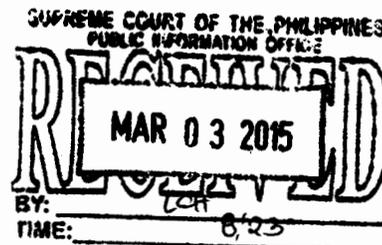




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 11, 2015 which reads as follows:

“G.R. No. 215485 (Emogene V. Dumantay v. Rufino P. Antonio).- The petitioner’s motion for an extension of thirty (30) days within which to file a petition for review on certiorari is **GRANTED**, counted from the expiration of the reglementary period; and the entry of appearance of Atty. Chino Paolo Z. Roxas of Reyno Tiu Domingo and Santos, 12th Flr., Strata 100 Building, F. Ortigas, Jr. Road, Ortigas Center, Pasig City, as counsel for petitioner is **NOTED**.

After a judicious review of the records, the Court resolves to **DENY** the instant petition and **AFFIRM** the July 31, 2014 Decision¹ and November 20, 2014 Resolution² of the Court of Appeals (CA) in CA-G.R. SP No. 127426 for failure of petitioner Emogene V. Dumantay (Dumantay) to show that the CA committed any reversible error in holding that respondent Rufino P. Antonio (Antonio) is his employee and that he should be held solely liable for the latter’s illegal dismissal.

- over – two (2) pages

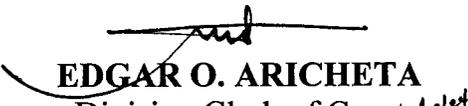
¹ Rollo, pp. 28-35A. Penned by Associate Justice Melchor Q.C. Sadang with Associate Justices Celia C. Librea-Leagogo and Franchito N. Diamante, concurring.

² Id. at 36-37.

As correctly ruled by the CA, the application of the four-fold test³ would show that Antonio is Dumantay's employee, and that the former's termination from work was illegal as it was done without procedural due process and without just cause. It is settled that findings of fact of the labor tribunals, as affirmed by the CA, are generally binding and conclusive upon this Court,⁴ and are not to be disturbed unless they fall under the recognized exceptions,⁵ which do not obtain in this case.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *of the*

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Atty. Chino Paolo Z. Roxas
REYNO TIU DOMINGO &
SANTOS
Counsel for Petitioner
12th Flr., Strata 100 Bldg.
F. Ortigas, Jr. Road
Ortigas Center 1605 Pasig City

Court of Appeals (x)
Manila
(CA-G.R. SP No. 127426)

POLIDO AND ANCHUVAS
LAW OFFICES
Counsel for Respondent
San Leonardo cor. Vicente Ferrer Sts.
San Antonio Valley I
Parañaque City 1700

NATIONAL LABOR RELATIONS
COMMISSION
PPSTA Bldg., Banawe St.
1100 Quezon City
(NLRC LAC No. 03-001002-12;
NLRC NCR Case No. 03-04776-11)

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Judgment Division (x)
Supreme Court

SR

³ To ascertain the existence of an employer-employee relationship, jurisprudence has invariably adhered to 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 power to control the employee's conduct, or the so-called "control test." (*Atok Big Wedge Company, Inc. v. Gizon*, G.R. No. 169510, August 8, 2011, 655 SCRA 193, 202; citations omitted.)

⁴ *Acevedo v. Advanstar Company, Inc.*, 511 Phil. 279, 287 (2005).

⁵ *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronic, Inc.*, G.R. No. 190515, June 6, 2011, 650 SCRA 656, 660.

