REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **02 December 2020** *which reads as follows*:

"**G.R. No. 252718** (***Roel D. Borce, Narvin Israel P. Dumagco, Kelvin M. Castillo, and Nicanor M. Cinco VI v. PPI Holdings, Inc. [formerly Philippine Pizza, Inc.], Jorge Araneta [owner], Consolidated Building Maintenance, Inc., and Juan Manolo O. Ortanez***). – The petition is **DENIED** for failure to sufficiently show that the Court of Appeals committed reversible error when it rendered its assailed dispositions to warrant the Court's exercise of its discretionary appellate jurisdiction.

The status of Consolidated Building Maintenance, Inc. (CBMI) as a legitimate job contractor had long been settled in ***Consolidated Building Maintenance, Inc., et al. v. Asprec, Jr., et al.***[1] and ***Philippine Pizza, Inc. v. Cayetano, et al.***[2] which both found that CBMI is a legitimate job contractor.

Notably, the facts in both cases are substantially similar to the facts here. The employees in the two (2) cases, like herein petitioners Roel D. Borce, Narvin Israel P. Dumagco, Kelvin M. Castillo, and Nicanor M. Cinco VI, also claimed they were initially hired by PPI Holdings, Inc. (formerly Philippine Pizza, Inc., PPI) as team members/riders sometime between 2000 to 2010. After the expiration of their original contracts, PPI asked the employees to go on leave and to apply with CBMI. After training with CBMI, they were deployed to various branches of Pizza Hut food chain. Thereafter, they were either suspended, temporarily laid off, or placed on floating status. As a remedial measure, they too, like herein petitioners, filed actions for regularization and/or illegal dismissal against PPI.

---

1 G.R. No. 217301, June 6, 2018.
2 G.R. No. 230030, August 29, 2018.

1/5

The doctrine of *stare decisis* commands that for the sake of certainty, a conclusion reached in one case should be applied to those that follow *if the facts are substantially the same, even though the parties may be different.*[3]

That petitioners were not the same employees involved in ***Cayetano*** and ***Asprec*** does not negate the application of *stare decisis* here. It is enough that petitioners are similarly situated with those employees in ***Cayetano*** and ***Asprec***; and the facts and issues here, also similar to those obtaining in those cases.

Petitioners' reliance on the minute resolutions issued in ***Philippine Pizza, Inc. v. Salvador, et al.***[4] and ***Philippine Pizza, Inc. v. Magno, et al.***[5] is misplaced.

In ***Cayetano***, the Court clarified that while minute resolutions dispose of the case on the merits, *the same could not be treated as a binding precedent to cases involving other persons who are not parties to the case*, or another subject matter that may or may not have the same parties and issues. In other words, *a minute resolution does not necessarily bind non-parties to the action even if it amounts to a final action on a case.*[6]

More, petitioners cannot invoke the Decision dated March 29, 2019 of the Court of Appeals' Eleventh Division in CA-G.R. SP No. 155104 to support their argument that CBMI is a labor-only contractor. For only final and executory decisions of the Supreme Court bear the binding effect of precedents.[7] Besides, there is no showing that said decision has even attained finality.

Finally, both the National Labor Relations Commission (NLRC) and the Court of Appeals correctly found that petitioners Borce, Dumagco, and Castillo were not illegally dismissed as they were merely suspended and placed on floating status pending their re-assignment to another post.[8] As for petitioner Cinco, his action against respondents was limited to regularization with PPI, and did not include illegal dismissal. For unlike Borce, Dumagco, and Castillo, he was not placed on floating status.

All told, the Court of Appeals did not commit reversible error when it applied ***Asprec*** and ***Cayetano*** to the present case, held that CBMI is a legitimate job contractor, declared petitioners as CBMI's employees, and dismissed the complaint for illegal dismissal.

---

3 *Republic v. Rosario, et al.*, 779 Phil. 418, 433 (2016).
4 G.R. No. 248144, August 28, 2019.
5 G.R. No. 242311, March 25, 2019.
6 Also *see Alonso v. Cebu Country Club, Inc.*, 426 Phil. 61, 86 (2002).
7 *See United Coconut Planters Bank v. Spouses Uy*, 823 Phil. 284, 294 (2018).
8 *See Lopez v. Irvine Construction Corp.*, 741 Phil. 728 (2014), where the Court explained that placing an employee on floating status or temporary lay-off would be tantamount to a dismissal only if it is permanent. When a lay-off is only temporary, the employment status of the employee is not deemed terminated, *but merely suspended.*

SO ORDERED." (Rosario, J., additional member per S.O. No. 2797 dated November 5, 2020; Perlas-Bernabe, SAJ, on official leave)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court
06 JAN 2021

LEGAL ADVOCATES FOR WORKERS' INTEREST [LAWIN] (reg)
(ATTY. ERNESTO R. ARELLANO)
Counsel for Petitioners
Room 400, Jiao Building
2 Timog Avenue, 1100 Quezon City

LAGUESMA MAGSALIN CONSULTA & GASTARDO(reg)
Counsel for Respondents PPI Holdings, Inc. and Jorge L. Araneta
Unit 706, Prestige Tower, F. Ortigas, Jr. Road
Ortigas Center, 1605 Pasig City

CONSOLIDATED BUILDING MAINTENANCE, INC. [CBMI] & MR. JUAN MANOLO O. ORTANEZ (reg)
Respondents
Unit 422, 4th Floor, OAC Bldg.
27 San Miguel Ave., Ortigas Center
1605 Pasig City

NATIONAL LABOR RELATIONS COMMISSION (reg)
PPSTA Building, Banawe Street cor. Quezon Avenue
1100 Quezon City
(NLRC LAC No. 09-002892-17)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 155197

Please notify the Court of any change in your address.
GR252718. 12/02/2020(146)URES

(146)URES