



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROYALE HOMES MARKETING
CORPORATION,

Petitioner,

- versus -

FIDEL P. ALCANTARA [deceased],
substituted by his heirs,
Respondent.

G.R. No. 195190

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

JUL 28 2014 *MAKabalagay*

X-----X

DECISION

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 Decision³ of the Court of Appeals (CA) in CA-G.R. SP No. 109998 which (i) reversed and set aside the February 23, 2009 Decision⁴ 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. *Moll*

¹ *Insular Life Assurance Co., Ltd. v. National Labor Relations Commission*, 259 Phil. 65, 70-71 (1989).

² *Rollo*, pp. 3-50.

³ *CA rollo*, pp. 209-229; penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justices Josefina Guevara-Salonga and Franchito N. Diamante.

⁴ *Rollo*, pp. 241-248; penned by Presiding Commissioner Gerardo C. Nogralas and concurred in by Commissioners Perlita B. Velasco and Romeo L. Go.

Also assailed in this Petition is the January 18, 2011 Resolution⁵ of the CA denying Royale Homes' Motion for Reconsideration,⁶ as well as its Supplemental⁷ 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 Dismissal⁹ 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 ₱1.2 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

⁵ CA *rollo*, pp. 288-294.

⁶ Id. at 231-256.

⁷ Id. at 258-275.

⁸ See Contract dated January 24, 2003, id. at 36.

⁹ *Rollo*, p. 271.

¹⁰ See [Alcantara's] Position Paper, id. at 106-110.

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 Decision¹¹ 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 (₱277,000.00) representing his compensation/commission for the unexpired term of his contract.

All other claims are dismissed for lack of merit.

¹¹ Id. at 208-219; penned by Labor Arbiter Dolores M. Peralta-Beley

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 ₱277,000.00 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 Resolution¹⁶ dated May 29, 2009, however, the NLRC denied his motion.

¹² Id. at 218-219.

¹³ Id. at 241-248.

¹⁴ Id. at 247-248.

¹⁵ See Motion for Reconsideration, id. at 249-251.

¹⁶ Id. at 260-261.

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 Decision¹⁸ 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 Reconsideration²⁰ and a Supplemental

¹⁷ CA *rollo*, pp. 3-13.

¹⁸ Id. at 209-229.

¹⁹ Id. at 228.

²⁰ Id. at 231-256.

Motion for Reconsideration.²¹ In a Resolution²² 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

²¹ Id. at 258-275.

²² Id. at 288-294.

²³ *Rollo*, p. 376.

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 findings of the tribunals below, however, this Court is constrained to go over the factual matters involved in this case.²⁴

The juridical relationship of the parties based on their written contract

The primary evidence of the nature of the parties' relationship in this case is the written contract that they signed and executed in pursuance of their mutual agreement. While the existence of employer-employee relationship is a matter of law, the characterization made by the parties in their contract as to the nature of their juridical relationship cannot be simply ignored, particularly in this case where the parties' written contract unequivocally states their intention at the time they entered into it. In *Tongko v. The Manufacturers Life Insurance Co. (Phils.), Inc.*,²⁵ it was held that:

To be sure, the Agreement's legal characterization of the nature of the relationship cannot be conclusive and binding on the courts; x x x the characterization of the juridical relationship the Agreement embodied is a matter of law that is for the courts to determine. At the same time, though, the characterization the parties gave to their relationship in the Agreement cannot simply be brushed aside because it embodies their intent at the time they entered the Agreement, and they were governed by this understanding throughout their relationship. At the very least, the provision on the absence of employer-

²⁴ *Bernarte v. Philippine Basketball Association (PBA)*, G.R. No. 192084, September 14, 2011, 657 SCRA 745, 754.

²⁵ G.R. No. 167622, June 29, 2010, 622 SCRA 58.

employee relationship between the parties can be an aid in considering the Agreement and its implementation, and in appreciating the other evidence on record.²⁶

In this case, the contract,²⁷ duly signed and not disputed by the parties, conspicuously provides that “no employer-employee relationship exists between” Royale Homes and Alcantara, as well as his sales agents. It is clear that they did not want to be bound by employer-employee relationship at the time of the signing of the contract. Thus:

January 24, 2003

MR. FIDEL P. ALCANTARA
13 Rancho I
Marikina City

Dear Mr. Alcantara,

This will confirm your appointment as Division 5 VICE[-]PRESIDENT-SALES of ROYALE HOMES MARKETING CORPORATION effective January 1, 2003 to December 31, 2003.

Your appointment entails marketing our real estate inventories on an EXCLUSIVE BASIS under such price, terms and condition to be provided to you from time to time.

As such, you can solicit sales at any time and by any manner which you deem appropriate and necessary to market our real estate inventories subject to rules, regulations and code of ethics promulgated by the company. Further, you are free to recruit sales personnel/agents to assist you in marketing of our inventories provided that your personnel/agents shall first attend the required seminars and briefing to be conducted by us from time to time for the purpose of familiarizing them of terms and conditions of sale, the nature of property sold, etc., attendance of which shall be a condition precedent for their accreditation by us.

That as such Division 5 VICE[-]PRESIDENT-SALES you shall be entitled to:

1. Commission override of 0.5% for all option sales beginning January 1, 2003 booked by your sales agents.
2. Budget allocation depending on your division's sale performance as per our budget guidelines.
3. Sales incentive and other forms of company support which may be granted from time to time.

It is understood, however, that no employer-employee relationship

²⁶ Id. at 80.

²⁷ CA *rollo*, p. 36.

exists between us, that of your sales personnel/agents, and that you shall hold our company x x x, its officers and directors, free and harmless from any and all claims of liability and damages arising from and/or incident to the marketing of our real estate inventories.

We reserve, however, our right to terminate this agreement in case of violation of any company rules and regulations, policies and code of ethics upon notice for justifiable reason.

Your performance shall be subject to periodic evaluation based on factors which shall be determined by the management.

If you are amenable to the foregoing terms and conditions, please indicate your conformity by signing on the space provided below and return [to] us a duplicate copy of this letter, duly accomplished, to constitute as our agreement on the matter. (Emphasis ours)

Since “the terms of the contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations should control.”²⁸ No construction is even needed as they already expressly state their intention. Also, this Court adopts the observation of the NLRC that it is rather strange on the part of Alcantara, an educated man and a veteran sales broker who claimed to be receiving ₱1.2 million as his annual salary, not to have contested the portion of the contract expressly indicating that he is not an employee of Royale Homes if their true intention were otherwise.

***The juridical relationship of the parties
based on Control Test***

In determining the existence of an employer-employee relationship, this Court has generally relied on the four-fold test, to wit: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the employer’s power to control the employee with respect to the means and methods by which the work is to be accomplished.²⁹ Among the four, the most determinative factor in ascertaining the existence of employer-employee relationship is the “right of control test”.³⁰ “It is deemed to be such an important factor that the other requisites may even be disregarded.”³¹ This holds true where the issues to be resolved is whether a person who performs work for another is the latter’s employee or is an independent contractor,³² as in this case. For where the person for whom the services are performed reserves the right to control not only the end to be achieved, but also the means by which such end is

²⁸ CIVIL CODE OF THE PHILIPPINES, Article 1370.

²⁹ *Bernarte v. Philippine Basketball Association (PBA)*, supra note 24; *Sandigan Savings and Loan Bank, Inc. v. National Labor Relations Commission*, 324 Phil. 348, 358 (1996); *Sonza v. ABS-CBN Broadcasting Corporation*, G.R. No. 138051, June 10, 2004, 431 SCRA 583, 594-595.

³⁰ *Id.*

³¹ *Sandigan Savings and Loan Bank, Inc. v. National Labor Relations Commission*, supra note 29.

³² *Cosmopolitan Funeral Homes, Inc. v. Maalat*, G.R. No. 86693, July 2, 1990, 187 SCRA 108, 112.

reached, employer-employee relationship is deemed to exist.³³

In concluding that Alcantara is an employee of Royale Homes, the CA ratiocinated that since the performance of his tasks is subject to company rules, regulations, code of ethics, and periodic evaluation, the element of control is present.

The Court disagrees.

Not every form of control is indicative of employer-employee relationship. A person who performs work for another and is subjected to its rules, regulations, and code of ethics does not necessarily become an employee.³⁴ As long as the level of control does not interfere with the means and methods of accomplishing the assigned tasks, the rules imposed by the hiring party on the hired party do not amount to the labor law concept of control that is indicative of employer-employee relationship. In *Insular Life Assurance Co., Ltd. v. National Labor Relations Commission*³⁵ it was pronounced that:

Logically, the line should be drawn between rules that merely serve as guidelines towards the achievement of the mutually desired result without dictating the means or methods to be employed in attaining it, and those that control or fix the methodology and bind or restrict the party hired to the use of such means. The first, which aim only to promote the result, create no employer-employee relationship unlike the second, which address both the result and the means used to achieve it. x x x³⁶

In this case, the Court agrees with Royale Homes that the rules, regulations, code of ethics, and periodic evaluation alluded to by Alcantara do not involve control over the means and methods by which he was to perform his job. Understandably, Royale Homes has to fix the price, impose requirements on prospective buyers, and lay down the terms and conditions of the sale, including the mode of payment, which the independent contractors must follow. It is also necessary for Royale Homes to allocate its inventories among its independent contractors, determine who has priority in selling the same, grant commission or allowance based on predetermined criteria, and regularly monitor the result of their marketing and sales efforts. But to the mind of this Court, these do not pertain to the means and methods of how Alcantara was to perform and accomplish his task of soliciting sales. They do not dictate upon him the details of how he would solicit sales or the manner as to how he would transact business with prospective clients. In *Tongko*, this Court held that guidelines or rules and

³³ Id. at 112-113.

³⁴ *Tongko v. The Manufacturers Life Insurance Co. (Phils.), Inc.*, supra note 25 at 85; *Sonza v. ABS-CBN Broadcasting Corporation*, supra note 29 at 603.

³⁵ Supra note 1.

³⁶ Id. at 71.

regulations that do not pertain to the means or methods to be employed in attaining the result are not indicative of control as understood in labor law. Thus:

From jurisprudence, an important lesson that the *first Insular Life* case teaches us is that a commitment to abide by the rules and regulations of an insurance company does not *ipso facto* make the insurance agent an employee. Neither do guidelines somehow restrictive of the insurance agent's conduct necessarily indicate "control" as this term is defined in jurisprudence. **Guidelines indicative of labor law "control," as the *first Insular Life* case tells us, should not merely relate to the mutually desirable result intended by the contractual relationship; they must have the nature of dictating the means or methods to be employed in attaining the result, or of fixing the methodology and of binding or restricting the party hired to the use of these means.** In fact, results-wise, the principal can impose production quotas and can determine how many agents, with specific territories, ought to be employed to achieve the company's objectives. These are management policy decisions that the labor law element of control cannot reach. Our ruling in these respects in the *first Insular Life* case was practically reiterated in *Carungcong*. Thus, as will be shown more fully below, Manulife's codes of conduct, all of which do not intrude into the insurance agents' means and manner of conducting their sales and only control them as to the desired results and Insurance Code norms, cannot be used as basis for a finding that the labor law concept of control existed between Manulife and Tongko.³⁷ (Emphases in the original)

As the party claiming the existence of employer-employee relationship, it behoved upon Alcantara to prove the elements thereof, particularly Royale Homes' power of control over the means and methods of accomplishing the work.³⁸ He, however, failed to cite specific rules, regulations or codes of ethics that supposedly imposed control on his means and methods of soliciting sales and dealing with prospective clients. On the other hand, this case is replete with instances that negate the element of control and the existence of employer-employee relationship. Notably, Alcantara was not required to observe definite working hours.³⁹ Except for soliciting sales, Royale Homes did not assign other tasks to him. He had full control over the means and methods of accomplishing his tasks as he can "solicit sales at any time and by any manner which [he may] deem appropriate and necessary." He performed his tasks on his own account free from the control and direction of Royale Homes in all matters connected therewith, except as to the results thereof.⁴⁰

Neither does the repeated hiring of Alcantara prove the existence of employer-employee relationship.⁴¹ As discussed above, the absence of control over the means and methods disproves employer-employee relationship. The

³⁷ Supra note 25 at 86-87.

³⁸ *Javier v. Fly Ace Corporation*, G.R. No. 192558, February 15, 2012, 666 SCRA 382, 397-398.

³⁹ See *Consulta v. Court of Appeals*, 493 Phil. 842, 848 (2005); *Sonza v. ABS-CBN Broadcasting Corporation*, supra note 29 at 600.

⁴⁰ See *Chavez v. National Labor Relations Commission*, 489 Phil. 444, 457-458 (2005).

⁴¹ *Bernarte v. Philippine Basketball Association (PBA)*, supra note 24 at 759.

continuous rehiring of Alcantara simply signifies the renewal of his contract with Royale Homes, and highlights his satisfactory services warranting the renewal of such contract. Nor does the exclusivity clause of contract establish the existence of the labor law concept of control. In *Consulta v. Court of Appeals*,⁴² it was held that exclusivity of contract does not necessarily result in employer-employee relationship, viz:

x x x However, the fact that the appointment required Consulta to solicit business exclusively for Pamana did not mean that Pamana exercised control over the means and methods of Consulta's work as the term control is understood in labor jurisprudence. Neither did it make Consulta an employee of Pamana. Pamana did not prohibit Consulta from engaging in any other business, or from being connected with any other company, for as long as the business [of the] company did not compete with Pamana's business.⁴³

The same scenario obtains in this case. Alcantara was not prohibited from engaging in any other business as long as he does not sell projects of Royale Homes' competitors. He can engage in selling various other products or engage in unrelated businesses.

Payment of Wages

The element of payment of wages is also absent in this case. As provided in the contract, Alcantara's remunerations consist only of commission override of 0.5%, budget allocation, sales incentive and other forms of company support. There is no proof that he received fixed monthly salary. No payslip or payroll was ever presented and there is no proof that Royale Homes deducted from his supposed salary withholding tax or that it registered him with the Social Security System, Philippine Health Insurance Corporation, or Pag-Ibig Fund. In fact, his Complaint merely states a ballpark figure of his alleged salary of ₱100,000.00, more or less. All of these indicate an independent contractual relationship.⁴⁴ Besides, if Alcantara indeed considered himself an employee of Royale Homes, then he, an experienced and professional broker, would have complained that he was being denied statutorily mandated benefits. But for nine consecutive years, he kept mum about it, signifying that he has agreed, consented, and accepted the fact that he is not entitled to those employee benefits because he is an independent contractor.

This Court is, therefore, convinced that Alcantara is not an employee of Royale Homes, but a mere independent contractor. The NLRC is, therefore, correct in concluding that the Labor Arbiter has no jurisdiction over the case and

⁴² Supra note 39.

⁴³ Id. at 852.

⁴⁴ *Bernarte v. Philippine Basketball Association (PBA)*, supra note 24 at 757; *Consulta v. Court of Appeals*, supra note 39 at 851.

that the same is cognizable by the regular courts.

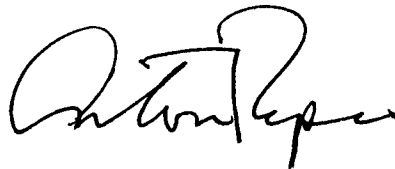
WHEREFORE, the instant Petition is hereby **GRANTED**. The June 23, 2010 Decision of the Court of Appeals in CA-G.R. SP No. 109998 is **REVERSED and SET ASIDE**. The February 23, 2009 Decision of the National Labor Relations Commission is **REINSTATED and AFFIRMED**.

SO ORDERED.



MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice



ESTELA M. PERLAS-BERNABE
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.

**ANTONIO T. CARPIO***Associate Justice**Chairperson***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.

**MARIA LOURDES P. A. SERENO***Chief Justice*