



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila  
SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **18 January 2021** which reads as follows:*

**“G.R. No. 254101 (Zone Gard Termite & General Pest Control and Rollen Cinco v. Eduardo L. Perez).** – After a judicious study of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> dated January 10, 2020 and the Resolution<sup>3</sup> dated October 28, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 157922 for failure of petitioners Zone Gard Termite & General Pest Control and Rollen Cinco (petitioners) to sufficiently show that the CA committed any reversible error in upholding the National Labor Relations Commission’s finding<sup>4</sup> that respondent Eduardo L. Perez (Perez) was a regular employee and in awarding the latter financial assistance in the amount of ₱25,000.00.

As correctly ruled by the CA, Perez cannot be deemed a project employee as there was no evidence to show that he was made to sign a contract of employment hiring him as such, or that he was apprised of the project-based nature of his employment. On the contrary, Perez performed tasks that were essential and necessary to petitioners’ business of termite and pest control services and had been on the job for more than a year, hence, a regular employee as defined under Article 295<sup>5</sup> (formerly 280) of the Labor Code.<sup>6</sup>

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<sup>1</sup> Id. at 9-22.

<sup>2</sup> Id. at 24-36. Penned by Associate Justice Marie Christine Azcarraga-Jacob with Associate Justices Jane Aurora C. Lantion and Tita Marilyn B. Payoyo-Villordon, concurring.

<sup>3</sup> Id. at 38-40. Penned by Associate Justice Marie Christine Azcarraga-Jacob with Associate Justices Ronaldo Roberto B. Martin and Tita Marilyn B. Payoyo-Villordon, concurring.

<sup>4</sup> See Decision dated June 27, 2018 and Resolution dated July 25, 2018 of the NLRC in NLRC LAC No. 06-001974-18 penned by Commissioner Agnes Alexis Lucero-De Grano with Presiding Commissioner Joseph Gerard E. Mabilog and Commissioner Isabel G. Panganiban-Ortiguerra, concurring; id. at 173-185 and 192-195, respectively.

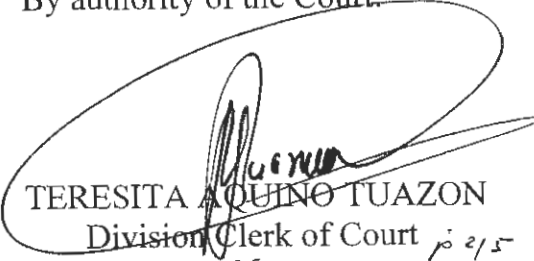
<sup>5</sup> As renumbered by Department Advisory No. 01, s. 2015 dated July 21, 2018. Article 295 provides:

Article 295. [280] Regular and casual employment. The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been

Likewise, the Court sustains the award of financial assistance to Perez as case law allows the same as a measure of social justice and exceptional circumstances, and as an equitable concession.<sup>7</sup> Since Perez had rendered eight (8) years of service to petitioners and had suffered an illness which may have been caused or aggravated by the nature of his employment as pest control technician, compassionate justice warrants its grant. Moreover, it bears stressing that factual findings of the labor tribunals, when affirmed by the CA, are generally accorded not only respect, but even finality, and are binding on the Court,<sup>8</sup> as in this case.

**SO ORDERED.** (Rosario, J., designated additional member per Special Order No. 2797 dated November 5, 2020; on official leave).”

By authority of the Court:

  
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Division Clerk of Court p 2/5  
05 FEB 2021

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(NLRC LAC No. 06-001974-18;  
NLRC Case No. RAB IV-07-001144-17-L)

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determined at the time of the engagement of the employee or where the work or service to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: *Provided*, That any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exists.

<sup>6</sup> Rollo, pp. 31-34.

<sup>7</sup> *Villaruel v. Yeo Han Guan*, 665 Phil. 212, 222 (2011).

<sup>8</sup> *Grande v. Philippine Nautical Training College*, 806 Phil. 601, 612 (2017).