

SECOND DIVISION

[G.R. No. 195190, July 28, 2014]

**ROYALE HOMES MARKETING CORPORATION, PETITIONER, VS.
FIDEL P. ALCANTARA [DECEASED], SUBSTITUTED BY HIS HEIRS,
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

Not every form of control that a hiring party imposes on the hired party is indicative of employee-employer relationship. Rules and regulations that merely serve as guidelines towards the achievement of a mutually desired result without dictating the means and methods of accomplishing it do not establish employer-employee relationship.^[1]

This Petition for Review on *Certiorari*^[2] assails the June 23, 2010 Decision^[3] of the Court of Appeals (CA) in CA-G.R. SP No. 109998 which (i) reversed and set aside the February 23, 2009 Decision^[4] of the National Labor Relations Commission (NLRC), (ii) ordered petitioner Royale Homes Marketing Corporation (Royale Homes) to pay respondent Fidel P. Alcantara (Alcantara) backwages and separation pay, and (iii) remanded the case to the Labor Arbiter for the proper determination and computation of said monetary awards.

Also assailed in this Petition is the January 18, 2011 Resolution^[5] of the CA denying Royale Homes' Motion for Reconsideration,^[6] as well as its Supplemental^[7] thereto.

Factual Antecedents

In 1994, Royale Homes, a corporation engaged in marketing real estates, appointed Alcantara as its Marketing Director for a fixed period of one year. His work consisted mainly of marketing Royale Homes' real estate inventories on an exclusive basis. Royale Homes reappointed him for several consecutive years, the last of which covered the period January 1 to December 31, 2003 where he held the position of Division 5 Vice-President-Sales.^[8]

Proceedings before the Labor Arbiter

On December 17, 2003, Alcantara filed a Complaint for Illegal Dismissal^[9] against Royale Homes and its President Matilde Robles, Executive Vice-President for Administration and Finance Ma. Melinda Bernardino, and Executive Vice-President for Sales Carmina Sotto. Alcantara alleged that he is a regular employee of Royale Homes since he is performing tasks that are necessary and desirable to its business; that in 2003 the company gave him P1.2 million for the services he rendered to it; that in the first week of November 2003, however, the executive officers of Royale

Homes told him that they were wondering why he still had the gall to come to office and sit at his table,^[10] and that the acts of the executive officers of Royale Homes amounted to his dismissal from work without any valid or just cause and in gross disregard of the proper procedure for dismissing employees. Thus, he also impleaded the corporate officers who, he averred, effected his dismissal in bad faith and in an oppressive manner.

Alcantara prayed to be reinstated to his former position without loss of seniority rights and other privileges, as well as to be paid backwages, moral and exemplary damages, and attorney's fees. He further sought that the ownership of the Mitsubishi Adventure with Plate No. WHD-945 be transferred to his name.

Royale Homes, on the other hand, vehemently denied that Alcantara is its employee. It argued that the appointment paper of Alcantara is clear that it engaged his services as an independent sales contractor for a fixed term of one year only. He never received any salary, 13th month pay, overtime pay or holiday pay from Royale Homes as he was paid purely on commission basis. In addition, Royale Homes had no control on how Alcantara would accomplish his tasks and responsibilities as he was free to solicit sales at any time and by any manner which he may deem appropriate and necessary. He is even free to recruit his own sales personnel to assist him in pursuance of his sales target.

According to Royale Homes, Alcantara decided to leave the company after his wife, who was once connected with it as a sales agent, had formed a brokerage company that directly competed with its business, and even recruited some of its sales agents. Although this was against the exclusivity clause of the contract, Royale Homes still offered to accept Alcantara's wife back so she could continue to engage in real estate brokerage, albeit exclusively for Royale Homes. In a special management committee meeting on October 8, 2003, however, Alcantara announced publicly and openly that he would leave the company by the end of October 2003 and that he would no longer finish the unexpired term of his contract. He has decided to join his wife and pursue their own brokerage business. Royale Homes accepted Alcantara's decision. It then threw a *despedida* party in his honor and, subsequently, appointed a new independent contractor.

Two months after he relinquished his post, however, Alcantara appeared in Royale Homes and submitted a letter claiming that he was illegally dismissed.

Ruling of the Labor Arbiter

On September 7, 2005, the Labor Arbiter rendered a Decision^[11] holding that Alcantara is an employee of Royale Homes with a fixed-term employment period from January 1 to December 31, 2003 and that the pre-termination of his contract was against the law. Hence, Alcantara is entitled to an amount which he may have earned on the average for the unexpired portion of the contract. With regard to the impleaded corporate officers, the Labor Arbiter absolved them from any liability.

The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ordering the respondent Royale Homes Marketing Corp. to pay the

complainant the total amount of TWO HUNDRED SEVENTY SEVEN THOUSAND PESOS (P277,000.00) representing his compensation/commission for the unexpired term of his contract.

All other claims are dismissed for lack of merit.

SO ORDERED.^[12]

Both parties appealed the Labor Arbiter's Decision to the NLRC. Royale Homes claimed that the Labor Arbiter grievously erred in ruling that there exists an employer-employee relationship between the parties. It insisted that the contract between them expressly states that Alcantara is an independent contractor and not an ordinary employee. It had no control over the means and methods by which he performed his work. Royale Homes likewise assailed the award of P277,000.00 for lack of basis as it did not pre-terminate the contract. It was Alcantara who chose not to finish the contract.

Alcantara, for his part, argued that the Labor Arbiter erred in ruling that his employment was for a fixed-term and that he is not entitled to backwages, reinstatement, unpaid commissions, and damages.

Ruling of the National Labor Relations Commission

On February 23, 2009, the NLRC rendered its Decision,^[13] ruling that Alcantara is not an employee but a mere independent contractor of Royale Homes. It based its ruling mainly on the contract which does not require Alcantara to observe regular working hours. He was also free to adopt the selling methods he deemed most effective and can even recruit sales agents to assist him in marketing the inventories of Royale Homes. The NLRC also considered the fact that Alcantara was not receiving monthly salary, but was being paid on commission basis as stipulated in the contract. Being an independent contractor, the NLRC concluded that Alcantara's Complaint is cognizable by the regular courts.

The *fallo* of the NLRC Decision reads:

WHEREFORE, premises considered, the Decision of Labor Arbiter Dolores Peralta-Beley dated September 5, 2005 is REVERSED and SET ASIDE and a NEW ONE rendered dismissing the complaint for lack of jurisdiction.

SO ORDERED.^[14]

Alcantara moved for reconsideration.^[15] In a Resolution^[16] dated May 29, 2009, however, the NLRC denied his motion.

Alcantara thus filed a Petition for *Certiorari*^[17] with the CA imputing grave abuse of discretion on the part of the NLRC in ruling that he is not an employee of Royale Homes and that it is the regular courts which have jurisdiction over the issue of whether the pre-termination of the contract is valid.

Ruling of the Court of Appeals

On June 23, 2010, the CA promulgated its Decision^[18] granting Alcantara's Petition and reversing the NLRC's Decision. Applying the four-fold and economic reality tests, it held that Alcantara is an employee of Royale Homes. Royale Homes exercised some degree of control over Alcantara since his job, as observed by the CA, is subject to company rules, regulations, and periodic evaluations. He was also bound by the company code of ethics. Moreover, the exclusivity clause of the contract has made Alcantara economically dependent on Royale Homes, supporting the theory that he is an employee of said company.

The CA further held that Alcantara's termination from employment was without any valid or just cause, and it was carried out in violation of his right to procedural due process. Thus, the CA ruled that he is entitled to backwages and separation pay, in lieu of reinstatement. Considering, however, that the CA was not satisfied with the proof adduced to establish the amount of Alcantara's annual salary, it remanded the case to the Labor Arbiter to determine the same and the monetary award he is entitled to. With regard to the corporate officers, the CA absolved them from any liability for want of clear proof that they assented to the patently unlawful acts or that they are guilty of bad faith or gross negligence. Thus:

WHEREFORE, in view of the foregoing, the instant PETITION is GRANTED. The assailed decision of the National Labor Relations Commission in NLRC NCR CASE NO. 00-12-14311-03 NLRC CA NO. 046104-05 dated February 23, 2009 as well as the Resolution dated May 29, 2009 are hereby SET ASIDE and a new one is entered ordering the respondent company to pay petitioner backwages which shall be computed from the time of his illegal termination in October 2003 up to the finality of this decision, plus separation pay equivalent to one month salary for every year of service. This case is REMANDED to the Labor Arbiter for the proper determination and computation of back wages, separation pay and other monetary benefits that petitioner is entitled to.

SO ORDERED.^[19]

Royale Homes filed a Motion for Reconsideration^[20] and a Supplemental Motion for Reconsideration.^[21] In a Resolution^[22] dated January 18, 2011, however, the CA denied said motions.

Issues

Hence, this Petition where Royale Homes submits before this Court the following issues for resolution:

A.

WHETHER THE COURT OF APPEALS HAS DECIDED THE INSTANT CASE NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT WHEN IT REVERSED THE RULING OF THE NLRC

DISMISSING THE COMPLAINT OF RESPONDENT FOR LACK OF JURISDICTION AND CONSEQUENTLY, IN FINDING THAT RESPONDENT WAS ILLEGALLY DISMISSED[.]

B.

WHETHER THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN DISREGARDING THE EN BANC RULING OF THIS HONORABLE COURT IN THE CASE OF TONGKO VS. MANULIFE, AND IN BRUSHING ASIDE THE APPLICABLE RULINGS OF SONZA VS. ABS CBN AND CONSULTA V. CA[.]

C.

WHETHER THE COURT OF APPEALS COMMITTED A SERIOUS ERROR OF LAW IN DENYING THE MOTION FOR RECONSIDERATION OF PETITIONER AND IN REFUSING TO CORRECT ITSELF[.][23]

Royale Homes contends that its contract with Alcantara is clear and unambiguous - it engaged his services as an independent contractor. This can be readily seen from the contract stating that no employer-employee relationship exists between the parties; that Alcantara was free to solicit sales at any time and by any manner he may deem appropriate; that he may recruit sales personnel to assist him in marketing Royale Homes' inventories; and, that his remunerations are dependent on his sales performance.

Royale Homes likewise argues that the CA grievously erred in ruling that it exercised control over Alcantara based on a shallow ground that his performance is subject to company rules and regulations, code of ethics, periodic evaluation, and exclusivity clause of contract. Royale Homes maintains that it is expected to exercise some degree of control over its independent contractors, but that does not automatically result in the existence of employer-employee relationship. For control to be considered as a proof tending to establish employer-employee relationship, the same must pertain to the means and method of performing the work; not on the relationship of the independent contractors among themselves or their persons or their source of living.

Royale Homes further asserts that it neither hired nor wielded the power to dismiss Alcantara. It was Alcantara who openly and publicly declared that he was pre-terminating his fixed-term contract.

The pivotal issue to be resolved in this case is whether Alcantara was an independent contractor or an employee of Royale Homes.

Our Ruling

The Petition is impressed with merit.

The determination of whether a party who renders services to another is an employee or an independent contractor involves an evaluation of factual matters which, ordinarily, is not within the province of this Court. In view of the conflicting