Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MANCO SYNTHETIC INC.-EMPLOYEE LABOR UNION-ORGANIZED LABOR UNION IN LINE INDUSTRIES AND AGRICULTURE (MSI-ELU-OLALIA) and MANILA CORDAGE COMPANY- EMPLOYEES LABOR UNION-ORGANIZED LABOR UNION IN LINE INDUSTRIES AND AGRICULTURE (MCC-ELU-OLALIA), Petitioners, - versus - **MANILA CORDAGE COMPANY (MCC) and MANCO SYNTHETICS, INC. (MSI)** Respondents.	**G.R. No. 260801** **Present:** LEONEN, *SAJ.*, *Chairperson*,* LAZARO-JAVIER,** LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.* **Promulgated:** MAY 13 2024

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DECISION

LOPEZ, J., *J.*:

This Court resolves the Petition for Review on *Certiorari*[1] filed by Manco Synthetic Inc.-Employee Labor Union-Organized Labor Union in Line Industries and Agriculture (MSI-ELU-OLALIA) and Manila Cordage Company-Employees Labor Union-Organized Labor Union in Line Industries

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* On official business.
** Acting Chairperson.
1 *Rollo*, pp. 11–49.

and Agriculture (MCC-ELU-OLALIA) (collectively, petitioners), seeking to reverse the Amended Decision[2] and the Resolution[3] rendered by the Court of Appeals (CA). The assailed rulings reversed the earlier CA Decision,[4] which denied the Petition for *Certiorari* filed by Manila Cordage Company (MCC) and Manco Synthetics, Inc. (MSI) for lack of merit. The assailed CA rulings set aside the Resolutions[5] of the Office of the Secretary of Department of Labor and Employment (DOLE) and held that no employer-employee relationship existed between the parties.[6]

Facts

The Organized Labor Union in Line Industries and Agriculture (OLALIA) is a legitimate labor organization, with petitioners serving as its local chapters in MCC and MSI. On the other hand, MCC and MSI are domestic corporations engaged in the rope-making business. Since MCC and MSI had no exclusive bargaining agent, OLALIA filed two Petitions for Certification Election before the DOLE Regional Office IV. The Petitions were granted, paving the way for the conduct of certification elections on January 27, 2016.[7]

In response to the conduct of certification elections, MCC and MSI filed formal protests to challenge the results, claiming that the voters in the elections were not their employees, but of independent contractors, Worktrusted Manpower Services Cooperative (WMSC) and Alternative Network Resources Unlimited Multi-Purpose Cooperative (ANRUMC). The Med-Arbiter granted the protests, which led to the filing of a Memorandum of Appeal by petitioners before the DOLE Secretary (certification election case).[8]

Meanwhile, pursuant to the visitorial and enforcement powers of the Regional Director of DOLE Regional Office No. IV-A (DOLE Regional Director) under Article 128 of the Labor Code, joint assessments were conducted in the premises of MCC and MSI on April 26, 2016, where workers of WMSC and ANRUMC were deployed. From its assessment, the DOLE

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2 *Id.* at 305–316. The October 12, 2020 Amended Decision in CA-G.R. SP No. 151257 was penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Walter S. Ong of the Former Special Sixth Division of the Court of Appeals, Manila.

3 *Id.* at 343–354. The October 26, 2021 Resolution in CA-G.R. SP No. 151257 was penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Walter S. Ong of the Former Special Sixth Division of the Court of Appeals, Manila.

4 *Id.* at 292–303. The August 30, 2019 Decision in CA-G.R. SP No. 151257 was penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Walter S. Ong of the Special Sixth Division of the Court of Appeals, Manila.

5 *Id.* at 122–131. The February 9, 2017 and April 7, 2017 Resolutions were penned by Secretary Silvestre H. Bello III of the Department of Labor and Employment.

6 *Id.* at 309.

7 *Id.* at 377, 395.

8 *Id.* at 396.

Regional Director issued a separate Notice of Results[9] for each of the companies, but noted the same observations for both:

> 1.) NO CWW NOTIFICATION SUBMITTED TO DOLE
> - NON-PAYMENT OF OT & ADDITIONAL; HOLIDAY PREMIUMS
> 2.) NON-PRESENTATION OF PAYROLLS [sic] RECORDS AND DTRS FROM OCTOBER 2014 TO THE TIME OF ASSESSMENT;
> 3.) NON-PRESENTATION OF PROOFS OF REMITTANCES OF SSS, PHILHEALTH AND PAG-IBIG CONTRIBUTIONS;
> 4.) NON-PRESENTATION OF PROOF OF PAYMENT OF 13TH MONTH PAY;
> 5.) VIOLATION OF ITEM 7 SECTION 7 OF D.O. 18-A (REPEATED HIRING CIRCUMVENTION OF P.D. 442 [sic] PROVISION ON SECURITY OF TENURE[])];
> 6.) VIOLATION OF ITEM 5, SECTION 7 OF D.O. 18-A (CONTRACTING OUT OF A JOB OR WORK THAT IS NECESSARY AND DESIRABLE OR DIRECTLY RELATED TO THE BUSINESS OR OPERATION);
> 7.) POOR WORKING ENVIRONMENT: HEAT AND NOISE POLLUTION[10]

The results of the inspection prompted MCC and MSI to submit a Memorandum explaining that they were not able to provide the workers' records as they were employees of WMSC and ANRUMC. They also lamented the fact that they were not given more time to coordinate with the service cooperatives to obtain the required records.[11]

On May 4, 2016, or during the pendency of their appeal in the certification elections case, members of petitioners staged a strike that paralyzed the companies' business operations. MCC and MSI therefore filed a Petition to Declare Illegal Strike, which was docketed as NLRC LAC No. 02-000593-18/ NLRC Case No. RAB-IV-02-00209-17L (illegal strike case).[12]

Following the termination of mandatory conferences in view of the DOLE inspection, the DOLE Regional Director issued an Order[13] containing the following directives against MCC and MSI:

> **WHEREFORE**, an Order is hereby issued directing:
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> 1. Respondents Worktrusted Manpower Service Cooperative and Manila Cordage Company on the basis of their joint and several

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9 *Id.* at 263, 265.
10 *Id.* at 263.
11 *Id.* at 295.
12 *Id.* at 363–364; 380.
13 *Id.* at 94–121. The August 8, 2016 Order was issued by Regional Director Ma. Zenaida A. Angara-Campita of the DOLE Regional Office No. IV-A.

liabilities to pay two hundred fifty-one (251) affected workers the aggregate amount of **ONE MILLION FOUR HUNDRED NINETY-FOUR THOUSAND SEVEN HUNDRED FIVE PESOS ([PHP]1,494,705.00)** representing underpayment of five (5) days service incentive leave (SIL) pay and illegal wage deductions, [...]

2. Respondents Worktrusted Manpower Service Cooperative and Manco Synthetics, Inc. on the basis of their joint and several liabilities to pay the fifty-two (52) affected workers the aggregate amount of **THREE HUNDRED NINE THOUSAND SIX HUNDRED SIXTY PESOS ([PHP]309,660.00)** representing underpayment of five (5) days service incentive leave (SIL) pay and illegal wage deductions, [...]

3. Respondents Alternative Network Resources Unlimited Multi-Purpose Cooperative and Manila Cordage Company on the basis of their joint and several liabilities to pay the eighty-one (81) affected workers the aggregate amount of **SIX HUNDRED FIFTY-FIVE THOUSAND SEVEN HUNDRED TWO AND 50/100 PESOS ([PHP]655,702.50)** representing illegal wage deductions for cooperative share and underpayment of five (5) days service incentive leave (SIL) pay, [...]

[4.] Respondents Alternative Network Resources Unlimited Multi-Purpose Cooperative and Manco Synthetics Inc. on the basis of their joint and several liabilities to pay the one hundred one (101) affected workers the aggregate amount of **NINE HUNDRED TWENTY-FOUR THOUSAND NINE HUNDRED SIXTY PESOS ([PHP]924,960.00)** representing illegal wage deductions for cooperative share and underpayment of five (5) days service incentive leave (SIL) pay, [...]

Respondents are directed to effect payment of the aforementioned amount at this Office or at the worksite in the presence of representative/s of this Office within ten (10) calendar days from receipt of this Order. Respondents may likewise deposit such amount to this Order, through the Cashier, within the same period for distribution to the affected workers. In case of appeal, the supersedeas bond to be filed shall be equal to said award. A Writ of Execution shall be issued if no appeal is perfected.

FURTHER, by operation of law and in accordance with the rules laid down in Department Order No. 18-A, Series of 2011, the above-named employees assigned at respondent principals Manila Cordage Company and Manco Synthetics, Inc. are deemed regular employees of the said principals respectively. Manila Cordage Company and Manco Synthetics, Inc. are hereby ordered to submit to this Office proofs of issuance of notice of regular employment status to the concerned employees within ten (10) calendar days from receipt of this Order.

LASTLY, respondents are further ordered to refrain from engaging in labor-only contracting arrangement. The certificates of registration issued to Worktrusted Manpower Services Cooperative and Alternative Network Resources Unlimited Multi-Purpose Cooperative under Department Order No. 18-A are hereby **REVOKED** and they are delisted in the roster of legitimate contractors. They are further directed to **cease and desist** from

> engaging in contracting and subcontracting activities since their authority to do so have been cancelled.
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> Failure to comply with the foregoing directives shall constrain this Office to cause the prosecution of the respondents pursuant to the pertinent penal provisions of the Labor Code, as amended.
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> **SO ORDERED.**[14] (Emphasis in the original)

To assail the Order of the DOLE Regional Director, MCC and MSI filed an Appeal Memorandum,[15] arguing that the elements of an employer-employee relationship are absent between them and the members of WMSC and ANRUMC. Further, MCC and MSI maintained that WMSC and ANRUMC are DOLE-accredited independent job contractors with substantial capitalization serving several clients. As such, there was no basis to hold MCC and MSI liable for the membership fees and cooperative shares collected by WMSC and ANRUMC from their own members.[16]

On February 9, 2017, DOLE Secretary Silvestre H. Bello issued a Resolution,[17] the dispositive portion of which reads:

> **WHEREFORE**, the Appeal filed by Manila Cordage Company and Manco Synthetics, Inc. is hereby **DISMISSED** for lack of merit. Accordingly, the 08 August 2016 of Department of Labor and Employment – Regional Office No. IV-A is hereby **AFFIRMED**.
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> **SO RESOLVED.**[18] (Emphasis in the original)

In the said Resolution, the DOLE Secretary noted that WMSC and ANRUMC failed to present evidence to controvert the finding that their members used the machinery owned by MCC and MSI. Aside from this, the DOLE Secretary found nothing in the records that would rebut the finding that WMSC and ANRUMC did not exercise control and supervision over their deployed members. On the issue of illegal deduction, the DOLE Secretary ruled that the amount being deducted by WMSC and ANRUMC pertained to membership contribution, which constituted deduction of capital share or build-up that was expressly prohibited by DOLE Labor Advisory No. 11, Series of 2014 in service cooperatives.[19]

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14 *Id.* at 100–121.
15 *Id.* at 154–178.
16 *Id.* at 160–169.
17 *Id.* at 122–128.
18 *Id.* at 128.
19 *Id.* at 127–128.

Aggrieved, MCC and MSI filed a Motion for Reconsideration[20] seeking the reversal of the foregoing Resolution. The motion was denied in a Resolution[21] issued on April 7, 2017, which again affirmed the findings of the DOLE Regional Director.

With the dismissal of its motion, MCC and MSI elevated the case to the CA via a Petition for *Certiorari*.[22] Arguing that the DOLE Regional Office exceeded its jurisdiction in determining that an employer-employee relationship existed between them and the workers from WMSC and ANRUMC, MCC and MSI pointed out the fact that WMSC and ANRUMC personnel are also available to other clients or principals and that at most, their Quality Control Officers could only reject products poorly done without giving instructions to the concerned workers. Further, MCC and MSI averred that the DOLE Secretary gravely abused its discretion in solely relying on the baseless and erroneous report of the labor law compliance officer and concluding that WMSC and ANRUMC are labor-only contracting cooperatives. According to them, there was no evidence presented to support the ruling that the workers should be deemed regular employees of MCC and MSI. Finally, even assuming arguendo that the WMSC and ANRUMC acted as agents of MCC and MSI in the employment of workers, WMSC and ANRUMC should still be held solely liable for acts of their own volition, which include the practice of deducting cooperative shares in the wages of the workers, and the underpayment of Service Incentive Leaves (SIL), which was not contained in the Notice of Results.[23]

On August 30, 2019, the CA rendered a Decision[24] denying MCC and MSI's Petition for *Certiorari*. The CA upheld the jurisdiction of the DOLE Regional Office and sustained the finding of the DOLE Regional Director that WMSC and ANRUMC are not bona fide independent contractors. There was a dearth of evidence that WMSC and ANRUMC possessed substantial investment in the form of equipment, tools, implements, machinery, and work premises. The CA also observed from their service agreement with MCC and MSI that WMSC and ANRUMC workers were deployed to plants and production areas to perform activities directly related to rope manufacturing, which was the main business of MCC and MSI. In the performance of their duties, the workers also utilized machines of MCC and MSI, with the latter also reserving the right to inspect their tasks and suggest alterations and changes to the procedure of the workers.[25]

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20 *Id.* at 200–206.
21 *Id.* at 129–131.
22 *Id.* at 50–93.
23 *Id.* at 59–88.
24 *Id.* at 292–303.
25 *Id.* at 298–301.

Regarding the underpayment of SIL, the CA held that the determination of the workers' entitlement was made following the compulsory conferences under the auspices of the DOLE Hearing Officer and after WMSC and ANRUMC submitted their rebuttal evidence. Finally, the CA clarified that the Consolidated Decision dated January 19, 2018 in CA-G.R. SP No. 146614 and CA-G.R. SP No. 148154 on the certification election case, and the Decision[26] dated April 6, 2018 of the NLRC in NLRC LAC No. 02-000593-18/ NLRC RAB-IV-02-00209-17L on the illegal strike case, are not binding on the CA as both have not attained finality.[27]

Subsequently, on the Motion for Reconsideration filed by MCC and MSI, the CA reversed their earlier Decision and rendered the Amended Decision,[28] disposing the case as follows:

> **WHEREFORE,** with foregoing disquisition, We **PARTIALLY GRANT** the subject Motion for Reconsideration of petitioners. Necessarily, We RECONSIDER the Decision dated August 30, 2019 and the Petition for Certiorari is **PARTIALLY GRANTED**. Consequently, the Resolutions dated February 09, 2017 and April 07, 2017 from the Secretary of Labor and Employment are hereby **SET ASIDE** insofar as the finding of an employer-employee relationship between petitioners MCC and MSI and private respondents.
>
> **SO ORDERED**.[29] (Emphasis in the original)

In its Amended Decision, the CA reasoned that the amendment of its ruling was brought about by the submission of MCC and MSI of the certified true copy of the Entry of Judgment in the illegal strike case, together with a Certification dated September 10, 2019 from the CA Judicial Records Division to the effect that no petition was filed to appeal the Decision of the NLRC in the said case. The final and immutable Decision of the NLRC found that members of petitioner unions could not have committed an illegal strike as they were never employees of MCC and MSI. Additionally, the NLRC declared the members to be employees of WMSC and ANRUMC, which were legitimate independent contractors. The CA applied such findings under the concept of *res judicata* by conclusiveness of judgment in the present case between the parties. Accordingly, the CA set aside its previous declaration of the existence of an employer-employee relationship between members of WMSC and ANRUMC, and MCC and MSI.[30]

The Amended Decision of the CA prompted petitioners, in representation of the deployed workers from WMSC and ANRUMC, to file

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26 *Id.* at 376–393.
27 *Id.* at 301–303.
28 *Id.* at 305–316.
29 *Id.* at 316.
30 *Id.* at 309–316.

an Omnibus Motion,[31] which prayed for the reconsideration of the Amended Decision, and for the suspension of the CA proceedings due to the pendency of the Petition for Review on *Certiorari* filed by petitioners before this Court concerning the Consolidated Decision and Resolution of the CA in the certification election case. In their motion, petitioners also called this Court's attention to the ruling of the Labor Arbiter (LA) in the case of "*Anthony Aguillana, et al. v. Manila Cordage Company, et al.*" docketed as RAB IV-11-01876-14-L and RAB IV-12-02068-14-L which involves a Complaint for Illegal Dismissal (illegal dismissal case). Petitioners averred that the LA in that case declared WMSC to be engaged in illegal labor-only contracting. Hence, its deployed workers in MCC were deemed regular employees of MCC. According to petitioners, such pronouncement attained finality as MCC's appeal before the NLRC was dismissed for being filed out of time.

Petitioners filed a Manifestation[32] to inform the CA of this Court's ruling in the certification election case titled *"Manila Cordage Company-Employees Labor Union-Organized Labor Union in Line Industries and Agriculture (MCC-ELU-OLALIA) and Manco Synthetic Inc., Employee Labor Union-Organized Labor Union in Line Industries and Agriculture (MSI-ELU-OLALIA) v. Manila Cordage Co. (MCC) and Manco Synthetic Inc. (MSI)"* and docketed as G.R. Nos. 242495-96. In the said Decision,[33] We found that WMSC and ANRUMC merely supplied manpower for MCC and MSI, who also failed to adduce sufficient evidence that WMSC and ANRUMC are legitimate labor contractors. We thus concluded that WMSC and ANRUMC are engaged in labor-only contracting and consequently, their workers are deemed the employees of MCC and MSI.[34] Our ruling disposed of the case as follows:

> **WHEREFORE**, premises considered, the Petition is **GRANTED**. The Consolidated Decision dated January 19, 2018 by the Court of Appeals in CA-G.R. SP Nos. 146614 & 148154 are **REVERSED** and **SET ASIDE**. The decisions of the Secretary of Labor dated May 13, 2016 and June 20, 2016 are **REINSTATED**.
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> **SO ORDERED**.[35] (Emphasis in the original)

Notwithstanding the foregoing ruling of this Court in the certification election case, the CA found the Omnibus Motion wanting of any persuasive force and denied it in the assailed Resolution.[36]

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31 *Id.* at 318–332.
32 *Id.* at 410–422.
33 *Id.* at 394–409.
34 *Id.* at 408.
35 *Id.* at 408–409.
36 *Id.* at 343–354.

Hence, petitioners filed the instant Petition for Review on *Certiorari* ascribing error in the Amended Decision and Resolution of the CA. According to petitioners, the CA mistakenly applied the doctrine of *res judicata* in finding the absence of an employer-employee relationship between the parties. Instead of upholding the NLRC ruling in the illegal strike case, petitioners posit that the CA should have applied the ruling of this Court in the certification election case pursuant to the principles of judicial notice and stare decisis. In any event, petitioners assert that since the NLRC ruling in the illegal strike case did not modify the dispositive portion of the LA ruling as to the employment status of WMSC and ANRUMC members, the NLRC finding that the workers are not employees of MCC and MSI remained an obiter which cannot be considered as precedent.[37]

On the other hand, MCC and MSI filed a Comment[38] arguing that our Decision in the certification election case has no binding force for not being final and executory with the pendency of their Motion for Reconsideration thereto. Anent the argument that there was no definitive finding as to the status of petitioners in the illegal strike case, MCC and MSI counter that the NLRC already categorically declared that the union members are not employees of MCC and MSI. Said decision in fact, has long become final and executory as petitioners never appealed from the ruling. Lastly, MCC and MSI contend that the finding of an employer-employee relationship in a certification election case does not foreclose all further dispute between the parties as to the existence of such relationship in subsequent cases.[39]

Issues

First, whether the CA correctly found grave abuse of discretion in the DOLE Secretary Resolutions that found the presence of an employer-employee relationship between MCC, MSI, and members of MCC-ELU-OLALIA and MSI-ELU-OLALIA; and second, whether the CA correctly applied the finding of the NLRC in NLRC LAC No. 02-000593-18/NLRC Case No. RAB-IV-02-00209-17L or the illegal strike case.

This Court's Ruling

The present Petition for Review stems from a special civil action for *certiorari* filed by respondents before the CA, to assail the supposed grave abuse of discretion of the DOLE Secretary, amounting to lack or excess of jurisdiction in finding the existence of an employer-employee relationship between the parties. Thus, for this Court to resolve the instant petition, it is

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37 *Id.* at 36–39.
38 *Id.* at 497–516.
39 *Id.* at 507–512.

necessary to determine whether the CA properly resolved the presence or absence of grave abuse of discretion in the DOLE Secretary's Decision, and not based on whether the latter's Decision on the merits of the case was strictly correct.[40]

In addition, since this Court is not a trier of facts, only questions of law raised in the present petition under Rule 45 of the Rules of Court are reviewable. As such, "[f]actual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence." Only when the findings of fact of the CA are contrary to the findings and conclusions of the quasi-judicial agency is this Court constrained to review and resolve the factual issue [to] settle the controversy.[41]

Here, the factual findings of the CA and the DOLE Secretary were uniform in that WMSC and ANRUMC were discovered to be involved in labor-only contracting and not legitimate contractors, and that respondents were observed to be exercising the right to control and supervise the performance of duties of the workers deployed by WMSC and ANRUMC. In this regard, this Court does not find it necessary to delve into the factual circumstances and records of the case, given the consistent factual findings of the CA and the DOLE Secretary.

Notably, even with the same findings on questions of fact, the conclusion drawn by the CA differs from that of the DOLE Secretary on the question of whether members of petitioners should be deemed regular employees of respondents, by reason of the conclusive and binding effect that the CA ascribed in the NLRC Decision in the illegal strike case. Hence, while the CA opined in its Decision that the four-fold test for determining regular employment has been satisfied by the petitioners, it nonetheless held in the Amended Decision that no employer-employee relationship existed between the parties, echoing the NLRC Decision in the illegal strike case which already attained finality. This Court shall thus proceed to address such question of law posed by the present petition by discussing the legal ramifications, if any, as to the effect of the April 6, 2018 NLRC Decision in the illegal strike case, together with the September 16, 2020 Decision of this Court in the certification election case–both of which made independent albeit contrasting determinations on the existence of employer-employee relationship between the parties.

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40 *Holy Child Catholic School v. Hon. Sto. Tomas*, 714 Phil. 427, 456–457 (2013) [Per J. Peralta, *En Banc*].

41 *Mariveles v. Wilhelmsen-Smithbell Manning, Inc.*, G.R. No. 238612, January 13, 2021 [Per J. Delos Santos, Third Division].

The DOLE Secretary did not commit grave abuse of discretion in resolving the issue of the existence of employer-employee relationship

To recall, the Resolutions of the DOLE Secretary were issued on February 9, 2017 and April 7, 2017. At that time, the NLRC had not rendered any judgment in the illegal strike case.

It is beyond dispute that the DOLE is fully empowered to decide on the existence of an employer-employee relationship in the exercise of its visitorial and enforcement power under Article 128(b) of the Labor Code, as amended by Republic Act No. 7730. In *People's Broadcasting Service v. The Secretary of the DOLE, et al.*,[42] this Court *En Banc* upheld the sufficient authority of the DOLE Secretary to determine the presence of an employer-employee relationship in deciding whether compliance orders should be issued in accordance with Article 128(b) of the Labor Code:

> No limitation in the law was placed upon the power of the DOLE to determine the existence of an employer-employee relationship. No procedure was laid down where the DOLE would only make a preliminary finding, that the power was primarily held by the NLRC. The law did not say that the DOLE would first seek the NLRC's determination of the existence of an employer-employee relationship, or that should the existence of the employer-employee relationship be disputed, the DOLE would refer the matter to the NLRC. The DOLE must have the power to determine [whether] an employer-employee relationship exists, and from there to decide [whether] to issue compliance orders in accordance with Art. 128 (b) of the Labor Code, as amended by Republic Act No. 7730.
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> The DOLE, in determining the existence of an employer-employee relationship, has a ready set of guidelines to follow, the same guide the courts themselves use. The elements to determine the existence of an employment relationship are: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; (4) the employer's power to control the employee's conduct. The use of this test is not solely limited to the NLRC. The DOLE Secretary, or his or her representatives, can utilize the same test, even [during] inspection, making use of the same evidence that would have been presented before the NLRC.
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> The determination of the existence of an employer-employee relationship by the DOLE must be respected. The expanded visitorial and enforcement power of the DOLE granted by Republic Act No. 7730 would be rendered nugatory if the alleged employer could, by the simple expedient of disputing the employer-employee relationship, force the referral of the matter to the NLRC. The Court issued the declaration that at least a *prima facie* showing of the absence of an employer-employee relationship be made to oust the DOLE of jurisdiction. But it is precisely the DOLE that will be faced with that

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42 683 Phil. 509 (2012) [Per J. Velasco, Jr., *En Banc*].

> evidence, and it is the DOLE that will weigh it, to see if the same does successfully refute the existence of an employer-employee relationship.
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> If the DOLE makes a finding that there is an existing employer-employee relationship, it takes cognizance of the matter, to the exclusion of the NLRC. The DOLE would have no jurisdiction only if the employer-employee relationship has already been terminated, or it appears, upon review, that no employer-employee relationship existed in the first place.
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> The Court, in limiting the power of the DOLE, gave the rationale that such limitation would eliminate the prospect of competing conclusions between the DOLE and the NLRC. The prospect of competing conclusions could just as well have been eliminated by according [to] respect to the DOLE findings, to the exclusion of the NLRC, and this We believe is the more prudent course of action to take.
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> This is not to say that the determination by the DOLE is beyond question or review. Suffice it to say, there are judicial remedies such as a petition for *certiorari* under Rule 65 that may be availed of, should a party wish to dispute the findings of the DOLE.
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> It must also be remembered that the power of the DOLE to determine the existence of an employer-employee relationship need not necessarily result in an affirmative finding. The DOLE may well make the determination that no employer-employee relationship exists, thus divesting itself of jurisdiction over the case. It must not be precluded from being able to reach its own conclusions, not by the parties, and certainly not by this Court.
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> Under [Article] 128 (b) of the Labor Code, as amended by Republic Act No. 7730, the DOLE is fully empowered to [decide] as to the existence of an employer-employee relationship in the exercise of its visitorial and enforcement power, subject to judicial review, not review by the NLRC.[43]

Thus, the DOLE was acting within its ample authority to determine the employer-employee relationship in the exercise of its visitorial and enforcement powers, when it declared the members of petitioners to be regular employees of respondents.

Considering the conflicting factual findings of the DOLE on one hand, and the NLRC in the illegal strike case on the other, as to the issue of the existence of employer-employee relationship between respondents and members of petitioners, it behooved the CA to determine whether grave abuse of discretion amounting to lack or excess of jurisdiction attended the determination of facts by the DOLE. In doing so, the CA cannot simply rely on the findings of the NLRC in another case. Rather, it must make its own factual determination in order to resolve the issues raised in the Rule 65 Petition.

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43 *Id.* at 518–520.

On this score, it does not escape this Court's attention that the CA in its first Decision evaluated the records before it definitively ruled that petitioners' members are indeed regular employees of respondents. Thus, in the said Decision, the CA agreed with the findings of the DOLE Regional Director, which were found to be based on substantial evidence, *viz.*:

> ***First***, while ANR and Worktrusted were issued Certificates of Registration by the DOLE, these documents were not conclusive evidence of their status as contractors. The fact of registration of ANR and Worktrusted only prevented the inception of a legal presumption that they were mere labor-only contractors.
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> ***Second***, there was dearth of evidence that ANR and Worktrusted possessed substantial investment in the form of equipment, tools, implements, machinery[,] and work premises. In this regard, neither ANR or Worktrusted concretely contested their want of substantial investment in the form of tools and equipment. Verily, in their effort to prove that they were legitimate independent contractors, petitioners merely invoked their possession of substantial capitalization.
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> On the other hand, based on the conducted assessments, collated documents, including interviews with the workers and the ocular visit of the Labor Compliance Officer, the Regional Director of the DOLE gathered these facts: (1) ANC and Worktrusted lacked equipment, tools or machinery of their own to provide or carry out independently manufacturing services for principal clients; (2) ANR and Worktrusted merely supplied workers to be deployed to plants and production areas of MCC and Manco to perform activities directly related to rope manufacturing, which was the main business of petitioners; and (3) in the performance of assigned tasks, the workers also utilized the machines of MCC and Manco.
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> ***And third***, control over the workers supplied by ANR and Worktrusted was exercised by petitioners.
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> The mere presence of coordinators employed by ANR and Worktrusted in the work premises for supervision of workers was not a sufficient indication that ANR and Worktrusted exercised control over the member-workers. Under DOLE Department Order No. 18-A, series of 2011, the "right to control" refers to the right to determine not only the end to be achieved, but also the manner and means to be used in reaching that end. Based on the Service Agreements, petitioners still reserved the right to inspect the workers' tasks and to suggest alterations or changes in the procedure of doing the work to ensure that the output complied with prescribed standards.[44] (Emphasis in the original)

We have clarified in *The City of Iloilo v. Judge Honrado, et al.*,[45] that the rendition of judgment must have been done in a capricious, whimsical, or arbitrary manner, tantamount to lack of jurisdiction to warrant the issuance of the writ of *certiorari*, thus:

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44 *Rollo*, pp. 298–299.

45 775 Phil. 21 (2015) [Per J. Bersamin, First Division].

> *Grave abuse of discretion* means such capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. To justify the issuance of the writ of *certiorari*, the abuse of discretion must be grave, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and the abuse must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined, or to act at all, in contemplation of law, as to be equivalent to having acted without jurisdiction.[46] (Emphasis in the original)

Based on Article 128(b) of the Labor Code and the foregoing jurisprudence, the DOLE Secretary could not be deemed to have acted with grave abuse of discretion in issuing the Resolutions as he properly exercised his discretion in resolving the issue on the existence of an employer-employee relationship in favor of petitioners. Further, his observations were well-supported by evidence as explained in the first Decision. Grave abuse of discretion cannot be attributed to the DOLE, by reason alone of its conflicting findings with the NLRC Decision, which was rendered one year later. Since the CA's perusal of the records showed that the DOLE Secretary's Resolutions were substantiated by evidence and not tainted with grave abuse of discretion, the proper course of action is for the appellate court to uphold the DOLE's rulings and dismiss the Petition for *Certiorari*.

The CA erred in squarely applying the NLRC ruling in the illegal strike case to the present controversy

Further, the CA committed a serious error in applying the April 6, 2018 NLRC Decision in the illegal strike case to the instant case under the principle of *res judicata*.

First, and as explained above, this Court had already promulgated the Decision in the certification election case even before the CA rendered its Amended Decision on October 12, 2020. Thus, the Decision of the NLRC in the illegal strike case ceased to be the prevailing ruling on the issue of employer-employee relationship between petitioners and respondents. It should also be noted that the petitioners filed a Manifestation[47] on July 21, 2021 to inform the CA of Our ruling in the certification election case. Despite such Manifestation, the CA still denied petitioners' Motion for Reconsideration in the assailed Resolution on October 26, 2021, disregarding this Court's contrary pronouncement in the certification election case.

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46 *Id.* at 31–32.

47 *Id.* at 410–422.

Even if our September 16, 2020 Decision was not yet final when the CA rendered the assailed rulings, prudence would still require the CA to review its Amended Decision, which clearly contradicted Our findings in the certification elections case. It should not have merely relied on the NLRC Decision in the illegal strike case, seeing that the NLRC also cited as basis the CA's Consolidated Decision dated January 19, 2018 in the certification election case, which is a judgment that had since been reversed and set aside in the September 16, 2020 Decision of this Court.[48]

Second, it is settled that the CA has the discretion to correct errors of judgment if blind and stubborn adherence to the doctrine of immutability of final judgments would involve the sacrifice of justice for technicality.[49] Here, it is evident that the CA's first Decision greatly contradicted the judgment in the illegal strike case. Instead of simply yielding to the NLRC, the CA should have stood by its own findings, considering that its own review of the records and evidence established that the NLRC Decision was manifestly unsound. It should not have perpetuated the NLRC's erroneous ruling by invoking the doctrine of finality of judgment in the Amended Decision and Resolution.

In *Salud v. Court of Appeals*,[50] We explained that while "[t]he importance of judicial economy and avoidance of repetitive suits are strong norms [in] a society in need of swift justice. [...] there should not be a mechanical and uncaring reliance on res judicata where more important societal values deserve protection."[51] Thus, finding that "[t]he demands of due process present a weightier consideration than the need to bring an end to the parties' litigation[,]"[52] we did not consider an earlier RTC judgment binding on our ruling therein. Likewise, in *Principe v. Philippine-Singapore Transport Services, Inc.*,[53] this Court refrained from applying the principle of *res judicata* "in order to give life to the constitutional mandate affording protection to labor and to conform to the need of protecting the working class whose inferiority against the employer has always been earmarked by disadvantage."[54]

Following such pronouncements, this Court also did not apply *res judicata* in *Hijo Resources Corporation v. Mejares, et al.*[55] In determining the existence of an employer-employee relationship, we did not adopt the verdict of the Med-Arbiter in a certification election case, even if the judgment had attained finality. This Court found it noteworthy that respondents therein lost standing to appeal the Med-Arbiter's ruling as they were dismissed prior to

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48 *Id.* at 384–385.
49 *People v. Escobar*, 814 Phil. 840 (2017) [Per J. Leonen, Second Division].
50 303 Phil. 397 (1994) [Per J. Puno, Second Division].
51 *Id.* at 406.
52 *Id.* at 407.
53 257 Phil. 522 (1989) [Per J. Gancayco, First Division].
54 *Id.* at 529.
55 778 Phil. 344 (2016) [Per J. Carpio, Second Division].

the rendition of it. Hence, we concluded that to dismiss the illegal dismissal case filed before the LA based on the pronouncement of the Med-Arbiter in the certification election case that there was no employer-employee relationship between the parties, would be tantamount to denying due process to the complainants in the illegal dismissal case.[56]

In the case at bar, petitioners did not appeal the NLRC ruling which affirmed the LA's dismissal of the Petition to Declare Illegal Strike.[57] While the LA held that members of the petitioner unions were regular employees of respondents who had already been terminated by the two companies prior to the conduct of the strike, the NLRC opined differently in finding that the members did not attain the status of regular employees at any point in their deployment with respondents. Thus, similar to the LA, the NLRC ruled in favor of the members of petitioners, albeit on the basis of the absence of employer-employee relations between the parties. With this conclusion, the NLRC found "no cogent reason to modify much less reverse the assailed Decision of the [LA]."[58]

Owing to these statements of the NLRC which nonetheless resulted in a favorable ruling for the members of the unions, this Court recognizes the predicament of the petitioners in ultimately deciding not to elevate the case anymore before the CA. In fact, petitioners claim that their choice not to appeal such ruling is based on the honest belief that the finding of the NLRC as to the absence of an employer-employee relationship between the parties remained an obiter dictum, given that the Commission did not modify the dispositive of the LA Decision.[59] Under these circumstances, it will not be just for this Court to perfunctorily dismiss the present petition due to the non-filing of an appeal from the NLRC Decision, lest we deny petitioners their right to due process and renege on our constitutional mandate of promoting social justice and affording protection to labor.

Therefore, We uphold the uniform and consistent findings of the DOLE Regional Director and DOLE Secretary that WMSC and ANRUMC are labor-only contractors and that respondents were the employers of the petitioner unions' members. Relevantly, these findings are also in accord with Our ruling in the certification election case where we declared the workers to be regular employees of respondents.

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56 *Id.*
57 *Rollo*, p. 27.
58 *Id.* at 384.
59 *Id.* at 38.

At this juncture, it bears stressing that our September 16, 2020 Decision[60] in the certification election case already settled once and for all the issue of whether the workers were employed by WMSC and ANRUMC, or by respondents. Penned by Senior Associate Justice Marvic Mario Victor F. Leonen, the ruling extensively discussed that members of petitioner unions were indeed employees of respondents:

> A Certificate of Registration is not conclusive evidence of being a legitimate independent contractor. It merely prevents the presumption of labor-only contracting and gives rise to a disputable presumption that the contractor is legitimate.
>
> In this case, it is worth noting that respondents entered into a Memorandum of Agreement with Alternative Network Resources and Worktrusted Manpower Services even before these contractors were issued Certificates of Registration by the Department of Labor and Employment. The Certificates of Registration presented by respondents covered the period of 2014 to 2017, yet records show that Alternative Network Resources undertook to provide respondent Manila Cordage with manufacturing support services as early as 2008 while Worktrusted Manpower Services entered into a Memorandum of Agreement with Manco Synthetic in 2009. This indicates that they supplied manpower to various clients even without the stamp of imprimatur from the Department of Labor and Employment.
>
> In addition, Section 5 of Department Order No. 18-02 provides that if at least one of the following conditions are present, then an entity would be considered a labor-only contractor:
>
> > (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.
>
> Here, both conditions are present. While both Alternative Network Resources and Worktrusted Manpower Services have the required paid-up capital as seen in their Articles of Incorporation, Annual Income Tax and Audited Financial Statements, records show that they do not have substantial investment in the form of tools, equipment, and machineries necessary to carry out the functions of their alleged employees who perform activities directly related to the business of respondents. Instead, their alleged employees, herein petitioners, use respondents' equipment and machinery to carry out jobs related to rope manufacturing.

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60 *Manila Cordage Company-Employees Labor Union-Organized Labor Union in Line Industries and Agriculture v. Manila Cordage Co.*, G.R. Nos. 242495-96, September 16, 2020. [Per J. Leonen, Third Division].

....

Here, Alternative Network Resources and Worktrusted Manpower Services may still be considered as labor-only contractors given other circumstances surrounding the case. Further, proof of substantial capital does not make an entity immune to a finding of labor-only contracting when there is showing that control over the employees reside in the principal and not in the contractor. The right to control is defined in Section 5 of Department Order No. 18-02 as:

> 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.

....

Despite Alternative Network Resources and Worktrusted Manpower Services' role in the hiring, disciplining[,] and paying of wages of petitioners, it is still respondents who exercised control over petitioners' work performance and output. Records show that petitioners are assigned in departments tasked to accomplish the main business of respondents in the manufacturing of rope. The employees deployed in Manila Cordage were assigned to the following departments with the corresponding responsibilities:

> (1) Engineering, which maintains and repairs the equipment and machineries; (2) Production, which takes case of the actual production of ropes; (3) Warehouse, which stores raw materials and manufactured ropes; (4) Quality, which is in charge of the quality standards of the manufactured ropes; (5) Matting, which packs the manufactured ropes; and (6) Facility, which maintains the cleanliness in the entire production line.

Similarly, the employees for Manco Synthetic were assigned to following departments with the same functions as enumerated above: engineering, production, matting, and facility. While working in these departments, petitioners' manner and method of work were closely supervised and monitored by regular employees of Manila Cordage and Manco Synthetic. This negates respondents' contention that they did not exercise control over the work of petitioners as the supervisors deployed by Alternative Network Resources and Worktrusted Manpower Services merely dealt with administrative matters such as checking attendance and distributing payslips.

It is likewise clear that petitioners perform functions necessary and directly related to the main business of respondents as they are involved in the core operations for the manufacturing and export of respondents' rope products. Further, petitioners have been performing these functions with respondents even before Alternative Network Resources and Worktrusted Manpower Services were registered as legitimate labor contractors with the Department of Labor and Employment. Thus, "the 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."

....

> Considering the foregoing, the findings of the Court of Appeals cannot stand. In labor-only contracting, there is no principal and contractor; "there is only the employer's representative who gathers and supplies people for the employer[.]" Here, Alternative Network Resources and Worktrusted Manpower Services merely supplied manpower for respondents. Thus, petitioners are considered employees of respondents and the votes they casted during the Certification Elections held on January 27, 2016 are valid.[61]

Since the evidence on record neither controverts the CA's factual findings nor disproves our own verdict in the certification election case, there is no cogent reason for us to deviate from these sound rulings on the employment status of members of petitioners.

Finally, having established the existence of employer-employee relationship between the parties, the Order[62] of the DOLE Regional Director stands. The amounts representing illegal wage deductions for cooperative share and underpayment of five days service incentive leave pay which are listed in the said Order shall also earn 6% legal interest per annum from finality of judgment until full payment, in accordance with our ruling in *Nacar v. Gallery Frames.*[63]

ACCORDINGLY, the Petition is **GRANTED**. The October 12, 2020 Amended Decision and the October 26, 2021 Resolution of the Court of Appeals in CA-G.R. SP No. 151257 are **REVERSED** and **SET ASIDE**. The August 30, 2019 Decision of the Court of Appeals, and the February 9, 2017 and April 7, 2017 Resolutions of the Office of the Secretary of the Department of Labor and Employment are **REINSTATED**. Manila Cordage Company and Manco Synthetics, Inc. are hereby **DIRECTED** to comply with the following directives as specified under the August 8, 2016 Order of the DOLE Regional Office No. IV-A:

> 1. Manila Cordage Company and Worktrusted Manpower Service Cooperative are jointly and severally liable to pay the 251 identified workers the aggregate amount of PHP 1,494,705.00 representing underpayment of five days of service incentive leave pay and illegal wage deductions;
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> 2. Manco Synthetics, Inc. and Worktrusted Manpower Service Cooperative are jointly and severally liable to pay

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61 *Id.*

62 *Id.* at 94–121.

63 716 Phil. 267 (2013) [Per J. Peralta, *En Banc*].

the 52 identified workers the aggregate amount of PHP 309,660.00 representing underpayment of five days of service incentive leave pay and illegal wage deductions;

3. Manila Cordage Company and Alternative Network Resources Unlimited Multi-Purpose Cooperative are jointly and severally liable to pay the 81 identified workers the aggregate amount of PHP 655,702.50 representing underpayment of five days of service incentive leave pay and illegal wage deductions for cooperative share; and

4. Manco Synthetics, Inc. and Alternative Network Resources Unlimited Multi-Purpose Cooperative are jointly and severally liable to pay the 101 identified workers the aggregate amount of PHP 924,960.00 representing underpayment of five days of service incentive leave pay and illegal wage deductions for cooperative share.

The foregoing payments are to be made before the Department of Labor and Employment Regional Office No. IV-A once this Decision becomes final. All the foregoing amounts are subject to 6% interest per annum from the finality of this Decision until full payment.

Manila Cordage Company and Manco Synthetics, Inc. are **DIRECTED** to further comply with the Order dated August 8, 2016 by submitting to the Department of Labor and Employment Regional Office No. IV-A proofs of issuance of notice of regular employment status to the concerned employees within 10 calendar days from receipt of this Decision.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

On official business
MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson

MARIO V. 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.

AMY C. LAZARO-JAVIER
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Acting 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