Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

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), Petitioners, -versus- **MANILA CORDAGE COMPANY (MCC) AND MANCO SYNTHETIC, INC. (MSI),** Respondents.	**G.R. Nos. 242495-96** Present: LEONEN, *J., Chairperson,* GESMUNDO, CARANDANG, LOPEZ*, and DELOS SANTOS,* *JJ.* **Promulgated:** September 16, 2020 MisRDCBath

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DECISION

LEONEN, *J.:*

A labor contractor's Certificate of Registration with the Department of Labor and Employment is not conclusive evidence of its status as a legitimate

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* Designated additional Member per Raffle dated Sept 9, 2020.
* Additional Member per S.O. No. 2753.

labor contracting entity. At most, it causes a disputable presumption that the entity is a legitimate labor contractor which can be refuted by other evidence. In order to determine whether an entity is a labor-only contractor or a legitimate labor contractor, what must be considered is the totality of the facts and surrounding circumstances of the case.[1]

This resolves a Petition for Review on Certiorari[2] filed by Manila Cordage Company–Employees Labor Union–Organized Labor Union in Line Industries and Agriculture (MCC-ELU-OLALIA) and Manco Synthetic, Inc.–Employees Labor Union–Organized Labor Union in Line Industries and Agriculture (MSI-ELU-OLALIA), assailing the Consolidated Decision[3] and Resolution[4] of the Court of Appeals in CA-G.R. SP No. 146614 & 148154, which set aside the Decision of the Secretary of Labor and reinstated the Mediator-Arbiter's Decision which ruled in favor of Manila Cordage Company (Manila Cordage) and Manco Synthetic, Inc. (Manco Synthetic).

The Organized Labor Union in Line Industries and Agriculture (OLALIA) is a legitimate labor organization that established local chapters in companies engaged in rope manufacturing.[5] MCC-ELU-OLALIA and MSI-ELU-OLALIA were its local chapters in Manila Cordage and Manco Synthetic, respectively.[6]

Considering that Manila Cordage and Manco Synthetic were unorganized and had no exclusive bargaining agent, OLALIA filed Petitions for Certification Election before the Department of Labor and Employment, Regional Office IV. Manila Cordage and Manco Synthetic opposed this, asserting that members of the subject labor unions are employees of their labor contractors, Alternative Network Resources Unlimited Multi-Purpose Cooperative (Alternative Network Resources) and Worktrusted Manpower Services Cooperative (Worktrusted Manpower Services).[7] The petitions were granted despite the opposition and certification elections were conducted in Manila Cordage and Manco Synthetic on January 27, 2016.[8]

The results of the certification elections were as follows:[9]

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1 *Polyfoam-RGC International, Corp. v. Concepcion*, 687 Phil. 137 (2012) [Per J. Peralta, Third Division].
2 *Rollo*, pp. 10–55.
3 Id. at 233–250. The Decision dated January 19, 2018 was penned by Associate Justice Rodil V. Zalameda (now a member of this Court), and concurred in by Associate Justices Japar B. Dimaampao and Renato C. Francisco of the Seventh Division, Court of Appeals, Manila.
4 Id. at 267–272. The Resolution dated September 20, 2018 was penned by Associate Justice Rodil V. Zalameda (now a member of this Court), and concurred in by Associate Justices Japar B. Dimaampao and Maria Filomena D. Singh of the Former Seventh Division, Court of Appeals, Manila.
5 Id. at 235.
6 Id. at 311.
7 Id. at 15 and 236.
8 Id. at 235
9 Id.

For Manila Cordage Company:

Yes	0
No	10
Challenged	294
Spoiled	0
TOTAL VALID VOTES CAST	304[10]

For Manco Synthetic, Inc.:

Yes	0
No	4
Challenged	139
Spoiled	0
TOTAL VALID VOTES CAST	143[11]

Manila Cordage Company filed a protest with the Mediator-Arbiter, challenging 294 of the 304 votes cast during the certification elections. Likewise, Manco Synthetic, Inc. filed a protest challenging 139 of 143 of the votes. Both contended that the challenged voters were not their employees but employees of their respective independent contractors.[12]

On March 28, 2016, Mediator-Arbiter Maureen Zena O. Serazon-Tongson (Med-Arbiter Tongson) issued two separate Orders,[13] granting the protests of Manila Cordage and Manco Synthetic.

Med-Arbiter Tongson found that Alternative Network Resources and Worktrusted Manpower Services were legitimate job contractors providing manpower services to Manila Cordage and Manco Synthetic and were thus, the employers of those challenged voters during the certification elections. Consequently, the votes cast during the Certification Elections were held invalid for the purpose of certifying MCC–ELU–OLALIA and MSI-ELU–OLALIA as the exclusive bargaining agents in Manila Cordage and Manco Synthetic.[14]

Aggrieved, both MCC–ELU–OLALIA and MSI–ELU–OLALIA separately filed a Memorandum of Appeal before the Department of Labor and Employment.[15] On May 13, 2016[16] and June 20, 2016,[17] Undersecretary Rebecca C. Chato (Undesecretary Chato), by the authority of the Secretary of the Department of Labor and Employment, reversed Med-Arbiter Tongson's Orders and found that Alternative Network Resources and Worktrusted

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10 Id.
11 Id. at 237.
12 Id. at 236.
13 Id. at 120–140 and 141–160.
14 Id. at 138–139 and 156–157.
15 Id. at 238.
16 Id. at 215–222.
17 Id. at 224–231.

Manpower Services were labor-only contractors. Thus, the challenged votes cast by employees of Manila Cordage and Manco Synthetic should be considered.[18]

The dispositive portion of the May 13, 2016 Decision[19] of Undersecretary Chato in favor of MCC–ELU– OLALIA reads:

> **WHEREFORE**, premises considered, the Appeal Memorandum filed by Manila Cordage Company Employees Labor Union-OLALIA is hereby **GRANTED**. The Order dated 28 March 2016 of the DOLE Regional Office IV-A Mediator-Arbiter Maureen Zena O. Serazon-Tongson is **REVERSED and SET ASIDE**.
>
> Let the entire records be remanded to the Regional Office of origin for the opening and canvassing of the two hundred ninety-four (294) segregated ballots.[20] (Emphasis in the original)

Meanwhile, the dispositive portion of the June 20, 2016 Decision[21] in favor of MSI–ELU–OLALIA reads:

> **WHEREFORE**, premises considered, the Appeal Memorandum filed by Manco Synthetic, Inc. Employee Labor Union-OLALIA is **PARTIALLY GRANTED**. The Order dated 28 March 2016 of the DOLE Regional Office No. IV-A Mediator-Arbiter Maureen Zena O. Serazon-Tongson is hereby **MODIFIED**. Accordingly, except for the ballots of Ronecito Advincula, Ferdinand Carino, Jaime Monterey, Jesus Villanueva, Michael Barbosa, Frederick Marzo, Dennis Rodriguez, Ronaldo Tejares, Rogelo Tomas, Cecilito Torres, Edgardo Bayeta and Lutgardes Mutyaon, the segregated votes be opened and canvassed.
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> Let the entire records be remanded to the Regional Office of origin for the opening and canvassing of the one hundred twenty-seven (127) segregated ballots.
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> **SO RESOLVED**.[22] (Emphasis in the original)

Manila Cordage and Manco Synthetic separately filed their Petitions for Certiorari before the Court of Appeals. In both Petitions, they alleged that the Secretary of Labor and Employment gravely abused its discretion when it ruled that there was an employer-employee relationship between them and the challenged voters of the certification election as Alternative Network Resources and Worktrusted Manpower Services were mere labor-only

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18 Id.
19 Id. at 214–222.
20 Id. at 222.
21 Id. at 223–231.
22 Id. at 231.

contractors.[23] On Motion by MCC-ELU-OLALIA, the two Petitions were consolidated.[24]

Finding grave abuse of discretion on the part of the Secretary of Labor, the Court of Appeals granted the Petitions for Certiorari filed by Manila Cordage and Manco Synthetic in its Consolidated Decision.[25]

According to the Court of Appeals, Manila Cordage and Manco Synthetic both submitted substantial evidence that Alternative Network Resources and Worktrusted Manpower Services were legitimate job contractors providing manpower services to them.[26] Specifically, they presented Certificates of Registration numbered NCR-MPFO-72600-3111-210-R and RO-IVA-08-10-28 issued by the Department of Labor and Employment, declaring the two as legitimate independent contractors.[27] Furthermore, it found that the two contractors have substantial capitalization, both having more than the required minimum paid up capital of ₱3 million. The Court of Appeals likewise held that the fact that the two contractors had other clients from various industries negates the conclusion that they are labor-only contractors.[28]

The dispositive portion of the January 19, 2018 Consolidated Decision reads:

> **WHEREFORE**, premises considered, the instant consolidated petitions are hereby **GRANTED** and the assailed Decision dated 13 May 2016 and Resolution dated 20 June 2016 in OS-A-14-5-16, as well as the Resolutions dated 20 June 2016 and 08 September 2016 in OS-A-13-5-16, are **ANNULLED and SET ASIDE**.
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> Accordingly, the Orders dated 28 March 2016 in RO4A-LPO CE-06-26-05 and RO4A-LPO-CE-07-27-05-15 of the DOLE Regional Office No. IV-A are hereby **REINSTATED**.
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> **SO ORDERED**.[29]

MCC–ELU–OLALIA and MSI–ELU–OLALIA filed their respective Motions for Reconsideration, which the Court of Appeals denied in its September 20, 2018 Resolution.[30]

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23 Id. at 240–241.
24 Id. at 241.
25 Id. at 233–250.
26 Id. at 248.
27 Id. at 244.
28 Id. at 245.
29 Id. at 249.
30 Id. at 267–272.

On December 3, 2018, MCC–ELU–OLALIA and MSI–ELU–OLALIA filed their Petition for Review on Certiorari[31] with this Court.

On June 3, 2019, the Court required respondents to comment on the Petition[32] which they did on September 10, 2019.[33]

On October 14, 2019, petitioners filed a Manifestation[34] informing this Court of the decision of the Court of Appeals in *Alternative Network Resources Unlimited Multi-Purpose Cooperative v. Department of Labor and Employment and Regional Director Angaracampita* docketed as CA G.R. S.P. No. 150758. In that case, workers under the payroll of various contractors were held to be employees of Manila Cordage after finding that Worktrusted Manpower Services Cooperative and Alternative Network Resources Unlimited Multi-Purpose Cooperative were labor-only contractors.

In their Petition for Review on Certiorari, MCC–ELU–OLALIA and MSI–ELU–OLALIA maintain that Alternative Network Resources and Worktrusted Manpower Services are engaged in labor-only contracting. Hence, the challenged voters of the certification elections should be deemed employees of respondents and their votes proclaimed as valid.[35]

Petitioners allege that the two contractors do not provide a specific service to respondents and merely supply manpower.[36] They further assert that Alternative Network Resources' and Worktrusted Manpower Services' substantial capital is not sufficient to prove that they complied with the requirements provided for in Department Order No. 18-A.[37] Petitioners maintain that respondents should have submitted evidence that the two contractors own tools, equipment, and machineries used in the main business of respondents, which is rope production.[38]

In their Comment,[39] respondents assert that the Petition should not be entertained as it tackles questions of fact and not of law.[40] They add that there is no employer-employee relationship between them and the employees with challenged votes since the latter were hired from independent job contractors[41] which had substantial capitalization and DOLE certifications.[42] Respondents

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31. Id. at 10–47.
32. Id. at 291–292.
33. Id. at 305–323.
34. Id. at 390–391.
35. Id. at 41–45.
36. Id. at 25.
37. Id. at 28.
38. Id. at 29.
39. Id. at 305–322
40. Id. at 315.
41. Id. at 316.
42. Id. at 311.

submit that there was no need to prove that these contractors have investment in the form of tools, equipment and machineries since all that Department Order No. 18-A requires is either substantial capitalization or investment.[43] Respondents further state that they wield no power or control over the employees, except for the end result of their work.[44]

The main issue to be addressed is whether or not an employer-employee relationship exists between petitioners and respondent. To determine this, however, the issue of whether or not Alternative Network Resources Unlimited Multi-Purpose Cooperative and Worktrusted Manpower Services Cooperative are legitimate job contractors must first be answered.

The petition is meritorious.

As a general rule, the Supreme Court is not a trier of facts. In *Meralco Industrial v. National Labor Relations Commission,*[45] it was held:

> This Court is not a trier of facts. Well-settled is the rule that the jurisdiction of this Court in a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record, or the assailed judgment is based on a gross misapprehension of facts. Besides, factual findings of quasi-judicial agencies like the NLRC, when affirmed by the Court of Appeals, are conclusive upon the parties and binding on this Court.[46]

In labor cases, petitions for review on certiorari under Rule 45 is limited to determining whether the Court of Appeals was correct in finding the presence or absence of grave abuse of discretion and jurisdictional errors on the part of the lower tribunal.[47]

The existence of an employer-employee relationship or labor-only contracting is a question of fact because it entails an assessment of the probative value of the evidence presented in the lower courts. Thus, it is only appropriately acted upon by this Court when certain exceptions are present as laid down in *Pascual v. Burgos*:[48]

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference

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43 Id. at 319.
44 Id. at 321.
45 572 Phil. 94 (2008) [Per J. Chico-Nazario, Third Division].
46 Id. at 117.
47 *Fuji Television Network, Inc. v. Espiritu,* 749 Phil. 388, 414–415 (2014) [Per J. Leonen, Second Division].
48 776 Phil. 167 (2016) [Per J. Leonen, Second Division].

> made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; *(7) The findings of the Court of Appeals are contrary to those of the trial court*; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.
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> These exceptions similarly apply in petitions for review filed before this court involving civil, labor, tax, or criminal cases.[49] (Emphasis supplied, citations omitted)

In this case, the factual findings of the Court of Appeals are contrary to those of the Secretary of Labor and Employment, thus, it becomes proper for this Court to delve into the factual circumstances and records of the case.

Legitimate job contracting and labor-only contracting are defined in Article 106 of the Labor Code in this wise:

> ARTICLE 106. *Contractor or subcontractor*. — Whenever an employer enters into a contract with another person for the performance of the former's work, the employees of the contractor and of the latter's subcontractor, if any, shall be paid in accordance with the provisions of this Code.
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> In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.
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> The Secretary of Labor and Employment may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.
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> There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of

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[49] Id. at 182–183.

> 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.
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> 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.

San Miguel Foods, Inc. v. Rivera[50] laid down the characteristics that differentiate legitimate job contractors from prohibited labor-only contractors and the legal consequences if an entity is found to be the latter.

> Obviously, the permitted or permissible or legitimate job contracting or subcontracting is the one allowed and permitted by law. It is an arrangement whereby a principal agrees to put out or farm out with the contractor or subcontractor the performance or completion of a specific job, work, or service 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. To determine its existence, these conditions must concur: (a) the contractor carries on a distinct and independent business and partakes the contract work on his account under his own responsibility according to his own manner and method, free from the control and direction of his employer or principal in all matters connected with the performance of his work except as to the results thereof; (b) the contractor has substantial capital or investment; and (c) the agreement between the principal and the contractor or subcontractor assures the contractual employees' entitlement to all labor and occupational safety and health standards, free exercise of the right to self-organization, security of tenure, and social welfare benefits. Thus, in legitimate job contracting, the employer-employee relationship between the job contractor and his employees is maintained. While the law creates an employer-employee relationship between the employer and the contractor's employees, the same is only for the purpose of ensuring the payment of the employees' wages. In short, the employer becomes jointly and severally liable with the job contractor but only for the payment of the employees' wages whenever the contractor fails to pay the same. Other than that, the employer is not responsible for any claim made by the contractor's employees.
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> In stark contrast, labor-only contracting is a prohibited act and it is not condoned by law. It is an arrangement where the contractor not having substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, supplies workers to an employer and the workers recruited are performing activities which are directly related to the principal business of such employer.[51]

To protect the workforce, a contractor is generally presumed to be engaged in labor-only contracting, unless it proves otherwise by having substantial capital, investment, tools and the like. However, the burden of

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50 924 Phil. 961 (2018) [Per J. Velasco, Jr., Third Division].

51 Id. at 973–974.

proving the legitimacy of the contractor shifts to the principal when it is the one claiming that status, such as in this case.[52]

Here, the finding of the existence of labor-only contracting on the part of respondents' contractors, Alternative Network Resources and Worktrusted Manpower Services, would give rise to the creation of an employer-employee relationship between respondents as its principals, and petitioners as its alleged employees.

Respondents claim that Alternative Network Resources and Worktrusted Manpower Services are legitimate job contractors as supported by the Certificates of Registration awarded to them by the Department of Labor and Employment at the time the events of this case occurred.[53] In addition, they argue that both entities have substantial capitalization[54] with Alternative Network Resources having more than ₱10 million as deposit for future stock subscription and ₱30 million fully paid shares, and Worktrusted Manpower Services having ₱4 million in paid up capital.[55]

Respondents also made much of the fact that both Alternative Network Resources and Worktrusted Manpower Services catered to other clients aside from them, claiming this indicates that they carry a separate and distinct business.[56] Although this may be a badge of legitimate job contracting, it does not automatically convert a labor-only contractor to a legitimate job contractor because in the issue of labor-only contracting, "the totality of the facts and the surrounding circumstances of the case" must be considered.[57]

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.[58]

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[59] by the Department of Labor and Employment. The Certificates of Registration presented by respondents covered the period of 2014 to 2017,[60] yet records show that Alternative Network Resources

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52 *Alilin v. Petron Corp.*, 735 Phil. 509-529 (2014) [Per J. Del Castillo, Former Second Division].
53 *Rollo*, pp. 316–317.
54 Id. at 244.
55 Id. at 245.
56 Id.
57 *Petron Corp. v. Caberte*, 759 Phil. 353, 366 (2015) [Per J. Del Castillo, Second Division].
58 *W.M. Manufacturing Inc. v. Dalag*, 774 Phil. 353, 378 (2015) [Per J. Velasco, Jr., Third Division].
59 *Rollo*, p. 220.
60 Id. at pp. 219–220 and 228.

undertook to provide respondent Manila Cordage with manufacturing support services as early as 2008[61] while Worktrusted Manpower Services entered into a Memorandum of Agreement with Manco Synthetic in 2009.[62] 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
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> (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.[63]

Respondents claim that since the presence of both substantial capital and substantial investment in the form of tools, equipment, machineries, and work premises are not required by law, then Alternative Network Resources and Worktrusted Manpower Services must be considered legitimate labor contractors. Their argument does not hold water.

In *Dole Phils., Inc. v. Esteva*,[64] this Court illustrates that an entity may still be held as a labor-only contractor despite numerous badges which supports the notion that it is a legitimate labor contractor.

> While there is present in the relationship of petitioner and CAMPCO some factors suggestive of an independent contractor relationship (*i.e.*, CAMPCO chose who among its members should be sent to work for

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61 Id. at p. 220

62 Id. at p. 228.

63 Id. at 29.

64 538 Phil. 817 (2006) [Per Chico-Nazario, First Division].

petitioner; petitioner paid CAMPCO the wages of the members, plus a percentage thereof as administrative charge; CAMPCO paid the wages of the members who rendered service to petitioner), many other factors are present which would indicate a labor-only contracting arrangement between petitioner and CAMPCO.

First, although petitioner touts the multi-million pesos assets of CAMPCO, it does well to remember that such were amassed in the years following its establishment. In 1993, when CAMPCO was established and the Service Contract between petitioner and CAMPCO was entered into, CAMPCO only had P6,600.00 paid-up capital, which could hardly be considered substantial. It only managed to increase its capitalization and assets in the succeeding years by continually and defiantly engaging in what had been declared by authorized DOLE officials as labor-only contracting.

Second, CAMPCO did not carry out an independent business from petitioner. It was precisely established to render services to petitioner to augment its workforce during peak seasons. Petitioner was its only client. Even as CAMPCO had its own office and office equipment, these were mainly used for administrative purposes; the tools, machineries, and equipment actually used by CAMPCO members when rendering services to the petitioner belonged to the latter.

Third, petitioner exercised control over the CAMPCO members, including respondents. Petitioner attempts to refute control by alleging the presence of a CAMPCO supervisor in the work premises. Yet, the mere presence within the premises of a supervisor from the cooperative did not necessarily mean that CAMPCO had control over its members. Section 8(1), Rule VIII, Book III of the implementing rules of the Labor Code, as amended, required for permissible job contracting that the contractor undertakes the contract work on his account, under his own responsibility, according to his own manner and method, free from the control and direction of his employer or principal in all matters connected with the performance of the work except as to the results thereof. As alleged by the respondents, and unrebutted by petitioner, CAMPCO members, before working for the petitioner, had to undergo instructions and pass the training provided by petitioner's personnel. It was petitioner who determined and prepared the work assignments of the CAMPCO members. CAMPCO members worked within petitioner's plantation and processing plants alongside regular employees performing identical jobs, a circumstance recognized as an *indicium* of a labor-only contractorship.

Fourth, CAMPCO was not engaged to perform a specific and special job or service. In the Service Contract of 1993, CAMPCO agreed to assist petitioner in its daily operations, and perform odd jobs as may be assigned. CAMPCO complied with this venture by assigning members to petitioner. Apart from that, no other particular job, work or service was required from CAMPCO, and it is apparent, with such an arrangement, that CAMPCO merely acted as a recruitment agency for petitioner. Since the undertaking of CAMPCO did not involve the performance of a specific job, but rather the supply of manpower only, CAMPCO clearly conducted itself as a labor-only contractor.

Lastly, CAMPCO members, including respondents, performed activities directly related to the principal business of petitioner. They

> worked as can processing attendant, feeder of canned pineapple and pineapple processing, nata de coco processing attendant, fruit cocktail processing attendant, and etc., functions which were, not only directly related, but were very vital to petitioner's business of production and processing of pineapple products for export.
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> The findings enumerated in the preceding paragraphs only support what DOLE Regional Director Parel and DOLE Undersecretary Trajano had long before conclusively established, that CAMPCO was a mere labor-only contractor.[65]

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.[66] 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.

Respondents assert that they wield no power over the employees whose votes were challenged. According to them, petitioners are closely supervised by coordinators of Alternative Network Resources and Worktrusted Manpower who are assigned to Manila Cordage and Manco Synthetic. It is alleged that these coordinators monitor not only the attendance of the employees, but their performance and discipline as well.[67] Respondents also allege that it is Alternative Network Resources and Worktrusted Manpower Services who hire their employees and assign them to the sites of their clients as well as pay their wages, SSS, Philhealth, and PAG-IBIG contributions.[68]

Respondents claims will not stand. *W.M. Manufacturing Inc. v. Dalag*,[69] is persuasive:

> The second confirmatory element under DO 18-02 does not require the application of the economic test and, even more so, the four-fold test to determine whether or not the relation between the parties is one of labor-only contracting. All it requires is that the contractor does not exercise **control** over the employees it supplies, making the control test of

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65 Id. at 867–869.

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

67 *Rollo*, pp. 316–317.

68 Id. at 217-218, 247, 340.

69 774 Phil. 353 (2015) [Per J. Velasco, Jr., Third Division].

> paramount consideration. The fact that Golden Rock pays for Dalag's wages and salaries then has no bearing in resolving the issue.
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> Under the same DO 18-02, 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. Here, notwithstanding the contract stipulation leaving Golden Rock the exclusive right to control the working warm bodies it provides WM MFG, evidence irresistibly suggests that it was WM MFG who actually exercised supervision over Dalag's work performance. As culled from the records, Dalag was supervised by WM MFG's employees. Petitioner WM MFG even went as far as furnishing Dalag with not less than seven (7) memos directing him to explain within twenty-four (24) hours his alleged work infractions. The company likewise took pains in issuing investigation reports detailing its findings on Dalag's culpability. Clearly, WM MFG took it upon itself to discipline Dalag for violation of company rules, regulations, and policies, validating the presence of the second confirmatory element.[70] (Emphasis in the original, citations omitted)

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.[71]

Similarly, the employees for Manco Synthetic were assigned to following departments with the same functions as enumerated above: engineering, production, matting, and facility.[72] While working in these departments, petitioners' manner and method of work were closely supervised and monitored by regular employees of Manila Cordage[73] and Manco Synthetic.[74] 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.[75]

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70 Id. at 380–381.
71 *Rollo*, p. 221.
72 Id. at 230.
73 Id. at 221.
74 Id. at 230.
75 Id. at 221 and 230.

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.[76] 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."[77]

As respondents failed to adduce sufficient evidence to prove that Alternative Network Resources and Worktrusted Manpower Services are legitimate labor contractors, they are deemed engaged in labor-only contracting. Consequently, their alleged employees are in effect the employees of their principal, herein respondents. In *Petron Corp. v. Caberte*, this Court explained:

> From the foregoing, it is clear at Petron failed to discharge its burden of proving that ABC is not a labor-only contractor. Consequently, and as warranted by the facts, the Court declares ABC as a mere labor-only contractor. "A finding that a contractor is a 'labor-only' contractor is equivalent to declaring that there is an employer-employee relationship between the principal and the employees of the supposed contractor, and the 'labor-only' contractor is considered as a mere agent of the principal, the real employer." Accordingly in this case, Petron is declared to be the true employer of respondents who are considered regular employees in view of the fact that they have been regularly performing activities which are necessary and desirable to the usual business of Petron for a number of years.[78] (Citation omitted)

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[.]"[79] 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.

WHEREFORE, premises considered, the Petition is **GRANTED**. The Consolidated Decision dated January 19, 2018 and Resolution dated September 20, 2018 by the Court of Appeals in CA – G.R. SP Nos. 146614 &

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76 Id. at 220.

77 *Petron Corp. v. Caberte*, 759 Phil. 353, 370 (2015) [Per J. Del Castillo, Second Division].

78 Id. at 371.

79 *Coca-Cola Bottlers Philippines, Inc. v. Dela Cruz*, 622 Phil. 886, 901 (2009) [Per J Brion, Second Division].

148154 are **REVERSED** and **SET ASIDE**. The decisions of the Secretary of Labor dated May 13, 2016 and June 20, 2016 are **REINSTATED**.

SO OREDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

MARIO V. LOPEZ
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

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.

DIOSDADO M. PERALTA
Chief Justice