Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RICO PALIC CONJUSTA, Petitioner,	**G.R. No. 252720**
- versus -	Present:
PPI HOLDINGS, INC. (formerly PHILIPPINE PIZZA, INC.), JORGE L. ARANETA (OWNER), ATALIAN GLOBAL SERVICES (formerly CONSOLIDATED BUILDING MAINTENANCE, INC./CBMI), and JUAN MANOLO ORTAÑEZ (OWNER), Respondents.	LEONEN, *S.A.J.*, *Chairperson*, LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
	Promulgated: AUG 22 2022

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DECISION

LOPEZ, M., *J.*:

Previous declarations that a company is an independent job contractor cannot validly be the basis in concluding its status as such in another case involving a different employee. The totality of the facts and surrounding circumstances, distinct in every case, must be assessed in determining whether an entity is a legitimate job contractor or a labor-only contractor.[1]

This resolves the Petition for Review on *Certiorari*[2] assailing the Decision[3] dated October 30, 2019 and the Resolution[4] dated March 6, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 158667.

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1 *Manila Cordage Company-Employees Labor Union-Organized Labor Union in Line Industries and Agriculture v. Manila Cordage Company*, G.R. Nos. 242495-96, September 16, 2020, <https://sc.judiciary.gov.ph/19070/> [Per J. Leonen, Third Division].

2 *Rollo*, pp. 3–24.

3 *Id.* at 29–52. Penned by Associate Justice Fernanda Lampas Peralta, with the concurrence of Associate Justices Danton Q. Bueser and Ronaldo Roberto B. Martin.

4 *Id.* at 54–55.

Facts

On October 2, 2002, PPI Holdings, Inc. (PPI), the sole franchisee of Pizza Hut in the Philippines, hired petitioner Rico Palic Conjusta (Conjusta) as a messenger for its human resources department, and later on, for its accounting department. Eventually, however, Conjusta's employment was transferred to a manpower agency, a certain Human Resources, Inc., and subsequently, to Consolidated Buildings Maintenance, Inc. (CBMI), now Atalian Global Services. Despite such transfer, nothing changed with Conjusta's employment — he continued to be PPI's messenger in its accounting department until CBMI sent him, along with other coworkers, a Letter[5] dated August 1, 2016 terminating his services with PPI. Conjusta then filed an illegal dismissal case with money claims against PPI, CBMI, and their owners, arguing that he was PPI's regular employee for having worked with it for 14 years, and that there was no just cause for his dismissal.[6]

PPI, meanwhile, denied having an employer-employee relationship with Conjusta. It posited that Conjusta was merely assigned to it by CBMI, a legitimate job contractor that had rendered janitorial, sanitation, warehousing services, and allied services to PPI until the termination of their latest Contract of Services Agreement on September 1, 2016.[7] Invoking the service agreement with CBMI, PPI averred that it was CBMI which relayed the company rules, regulations, and working terms and conditions upon Conjusta's engagement, and which paid Conjusta's salary, Social Security System, Pag-IBIG, and PhilHealth contributions.[8]

For its part, CBMI acknowledged Conjusta as its employee assigned to PPI. It asserted that it is a legitimate job contractor engaged in the business of providing janitorial, kitchen, elevator maintenance, and allied services to various entities, including PPI. However, while it recognized Conjusta's employment, CBMI denied having terminated his services. Instead, it alleged that Conjusta, along with his other coemployees, was merely placed on floating status when it decided to terminate its latest service contract with PPI effective September 1, 2016 due to certain disagreements on financial matters. Hence, for CBMI, the Complaint filed on October 21, 2016 should be dismissed for being prematurely filed.[9]

In a Decision[10] dated August 31, 2017, the Labor Arbiter (LA) found the following evidence sufficient to prove that CBMI is a legitimate contractor, to wit: (a) CBMI Securities and Exchange Commission (SEC) Registration; (b) CBMI Company Profile; (c) Contracts of Services entered into with PPI for several years; (d) CBMI Certificates of Registration with the

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5 *Id.* at 71–73.
6 *Id.* at 30–31, 366–368, and 415.
7 See Notice of Termination dated August 1, 2016; *id.* at 262.
8 *Id.* at 32–33, 370–371, and 416.
9 *Id.* at 32, 369, and 415–416.
10 *Id.* at 366–380. Signed by Labor Arbiter Mary Ann F. Plata-Daytia.

Department of Labor and Employment (DOLE) under Department Order (DO) No. 18-A, Series of 2011 and DO No. 18-02, Series of 2002; and (e) Audited Financial Statement filed with the SEC showing substantial capital or investment. The LA further found that, as stipulated in the service agreements, CBMI carried out its work/service independently from its principal in accordance with its own means, method, and manner.[11]

Nonetheless, the LA ruled that Conjusta was PPI's regular employee as there was nothing on record that would show the existence of an employer-employee relationship between CBMI and Conjusta. Rather, Conjusta's 14 years of service with PPI, performing tasks which are usually necessary or desirable to PPI's main business as messenger, proved that Conjusta was PPI's employee. Since PPI failed to present any just or authorized cause in terminating his employment,[12] the LA disposed:

> **WHEREFORE**, premises considered, judgment is hereby rendered declaring **[Conjusta]** to have been **ILLEGALLY DISMISSED**.
>
> Accordingly, **[PPI]** is hereby ordered to pay [Conjusta] the following:
>
> a.) **Full backwages** from the time he was **illegally dismissed** on September 30, 2016 up to the finality of the decision, tentatively computed in the amount of **One Hundred Fifty[-]Four Thousand Nine Hundred Thirty Four Pesos and 93/100 ([PHP]154,934.93)**;
>
> b.) **Separation pay** of one (1) month pay for every year of service **([PHP]491.00 x 15 years)** in the amount of **One Hundred Ninety[-]One Thousand Four Hundred Ninety Pesos ([PHP]191,490.00)**;
>
> c.) **13th Month Pay** in the amount of **Thirty[-]Seven Thousand Five Hundred Eighteen Pesos ([PHP]37,518.00)**; and
>
> [d.)] **Attorney's fees** equivalent to 10% of the total monetary awards, in the amount of **Thirty[-]Eight Thousand Three Hundred Ninety[-]Four Pe[s]os and 29/100 ([PHP]38,394.29)**.
>
> The Computation of [Conjusta's] monetary awards is here attached to form an integral part of the Decision.
>
> The complaint against [CBMI], Jorge L. Araneta[,] and Juan Manolo O. Orta[ñ]ez is hereby **DISMISSED**.
>
> All other claims are **DISMISSED** for lack of merit.
>
> **SO ORDERED**.[13] (Emphasis in the original)

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11 *Id.* at 371–374.
12 *Id.* at 374–376.
13 *Id.* at 378–379.

PPI filed a partial appeal[14] from the LA's Decision, insisting that Conjusta was not its employee but that of CBMI, which is a legitimate job contractor as found by the LA.[15]

In a Decision[16] dated May 31, 2018, the National Labor Relations Commission (NLRC) ruled that CBMI is a labor-only contractor. The NLRC found that, despite proof of substantial capitalization, there is no showing that CBMI carries on an independent business or undertakes the performance of its service contracts according to its own manner and method, free from the control and supervision of PPI. The contracts of services between PPI and CBMI clearly show that CBMI undertook to merely supply manpower. The NLRC explained that the registration with the DOLE as an independent contractor is not conclusive of such status.

Further, Conjusta's job as a messenger is necessary and vital to PPI's business as the only franchisee of Pizza Hut, which requires food and kitchen services, sanitation, delivery, warehousing, commissary, and related services for its various restaurants. The NLRC also took note of Conjusta's 14 years of uninterrupted service with PPI. In view of these circumstances, the NLRC agreed with the LA that Conjusta was PPI's regular employee. Finally, the NLRC upheld the LA's finding that PPI failed to adduce evidence that Conjusta's dismissal was for a just or authorized cause, and that procedural due process was observed in the dismissal,[17] thus:

> **WHEREFORE,** [PPI and Araneta's] partial appeal is **DENIED** for lack of merit. Nonetheless, [the LA's] *Decision* dated 31 August 2017 is hereby **MODIFIED** as follows:
>
> 1.) That [CBMI] is declared as a labor-only contractor in this case;
>
> 2.) That [PPI] is ordered to reinstate [Conjusta] to his former position without loss of seniority rights and privileges; and
>
> 3.) That [PPI] and [CBMI] are jointly and severally liable to pay [Conjusta] his full backwages from the time he was illegally dismissed up to the finality of this decision, 13th month pay, and attorney's fees equivalent to ten percent (10%) of the aforesaid money judgment award.
>
> The rest of the assailed decision **STANDS**.
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> See attached computation which forms part of this Decision.
>
> **SO ORDERED.**[18] (Emphasis in the original)

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[14] See Memorandum of Partial Appeal dated December 18, 2017; *id.* at 381–406.
[15] *Id.* at 388–404.
[16] *Id.* at 413–432. Signed by Presiding Commissioner Grace M. Venus, with the concurrence of Commissioner Leonard Vinz O. Ignacio. Commissioner Mary Ann P. Daytia took no part.
[17] *Id.* at 421-429.
[18] *Id.* at 430.

PPI's Motion for Reconsideration[19] (MR) was denied by the NLRC in a Resolution[20] dated August 31, 2018.

On *certiorari*,[21] the CA, in a Decision[22] dated October 30, 2019, reverted to the LA's ruling that CBMI is a legitimate job contractor. Based solely on the doctrine of *stare decisis*, the CA applied the Court's findings in *Consolidated Building Maintenance, Inc. v. Asprec, Jr.*[23] (*Asprec*) and *Philippine Pizza, Inc. v. Cayetano*[24] (*Cayetano*) that CBMI is a legitimate job contractor. On that premise, the CA concluded that Conjusta was CBMI's direct employer. Nevertheless, the CA sustained the LA and NLRC's uniform ruling that Conjusta was illegally dismissed.[25] The CA disposed:

> **WHEREFORE**, the Decision dated May 31, 2018 and Resolution [dated] August 31, 2018 of [the] NLRC are **MODIFIED**, in that [CBMI] is declared a legitimate job contractor and is ordered to reinstate him to his former position without loss of seniority rights and privileges. In all other respects, said Decision and Resolution **STAND**.
>
> **SO ORDERED.**[26] (Emphasis in the original)

In its assailed Resolution[27] dated March 6, 2020, the CA denied both Conjusta's and CBMI's MR on one hand, and PPI's partial MR on the other. Hence, this Petition,[28] taking issue only on the CA's ruling that CBMI is a legitimate job contractor, and as such is Conjusta's employer. Conjusta maintains that CBMI is engaged in labor-only contracting, and that he was PPI's regular employee for 14 years up to the time that he was illegally dismissed. PPI and CBMI were required to comment on the Petition, but only CBMI filed its Comment[29] — its only argument: PPI should not be held liable with it for the illegal dismissal and for Conjusta's other claims.[30] Notably, no question was raised as to the finding of illegal dismissal, order of reinstatement, and the payment of backwages and 13th month pay.

Issues

I. Whether the CA erred in ruling that CBMI was a legitimate job contractor and, consequently, was Conjusta's direct employer; and

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19 Dated June 28, 2018. *Id.* at 448–473.
20 *Id.* at 500–503.
21 *Id.* at 504–542.
22 *Id.* at 29–52.
23 832 Phil. 630 (2018) [Per J. Reyes, Jr., Second Division].
24 839 Phil. 381 (2018) [Per J. Perlas-Bernabe, Second Division].
25 *Rollo*, pp. 39–51.
26 *Id.* at 51.
27 *Id.* at 54–55. Penned by Associate Justices Fernanda Lampas Peralta, with the concurrence of Associate Justice Danton Q. Bueser and Ronaldo Roberto B. Martin.
28 *Id.* at 3–24.
29 *Id.* at 616–621.
30 *Id.* at 616.

II. Whether the CA erred in ruling that PPI and CBMI should be held solidarily liable for the monetary awards.

Ruling

We note that the issues presented before us involve factual matters, which are generally beyond the scope of this review. The conflicting findings of the LA, NLRC, and CA, however, give us basis to take cognizance of this case to finally put the issues to rest.[31] Nevertheless, in doing so, we are mindful of the distinct approach in reviewing a CA ruling in labor cases, *i.e.*, our examination is limited to the correctness of the CA's determination of the presence or absence of grave abuse of discretion on the part of the NLRC. When the NLRC ruling has basis in evidence and the applicable law and jurisprudence, no grave abuse of discretion exists for the CA to overturn it.[32]

PPI and CBMI were engaged in the proscribed labor-only contracting

Labor contracting or outsourcing of services is not totally prohibited in our jurisdiction. Articles 106 to 109 of the Labor Code and DOLE DO No. 18-02, Series of 2002[33] and DO No. 18-A, Series of 2011,[34] the implementing rules in force at the time of Conjusta's employment, provide legal basis for service contracting, but also clearly delineate when it is not permitted. Section 4 of DO No. 18-A considers contracting or subcontracting legitimate *if all of 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.

On the other hand, Article 106 of the Labor Code defines the prohibited labor-only contracting, *viz.*:

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31 *Paredes v. Feed the Children Philippines, Inc.*, 769 Phil. 418, 433 (2015) [Per J. Peralta, Third Division].

32 *Philippine Pizza, Inc. v. Cayetano*, 839 Phil. 381, 389 (2018) [Per J. Perlas-Bernabe, Second Division].

33 Entitled "RULES IMPLEMENTING ARTICLES 106 TO 109 OF THE LABOR CODE, AS AMENDED"; approved on February 21, 2002.

34 Entitled "RULES IMPLEMENTING ARTICLES 106 TO 109 OF THE LABOR CODE, AS AMENDED"; approved on November 14, 2011.

> Article 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. 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.

Section 5 of DO No. 18-02 further explains the concept of labor-only contracting as follows:

> 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 job, work or service for a principal, and any of the following elements are present:
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> i) [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; or
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> ii) the contractor does not exercise the right to control over the performance of the work of the contractual employee.
>
> x x x x
>
> "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.

The latest applicable amendment to the implementing rules under Section 6 of DO No. 18-A enumerates the following elements of labor-only contracting, to wit:

> (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.

In fine, the following must be considered in determining whether CBMI is a legitimate job contractor or is engaged in labor-only contracting: (1) registration with the proper government agencies; (2) existence of substantial capital or investment; (3) service agreement that ensures compliance with all the rights and benefits under labor laws; (4) nature of the activities performed by the employees, *i.e.*, if they are usually necessary or desirable to the operation of the principal's company or directly related to the main business of the principal within a definite predetermined period; and (5) the exercise of the right to control the performance of the employees' work.[35]

Considering these specific conditions or elements, the CA gravely erred when it determined CBMI's character as a legitimate job contractor solely on the basis of the Court's pronouncements in *Asprec* and *Cayetano*. The principle of *stare decisis* cannot be applied in determining whether one is engaged in the permissible job contracting or otherwise since such characterization should be based on the distinct features of the relationship between the parties, and the totality of the facts and attendant circumstances of each case,[36] measured against the terms of and criteria set by the statute.[37] Specifically, while *Asprec* and *Cayetano* also involved PPI and CBMI, the nature of work and treatment of employment of the employees in those cases may be different from Conjusta's. Hence, an independent determination of Conjusta's case is necessary, which was aptly undertaken by the NLRC in this case.

As correctly observed by the NLRC, the only evidence on record to support PPI and CBMI's claim of legitimate job contracting are the certificates of registration, financial statements, and service agreements. But we have consistently ruled that a certificate of registration as an independent contractor is not conclusive evidence of such status. Such registration merely prevents the legal presumption of being a labor-only contractor from arising.[38] The financial statements presented to prove that CBMI has substantial capital likewise do not suffice to classify it as an independent contractor. It is settled that, despite proof of substantial capital, a contractor is still considered

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[35] See *Baretto v. Amber Golden Pot Restaurant*, G.R. Nos. 254596-97, November 24, 2021, <https://sc.judiciary.gov.ph/27433/> [Per J. Carandang, Third Division].

[36] *San Miguel Foods, Inc. v. Rivera*, 824 Phil. 961, 975–976 (2018) [Per J. Velasco, Jr., Third Division].

[37] *7K Corporation v. NLRC*, 537 Phil. 664, 677 (2006) [Per J. Austria-Martinez, First Division].

[38] *Daguinod v. Southgate Foods, Inc.*, G.R. No. 227795, February 20, 2019, 894 SCRA 172, 192–193 [Per J. Caguioa, Second Division], citing *San Miguel Corporation v. Semillano*, 637 Phil. 115, 130 (2010) [Per J. Mendoza, Second Division].

engaged in labor-only contracting whenever it is established that the principal actually controls the manner of the employee's work.[39] Finally, we cannot blindly rely upon the contractual declarations depicting CBMI as a legitimate job contractor. As we have held in *Daguinod v. Southgate Foods, Inc.*,[40] the true nature of the relationship between the principal, contractor, and employee cannot be dictated by mere expedience of a unilateral declaration in a contract.[41] Thus, we quote with approval the NLRC's assessment on the totality of attendant circumstances *vis-à-vis* the criteria set by the statute:

> We consider several factors in concluding that CBMI was [a] labor-only contract[or].
>
> **First,** there is want of evidence that CBMI carries on an independent business or undertake[s] the performance of its service contracts according to its own manner and method, free from the control and supervision of PPI. While the various service agreements between PPI and CBMI contained the latter's undertaking for the employees' qualification and training, hiring and payroll, as well as their supervision, discipline, suspension or termination, said clauses are still but empty words that would hardly help PPI's case, in absence of concrete proof that CBMI indeed carries on an independent business. In *San Miguel Corporation v. Semillano* [637 Phil. 115 (2010)], the Supreme Court instructed, to wit:
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> > "Despite the fact that the service contracts contain stipulations which are earmarks of independent contractorship, they do not make it legally so. The language of a contract is neither determinative nor conclusive of the relationship between the parties. Petitioner SMC and AMPCO cannot dictate, by a declaration in a contract, the character of AMPCO's business, that is, whether as labor-only contractor, or job contractor. AMPCO's character should be measured in terms of, and determined by, the criteria set by statue. At a closer look, AMPCO's actual status and participation regarding respondents' employment clearly belie the contents of the written service contract."
>
> Further, in the *Polyfoam-RGC International [Corporation*, 687 Phil. 173 (2012)], the Supreme Court observed, thus:
>
> > "Gramaje did not carry on an independent business or undertake the performance of its service contract according to its own manner and method, free from the control and supervision of its principal, Polyfoam, its apparent role having been merely to recruit persons to work for Polyfoam. It is undisputed that respondent had performed his task of packing Polyfoam's foam products in Polyfoam's premises. As to the recruitment of respondent, petitioners were able to establish only that respondents' application was referred to Gramaje, but that is all. Prior to his termination,

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39 *Mago v. Sun Power Manufacturing Limited*, 824 Phil. 464, 480 (2018) [Per J. Reyes, Jr., Second Division].

40 G.R. No. 227795, February 20, 2019, 894 SCRA 172 [Per J. Caguioa, Second Division].

41 *Id.* at 194, citing *Petron Corporation v. Caberte*, 759 Phil. 353, 367 (2015) [Per J. Del Castillo, Second Division].

respondent had been performing the same job in Polyfoam's business for almost six (6) years."

Similarly in this case, there is want of evidence that it was CBMI who hired [Conjusta]. In fact, there was no contract of employment showing that [Conjusta] was an employee of CBMI, nor were there records submitted in evidence to show such relationship. It is likewise undisputed that as a messenger, [Conjusta] had been performing his task[s] at PPI's premises for about fourteen (14) years. x x x [A]ll those times, all the tools and equipment which he used in the performance of his work are owned by PPI and the latter's managers and supervisors controlled his work inside the company premises.

x x x x

That PPI exercised the right of control over [Conjusta's] work is clear and unmistakable. Said right to control refers 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.

Second, a perusal of the various contract of services executed between PPI and CBMI, which spanned for several years from 1999 to 2012, would show that CBMI undertook to supply manpower only. Said undertaking, which contained the scope of contracted services which are similarly worded with the other contracts, are hereby reproduced as follows:

"1. CONTRACTED SERVICES

The CONTRACTOR shall render, undertake and perform in the CLIENT's places of business the following services (hereinafter referred to as "Contracted Service"):

a. Waitering services
b. Food and kitchen services
c. Rider/Delivery services
d. Sanitation services
e. Warehousing services
f. Commissary Services/Cashiering
g. Other allied services as may be required by the CLIENT

The CONTRACTOR shall deploy its employees at the designated place of operation subject to prior consultation and agreement with the CLIENT."

"I. SCOPE OF SERVICES

The INDEPENDENT CONTRACTOR agrees to provide the following services to the CLIENT at the CLIENT's places of business listed in ANNEX A of the Contract:

i. Kitchen Services
ii. Busing Services
iii. Rider/Delivery Services
iv. Sanitation Services

> The INDEPENDEDENT CONTRACTOR shall also provide the tools and equipment necessary for the rendition of said services."
>
> x x x x
>
> "I. SCOPE OF SERVICES
>
> The INDEPENDENT CONTRACTOR agrees to provide the following services to the CLIENT at the CLIENT's places of business listed in ANNEX A of the Contract:
>
> i. Delivery Riders
> ii. Commissary drivers
> iii. Warehouse service personnel
>
> The INDEPENDEDENT CONTRACTOR shall also provide the tools and equipment necessary for the rendition of said services."

Verily, by supplying manpower only, CBMI cannot be considered as an independent contractor. The High Court's observation in *Coca-Cola Bottlers Phils. Inc. v. Agito* [598 Phil. 909 (2009)] is worthy of mention, *viz.*:

> "As the Court previously observed, the Contract of Services between Interserve and petitioner did not identify the work needed to be performed and the final result required to be accomplished. x x x Interserve did not obligate itself to perform an identifiable job, work, or service for petitioner, but merely bound itself to provide the latter with specific types of employees x x x performing tasks directly related to [petitioner's] principal business."
>
> x x x x

Third, the fact that CBMI was registered as an independent contractor with DOLE would not prevent it from becoming [a] labor-only contractor in this case. Once again, in the *San Miguel Corporation v. Semillano* case, the High Court elucidated, thus:

> "Petitioner cannot rely either on AMPCO's Certificate of Registration as an Independent Contractor issued by the proper Regional Office of the DOLE to prove its claim. It is not conclusive evidence of such status. The fact of registration simply prevents the legal presumption of being a mere labor-only contractor from arising. In distinguishing between permissible job contracting and prohibited labor-only contracting, the totality of the facts and the surrounding circumstances of the case are to be considered."

Fourth, it is without any doubt that [Conjusta's] job as [a] messenger is necessary and vital to PPI's business as the Philippine franchisee of Pizza Hut which requires waitering, food and kitchen services, sanitation, delivery, warehousing, commissary and related services for its various restaurants. Otherwise, [Conjusta] would not have been repeatedly

> and continuously hired by PPI for fourteen (14) years. It has been held that such repeated and continuing need for the performance of the job is sufficient evidence of the necessity, if not indispensability[,] of the activity to the business.[42] (Emphasis supplied; citations omitted)

Contrastingly, the CA merely made inference from previous cases without reference to the evidence on hand in concluding that CBMI was a legitimate job contractor, and as such was Conjusta's direct employer. We emphasize that the Court has been consistent in ruling that the totality of the facts and the surrounding circumstances of the case must be considered in distinguishing prohibited labor-only contracting from permissible job contracting.[43] In fact, in *Cayetano* relied upon by the CA, we accentuated the need for an independent consideration of the attending circumstances of a case in determining the legality or illegality of a contractor's undertaking.[44]

Notably, even the LA, which found CBMI to be a legitimate job contractor, ruled that Conjusta is not one of those deployed by CBMI to PPI. The LA ruled that Conjusta is PPI's regular employee since Conjusta started working directly with PPI, continuously did so for 14 years without any intervention from CBMI, and there is no documentary proof that shows any connection between Conjusta and CBMI.[45] Indeed, the element of control is a strong indicator of the nature of a contractor's activity and its relationship with the employee. Whenever it is established, as in this case, that the principal, not the contractor, actually controls the manner of the employee's work, such contractor is considered as engaged in labor-only contracting.[46] Besides, these uniform factual findings of the LA and the NLRC, which are deemed to have acquired expertise in matters within their respective jurisdiction, should not be disturbed and are binding upon the reviewing court, being supported by substantial evidence.[47]

PPI and CBMI are solidarily liable

With the finding that CBMI is a labor-only contractor, it is considered as a mere agent of PPI, which in turn is deemed to be Conjusta's employer.[48] Section 7 of DO No. 18-02 provides:

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42 *Rollo*, pp. 422–428.

43 *Philippine Pizza, Inc. v. Cayetano*, 839 Phil. 381, 390–393 (2018) [Per J. Perlas-Bernabe, Second Division]; and *San Miguel Food, Inc. v. Rivera*, 824 Phil. 961, 975–976 (2018) [Per J. Velasco, Jr., Third Division].

44 *Philippine Pizza, Inc. v. Cayetano*, *id.* at 390–391.

45 *Rollo*, pp. 374–375.

46 See *Ortiz v. Forever Richsons Trading Corporation*, G.R. No. 238289, January 20, 2021, <https://sc.judiciary.gov.ph/20922/> [Per J. Lopez, Second Division]; and *Vinoya v. NLRC*, 381 Phil. 460, 481–482 (2000) [Per J. Kapunan, First Division].

47 *Conqueror Industrial Peace Management Cooperative v. Balingbing*, G.R. Nos. 250311 and 250501, January 5, 2022, <https://sc.judiciary.gov.ph/27345/> [Per J. Inting, Second Division]; and *PCL Shipping Philippines, Inc. v. NLRC*, 502 Phil. 554, 562 (2005) [Per J. Chico-Nazario, Second Division].

48 See *Daguinod v. Southgate Foods, Inc.*, G.R. No. 227795, February 20, 2019, 894 SCRA 172, 191 [Per J. Caguioa, Second Division].

> Section 7. *Existence of an employer-employee relationship.* — x x x
>
> 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; x x x
>
> x x x x

Consequently, PPI and CBMI are solidarily liable for Conjusta's illegal dismissal and monetary claims,[49] consistent with our ruling in *San Miguel Corporation v. MAERC Integrated Services, Inc.*,[50] *viz.*:

> In legitimate job contracting, the law creates an employer-employee relationship for a limited purpose, *i.e.*, to ensure that the employees are paid their wages. The principal employer becomes jointly and severally liable with the job contractor only for the payment of the employees' wages whenever the contractor fails to pay the same. Other than that, the principal employer is not responsible for any claim made by the employees.
>
> **On the other hand, in labor-only contracting, the statute creates an employer-employee relationship for a comprehensive purpose: to prevent a circumvention of labor laws. The contractor is considered merely an agent of the principal employer and the latter is responsible to the employees of the labor-only contractor as if such employees had been directly employed by the principal employer. The principal employer therefore becomes solidarily liable with the labor-only contractor for all the rightful claims of the employees.**
>
> This distinction between job contractor and labor-only contractor x x x will not discharge [the principal] from paying the separation benefits of the workers, inasmuch as [the contractor] was shown to be a labor-only contractor; in which case, [the principal's] liability is that of a direct employer and thus solidarily liable with [the contractor].[51] (Emphasis supplied)

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The Decision dated October 30, 2019 and the Resolution dated March 6, 2020 of the Court of Appeals in CA-G.R. SP No. 158667 are **MODIFIED.** Consolidated Building Maintenance, Inc. is declared as a labor-only contractor, and PPI Holdings, Inc. is Rico Palic Conjusta's employer. The Decision dated May 31, 2018 and the Resolution dated August 31, 2018 of the National Labor Relations Commission in NLRC LAC No. 01-000394-18 are **REINSTATED.**

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[49] *Daguinod v. Southgate Foods, Inc.*, *id.* at 202–203; *Alilin v. Petron Corporation*, 735 Phil. 509, 529 (2014) [Per J. Del Castillo, Second Division]; *Garden of Memories Park and Life Plan, Inc. v. NLRC*, 681 Phil. 299, 308 (2012) [Per J. Mendoza, Third Division]; *7K Corporation v. NLRC*, 537 Phil. 664, 679 (2006) [Per J. Austria-Martinez, First Division]; and *San Miguel Corporation v. MAERC Integrated Services, Inc.*, 453 Phil. 543, 566–567 (2003) [Per J. Bellosillo, Second Division].

[50] 453 Phil. 543 (2003) [Per J. Bellosillo, Second Division].

[51] *Id.* at 566–567.

SO ORDERED.

MARIO A. LOPEZ
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice