



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 January 2021** which reads as follows:*

**“G.R. No. 254818 (CNM Talents Manila\*/JCM Exhibits Depot\*\*/Carlo N. Martin v. Randin Rayray Abalos).** – After a judicious study of the case, the Court resolves to **DENY** the instant petition<sup>1</sup> and **AFFIRM** the Decision<sup>2</sup> dated December 10, 2019 and the Resolution<sup>3</sup> dated November 23, 2020 of the Court of Appeals (CA) in CA-G.R. SP No. 159898 for failure of petitioners CNM Talents Manila/JCM Exhibits Depot/Carlo N. Martin (petitioners) to sufficiently show that the CA committed any reversible error in upholding the finding that respondent Randin Rayray Abalos (Abalos) was a regular employee and in sustaining his monetary awards.

As correctly ruled by the CA, petitioners failed to discharge the burden of proving that Abalos was a project employee, absent any showing that he was assigned to carry out a specific project or undertaking or that he was informed of his project employment.<sup>4</sup> In fact, the Contractual Employment Appointment<sup>5</sup> issued by petitioners neither states the particular project for which Abalos was hired nor was it shown to have been signed by the latter or a copy thereof received by him. Moreover, it is not disputed that Abalos was made to perform tasks that were necessary and desirable to the trade and business of petitioners even outside the scope of his supposed project at the weekend fairs of Ayala Malls Solenad in Nuvali. Besides, there was no termination report submitted to the Department of Labor and Employment after the completion of the project, as required under Department Order No. 19, series of 1993,<sup>6</sup> which applies also to businesses outside the construction industry.<sup>7</sup> As such, Abalos was a regular employee as

\* Also known and/or referred to as ‘CNM Talents Manila Co.’ *Rollo*, pp. 50 and 121.

\*\* ‘Exhibits Depot’ in the title of the petition. *Id.* at 3.

<sup>1</sup> *Id.* at 3-51.

<sup>2</sup> *Id.* at 246-262. Penned by Associate Justice Ramon A. Cruz with Associate Justices Japar B. Dimaampao and Gabriel T. Robeniol, concurring.

<sup>3</sup> *Id.* at 280-282.

<sup>4</sup> See *Mirandilla v. Jose Calma Development Corporation*, G.R. No. 242834, June 26, 2019.

<sup>5</sup> *Rollo*, p. 114.

<sup>6</sup> Entitled ‘GUIDELINES GOVERNING THE EMPLOYMENT OF WORKERS IN THE CONSTRUCTION INDUSTRY,’ issued on April 1, 1993.

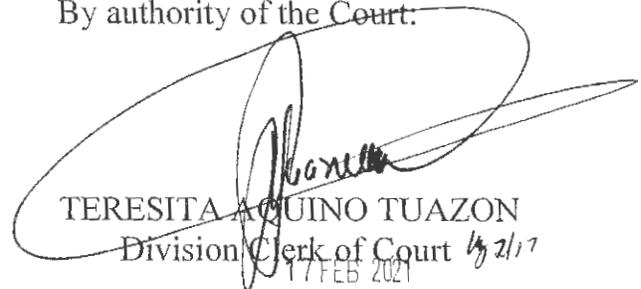
<sup>7</sup> See *Maraguinol, Jr. v. National Labor Relations Commission*, 348 Phil. 580 (1998).

defined under Article 295 of the Labor Code.<sup>8</sup> Accordingly, he may only be dismissed for a just or authorized cause. Since the completion of project or end of contract was not a valid cause for termination of regular employees, his dismissal was illegal, warranting his reinstatement and payment of full backwages as provided under Article 294 of the Labor Code.<sup>9</sup>

Finally, the money claims awarded to Abalos, namely, (a) the salary differentials, (b) the overtime pay and night shift differential pay, (c) the salary differential on the rendered overtime work and night shift differential, and (d) the imposition of double indemnity for the unpaid benefits pursuant to Republic Act No. 8188,<sup>10</sup> being in accord with law and supported by the records, are hereby sustained. As stated by the CA, these amounts shall earn legal interest at the rate of six percent (6%) per annum from finality of this Resolution until full payment.

**SO ORDERED.** (Rosario, *J.*, designated additional member per Special Order No. 2797 dated November 5, 2020).”

By authority of the Court.



TERESITA AQUINO TUAZON  
Division Clerk of Court *by 2/17*  
17 FEB 2021

<sup>8</sup> See Article 295 (formerly Article 280) of the Labor Code, as renumbered pursuant to Republic Act No. (RA) 10151, entitled ‘AN ACT ALLOWING THE EMPLOYMENT OF NIGHT WORKERS, THEREBY REPEALING ARTICLES 130 AND 131 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,’ approved on June 21, 2011. See also Department Advisory No. 01, Series of 2015 of the Department of Labor and Employment, entitled ‘RENUMBERING OF THE LABOR CODE OF THE PHILIPPINES, AS AMENDED,’ issued on July 21, 2015.

<sup>9</sup> *Rollo*, p. 250.

<sup>10</sup> Entitled ‘AN ACT INCREASING THE PENALTY AND INCREASING DOUBLE INDEMNITY FOR VIOLATION OF THE PRESCRIBED INCREASES OR ADJUSTMENT IN THE WAGE RATES, AMENDING FOR THE PURPOSE SECTION TWELVE OF REPUBLIC ACT NUMBERED SIXTY-SEVEN HUNDRED TWENTY-SEVEN, OTHERWISE KNOWN AS THE WAGE RATIONALIZATION ACT,’ approved on June 11, 1996.

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