' contribution to the SSS, ECC, PhilHealth and Pag-IBIG.

vii. The term or duration of engagement.

The Service Agreement must conform to the DOLE Standard Computation and Standard Service Agreement, which form part of these Rules as *Annexes "A"* and *"B"*.

[29] *Rollo* (G.R. No. 250501), Vol. II, pp. 760-767.

[30] *Id.* at 765-766.

[31] See Motion for Reconsideration dated June 1, 2016, *id.* at 768-808.

[32] *Id.* at 844-846.

[33] *Rollo* (G.R. No. 250501), Vol. I, pp. 52-63.

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labor officials committed grave abuse of discretion when they found Conqueror as a legitimate job contractor. According to the CA, Conqueror is a mere labor-only contractor and Sagara was the actual employer of respondents.[34]

In holding that respondents were employees of Sagara and that it exercised control over the means and methods of respondents' work, the CA considered the following evidence: (1) the inspection hourly monitoring report showing that Sagara monitored the output of respondents; (2) Sagara's list of employees who did not render overtime work; and (3) certifications showing that 17 of the respondents were former contractual/project-based employees of Sagara.[35]

Aggrieved, Sagara moved[36] for reconsideration of the Decision dated June 28, 2019, but the CA denied it on October 29, 2019.[37]

Hence, the instant consolidated petitions.

Issues

The issues to be resolved by the Court are as follows:

1. Whether respondents performed activities which were directly necessary to the line of business of Sagara;
2. Whether Conqueror is a legitimate job contractor; and
3. Whether respondents were employees of Conqueror or Sagara.

Ruling of the Court

While the Court may resolve only questions of law in a petition for review on *certiorari*, an exception may be made when the factual findings of the CA and the labor tribunals are contradictory, such

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[34] *Id.* at 62.

[35] *Id.* at 59-62.

[36] See Motion for Reconsideration dated August 9, 2019, *rollo* (G.R. No. 250501), Vol. IV, pp. 1806-1832.

[37] *Rollo* (G.R. No. 250501), Vol. I, pp. 64-66.

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as in the case.[38] Here, both the Regional Director and Secretary of DOLE found that Conqueror is a legitimate job contractor which exercised control over the means and methods of respondents' work. In contrast, the CA found that Conqueror was a labor-only contractor and that Sagara was respondents' employer.

While the CA noted in its assailed Decision that Conqueror is a duly registered independent service contractor with a substantial capital of more than ₱3,000,000.00, it nonetheless ruled that the functions outsourced to it by Sagara were necessary and desirable in the latter's line of business.

> *To be considered as a labor-only contractor, the lack of substantial capital of the contractor must concur with the fact that the employees' work directly relates to the main business of the principal.*[39]

Article 106 of the Labor Code defines labor-only contracting, thus:

> Art. 106. *Contractor or Subcontractor*. — x x x
>
> x x x x
>
> There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises among others, *and* the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. x x x (Italics supplied.)

The above-quoted provision is implemented by Section 5 of DOLE DO 18, Series of 2002 (18-02), thus:

> Section 5. *Prohibition against labor-only contracting*. — Labor-only contracting is hereby declared prohibited. For this purpose, labor-

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[38] See *Lufthansa Technik Philippines, Inc. v. Cuizon*, G.R. No. 184452, February 12, 2020.

[39] *Neri v. National Labor Relations Commission*, 296 Phil. 610, 616 (1993).

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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 [is] 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. (Italics supplied.)

Outsourcing of services is not prohibited in all instances.[40] To be considered as labor-only contracting, three requisites must concur under Article 106 of the Labor Code and Section 5(i) of DO 18-02:

1. the contractor or subcontractor merely recruits, supplies, or places workers to perform a job, work or service for a principal;
2. the contractor or subcontractor does not have substantial capital of at least ₱3,000,000.00[41] or investment which relates to the job, work or service to be performed; *and*
3. 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.

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[40] *Universal Robina Corp. v. Jumao-As*, G.R. No. 212580 (Notice), December 2, 2020.

[41] Section 3 (1) of DO 18-A-11, provides:

SECTION 3. *Definition of Terms*. — The following terms as used in these Rules, shall mean:

(1) *"Substantial capital"* refers to paid-up capital stocks/shares of at least Three Million Pesos (₱3,000,000.00) in the case of corporations, partnerships and cooperatives; in the case of single proprietorship, a net worth of at least Three Million Pesos (₱3,000,000.00).

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Primarily, Conqueror is presumed to have complied with all the requirements of a legitimate job contractor considering the Certificates of Registration issued to it by the DOLE.[42]

At any rate, Conqueror has a substantial capital of more than ₱3,000,000.00 with working premises at Unit 2807 Makati Corporate Office, City Land, Pasong Tamo Tower, Chino Roces Ave., Makati City.[43] Having substantial capital and work premises of its own, Conqueror cannot be considered as a labor-only contractor by the alleged fact that respondents performed activities directly related to the main business of Sagara. To be considered a labor-only contractor, the lack of substantial capital or investment must concur with the fact that the work of the employees is directly related to the main business of the principal, which is not the case herein. This is shown by the use of the conjunction "and" in Article 106 of the Labor Code and Section 5(i) of DO 18-02, *viz.*: *"[t]he 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."*

Furthermore, while it may be argued that Conqueror did not have investment in the form of tools, equipment, and machineries, it is sufficient that it has a substantial capital of more than ₱3,000,000.00.[44]

The law does not require a contractor to have both substantial capital and investment in the form of tools, equipment, machineries, *etc.* This can be gleaned from the use of the conjunction "or" in Article 106 of the Labor Code and Section 5 (i) of DO 18-02, *viz.*: *"[t]he contractor or subcontractor does not have substantial capital* ***or*** *investment which relates to the job, work or service to be performed."*

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[42] See *Philippine Pizza, Inc. v. Cayetano*, G.R. No. 230030, August 29, 2018.

[43] *Rollo* (G.R. No. 250501), Vol. I, p. 281.

[44] *Id.* at 274.

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If the objective was to oblige the contractor to prove that he has both capital and the requisite investment, then the conjunction "and" should have been used.[45]

Besides, to require a contractor to have both substantial capitalization and investment in the form of tools, equipment, machineries, *etc.* would be to overlook the accustomed system in different industries where contractors are merely outsourced to provide ancillary or logistic services to the principal. These services range from janitorial services, security, housekeeping, creatives, and other non-core services similar to those performed by respondents. Notably, Conqueror deployed them to Sagara to perform the following: (1) manually transport materials from the storage warehouse to the work station; (2) load finished goods to the delivery trucks; (3) label products; and (4) recycle waste materials.[46] Given the type of services Conqueror provides Sagara under their Contract of Service, there is no need for it to invest in any equipment or machineries in the plant of Sagara.

Now, in determining whether an employer-employee relationship exists, the four-fold test can be used. The elements of the four-fold test are the following: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power of control, which is the most important element.[47]

Conqueror selected, engaged, and deployed respondents to Sagara.

Moreover, the CA erred when it considered as an indicator of an employer-employee relationship between respondents and Sagara its finding that 17 of the respondents were allegedly former contractual and project-based employees of Sagara.

In determining whether an employer-employee relationship exists between the parties, the totality of the facts and the

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[45] See *San Miguel Food, Inc. v. Rivera*, 824 Phil. 961 (2018).

[46] *Rollo* (G.R. No. 250501), Vol. I, pp. 299-310.

[47] *Fuji Television Network, Inc. v. Espiritu*, 749 Phil. 388, 430 (2014).

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surrounding circumstances of the case must be considered.[48] Even if Sagara initially hired 17 of the respondents, records show that they were merely contractual and project employees of Sagara whose term of employments eventually expired.[49] The Court does not foreclose the possibility that they eventually applied to Conqueror and were subsequently hired and deployed to Sagara. At any rate, the circumstances of the 17 respondents were different from the rest of the respondents who were directly recruited and hired by Conqueror. Respondents themselves stated under paragraph 3 of their Complaint for Inspection: *"Marami din sa amin kinuha (ni-recruit) ng manpower agency na CONQUEROR at ipinadala (deployed) sa loob ng pagawaan ng SAGARA upang magtrahaho sa iba[']t ibang trabaho o gawaing aming nabanggit sa itaas sa loob ng pagawaan ng SAGARA[.]"*[50]

Payment of wages

As for the payment of wages, the Court notes that the DOLE Compliance Officers, during their inspection, did not report any transgression relating to the salaries and benefits of respondents. There was neither any finding that Sagara managed the payroll of respondents. Instead, the following circumstances indicate that Conqueror was the one who paid the wages of respondents: (a) it faithfully remitted the SSS, PhilHealth, and Pag-IBIG contributions of respondents which are the usual deductions from employees' salaries; and (b) the supervisors of Conqueror were the ones who monitored respondents' attendance and released their pay slips.[51]

Power of dismissal

Conqueror exercised the power of dismissal including the power to discipline, suspend and reprimand, as shown by the

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[48] See *Loreche-Amit v. Cagayan De Oro Medical Center, Inc.*, G.R. No. 216635, June 3, 2019.

[49] *Rollo* (G.R. No. 250501), Vol. I, pp. 129-147.

[50] *Rollo* (G.R. No. 250311), Vol. I, p. 175.

[51] *Rollo* (G.R. No. 250501), Vol. I, pp. 345-384.

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following: (1) Notice[52] dated November 11, 2014 wherein Conqueror meted out the penalty of three-day suspension on respondent Evan Christopher Pamplona for his offense *"Paglabag sa Kautusan na Itinakda ng Kompanya"* (Insubordination); and (2) "Noticed *(sic)* to Explain"[53] dated July 8, 2015 wherein it required Dennis Aragona to explain his being Absent without Notice to His Superior for the dates July 3, 4, 6, and 7, 2015. As a matter of fact, respondents Marvin Barrameda, John David Corpuz and Ariel Velasquez expressly recognized Conqueror as their employer when they tendered their resignation letters[54] with Conqueror between June and July 2015.

Power of control

In ruling that Conqueror is a labor-only contractor, the CA however held that Sagara exercised control over the means and methods of respondents' work that established an employer-employee relationship between them. The CA considered the following evidence adduced by respondents: (1) Sagara's list of employees who did not render overtime work; and (2) Sagara's inspection hourly monitoring report, which purportedly showed the hourly reports of respondents.

That Sagara had a list of employees who did not render overtime work and inspected the hourly outputs of respondents through its inspection hourly monitoring report does not sufficiently establish that Sagara exercised control over them.

The Court takes note of the general practice wherein principals in a service agreement take cognizance of the outputs and accomplishments of the contractors to ascertain their compliance with the production quota required in the service agreement.

The ruling of the Court in *Orozco v. Court of Appeals*[55] is instructive:

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[52] *Id.* at 315.

[53] *Id.* at 314.

[54] *Id.* at 294-298.

[55] 584 Phil. 35 (2008).

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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.[56]

Further, both the Regional Director and the Secretary of DOLE found that Conqueror retained control over the respondents through its supervisors, namely: Arnold Edrozo (Edrozo), Jayson Fos (Fos), and Michelle Cariño (Cariño). According to the labor officials, Conqueror deployed them to Sagara to regularly monitor and supervise respondents' attendance and performance.[57]

This is consistent with the *[Pinagsama-samang] Sinumpaang Salaysay at* Position Paper of respondents wherein they stated that Conqueror appointed and assigned supervisors at Sagara who monitored their attendance, checked their time cards, and issued their payslips.[58] Respondents likewise stated that the supervisors of Conqueror periodically coordinated with the representatives of Sagara to ascertain the manpower needs and service requirements of Sagara.[59]

Particularly, Edrozo inspected the amount of materials which respondents, working under the Plastic Parts Department, would bring to the production area. He also conducted random ocular inspections of the work stations of respondents assigned as encoders and label counters to ensure that stickers attached to each package correspond to the product contained in the package.[60]

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[56] *Id.* at 49. Citations omitted.

[57] See Order dated October 6, 2015 of the DOLE Regional Director, *rollo* (G.R. No. 250501), Vol. II, pp. 577-621. See also Resolution dated May 16, 2016 of the Secretary of DOLE, *id.* at 760-767.

[58] *Rollo* (250501), Vol. I, p. 87.

[59] *Id.*

[60] *Rollo* (G.R. No. 250501), Vol. I, pp. 302-303.

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Likewise, Fos visited and inspected the work stations of respondents, who were assigned as production operators under the Tube Parts Department, to ensure promptness in the cutting and bundling of the tube products in conformity with the prescribed length and quantity of Sagara.[61]

As for Cariño, she monitored and directed the work of respondents assigned as warehousemen in maintaining and updating the movement of the stock inventory to ensure an efficient and systematic manner of warehousing.[62]

Taking into consideration the surrounding circumstances of the case and applying the four-fold test, the Regional Director and the Secretary of DOLE aptly determined that Conqueror was a legitimate job contractor and, consequently, the employer of respondents.

The factual findings of the Regional Director and the Secretary of DOLE, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality. They bind the Court when supported by substantial evidence.[63] As a rule, the factual findings of the labor officials are not disturbed by the Court particularly where, as in the case, both the Regional Director and the Secretary of DOLE are in agreement.[64]

WHEREFORE, the consolidated petitions are **GRANTED**. The Decision dated June 28, 2019 and the Resolution dated October 29, 2019 of the Court of Appeals in CA-G.R. SP No. 148896 are **REVERSED** and **SET ASIDE**. Accordingly, the Resolution dated May 16, 2016 of the Secretary of Department of

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[61] *Id.* at 305-306.

[62] *Id.* at 309-310.

[63] *PCL Shipping Phil., Inc. v. National Labor Relations Commission*, 502 Phil. 554, 562 (2005).

[64] *Id.*

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Labor and Employment in OS-LS-0455-0425-2016/RO4A-LPO-CV- 0615-0017 is **REINSTATED**.

SO ORDERED.

Perlas-Bernabe, S.A.J. (Chairperson), Hernando, Gaerlan, and *Dimaampao, JJ.*, concur.

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