



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

JAIME N. GAPAYAO,

Petitioner,

G.R. No. 193493

Present:

- versus -

SERENO, *CJ*, Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ*.

**ROSARIO FULO, SOCIAL
 SECURITY SYSTEM and SOCIAL
 SECURITY COMMISSION,**

Respondents.

Promulgated:

JUN 13 2013

X ----- X

DECISION

SERENO, *CJ*:

This is a Rule 45 Petition¹ assailing the Decision² and Resolution³ of the Court of Appeals (CA) in CA-G.R. SP. No. 101688, affirming the Resolution⁴ of the Social Security Commission (SSC). The SSC held petitioner Jaime N. Gapayao liable to pay the unpaid social security contributions due to the deceased Jaime Fulo, and the Social Security System (SSS) to pay private respondent Rosario L. Fulo, the widow of the deceased, the appropriate death benefits pursuant to the Social Security Law.

The antecedent facts are as follows:

On 4 November 1997, Jaime Fulo (deceased) died of “acute renal failure secondary to 1st degree burn 70% secondary electrocution”⁵ while doing repairs at the residence and business establishment of petitioner located at San Julian, Irosin, Sorsogon.

¹ *Rollo*, pp. 4-36.

² *Id.* at 54-65; CA Decision dated 17 March 2010, penned by Associate Justice Priscilla J. Baltazar-Padilla, and concurred in by Presiding Justice Andres R. Reyes, Jr., and Associate Justice Isaias P. Dicedican.

³ *Id.* at 87-88; CA Resolution dated 13 August 2010.

⁴ *CA rollo*, pp. 79-87.

⁵ *Rollo*, p. 55; CA Decision, p. 2

Allegedly moved by his Christian faith, petitioner extended some financial assistance to private respondent. On 16 November 1997, the latter executed an Affidavit of Desistance⁶ stating that she was not holding them liable for the death of her late husband, Jaime Fulo, and was thereby waiving her right and desisting from filing any criminal or civil action against petitioner.

On 14 January 1998, both parties executed a Compromise Agreement,⁷ the relevant portion of which is quoted below:

We, the undersigned unto this Honorable Regional Office/District Office/Provincial Agency Office respectfully state:

1. The undersigned employer, hereby agrees to pay the sum of FORTY THOUSAND PESOS (₱40,000.00) to the surviving spouse of JAIME POLO, an employee who died of an accident, as a complete and full payment for all claims due the victim.
2. On the other hand, the undersigned surviving spouse of the victim having received the said amount do [sic] hereby release and discharge the employer from any and all claims that maybe due the victim in connection with the victim's employment thereat.

Thereafter, private respondent filed a claim for social security benefits with the Social Security System (SSS)–Sorosogon Branch.⁸ However, upon verification and evaluation, it was discovered that the deceased was not a registered member of the SSS.⁹

Upon the insistence of private respondent that her late husband had been employed by petitioner from January 1983 up to his untimely death on 4 November 1997, the SSS conducted a field investigation to clarify his status of employment. In its field investigation report,¹⁰ it enumerated its findings as follows:

In connection with the complaint filed by Mrs. Rosario Fulo, hereunder are the findings per interview with **Mr. Leonor Delgra, Santiago Bolanos and Amado Gacelo**:

1. That Mr. Jaime Fulo was an employee of Jaime Gapayao as farm laborer from 1983 to 1997.
2. Mr. Leonor Delgra and Santiago Bolanos are co-employees of Jaime Fulo.
3. Mr. Jaime Fulo receives compensation on a daily basis ranging from ₱5.00 to ₱60.00 from 1983 to 1997.

⁶ Id. at 101.

⁷ Id. at 102.

⁸ Id. at 103; cited in Petition for Intervention of the SSS dated 30 June 2003.

⁹ Id.

¹⁰ CA rollo, p. 35.

Per interview from Mrs. Estela Gapayao, please be informed that:

1. Jaime Fulo is an employee of Mr. & Mrs. Jaime Gapayao on an extra basis.
2. Sometimes Jaime Fulo is allowed to work in the farm as abaca harvester and earn 1/3 share of its harvest as his income.
3. Mr. & Mrs. Gapayao hired the services of Jaime Fulo not only in the farm as well as in doing house repairs whenever it is available. Mr. Fulo receives his remuneration usually in the afternoon after doing his job.
4. Mr. & Mrs. Gapayao hires 50-100 persons when necessary to work in their farm as laborer and Jaime Fulo is one of them. Jaime Fulo receives more or less ₱50.00 a day. (Emphases in the original)

Consequently, the SSS demanded that petitioner remit the social security contributions of the deceased. When petitioner denied that the deceased was his employee, the SSS required private respondent to present documentary and testimonial evidence to refute petitioner's allegations.¹¹

Instead of presenting evidence, private respondent filed a Petition¹² before the SSC on 17 February 2003. In her Petition, she sought social security coverage and payment of contributions in order to avail herself of the benefits accruing from the death of her husband.

On 6 May 2003, petitioner filed an Answer¹³ disclaiming any liability on the premise that the deceased was not the former's employee, but was rather an independent contractor whose tasks were not subject to petitioner's control and supervision.¹⁴ Assuming *arguendo* that the deceased was petitioner's employee, he was still not entitled to be paid his SSS premiums for the intervening period when he was not at work, as he was an "intermittent worker who [was] only summoned every now and then as the need [arose]."¹⁵ Hence, petitioner insisted that he was under no obligation to report the former's demise to the SSS for social security coverage.

Subsequently, on 30 June 2003, the SSS filed a Petition-in-Intervention¹⁶ before the SSC, outlining the factual circumstances of the case and praying that judgment be rendered based on the evidence adduced by the parties.

¹¹ *Rollo*, p. 55; CA Decision, p. 2.

¹² *Id.* at 90-91.

¹³ *Id.* at 92-94.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 103-104.

On 14 March 2007, the SSC rendered a Resolution,¹⁷ the dispositive portion of which provides:

WHEREFORE, PREMISES CONSIDERED, this Commission finds, and so holds, that Jaime Fulo, the late husband of petitioner, was employed by respondent Jaime N. Gapayao from January 1983 to November 4, 1997, working for nine (9) months a year receiving the minimum wage then prevailing.

Accordingly, the respondent is hereby ordered to pay ₱45,315.95 representing the unpaid SS contributions due on behalf of deceased Jaime Fulo, the amount of ₱217,710.33 as 3% per month penalty for late remittance thereof, computed as of March 30, 2006, without prejudice to the collection of additional penalty accruing thereafter, and the sum of ₱230,542.20 (SSS) and ₱166,000.00 (EC) as damages for the failure of the respondent to report the deceased Jaime Fulo for SS coverage prior to his death pursuant to Section 24(a) of the SS Law, as amended.

The SSS is hereby directed to pay petitioner Rosario Fulo the appropriate death benefit, pursuant to Section 13 of the SS Law, as amended, as well as its prevailing rules and regulations, and to inform this Commission of its compliance herewith.

SO ORDERED.

On 18 May 2007, petitioner filed a Motion for Reconsideration,¹⁸ which was denied in an Order¹⁹ dated 16 August 2007.

Aggrieved, petitioner appealed to the CA on 19 December 2007.²⁰ On 17 March 2010, the CA rendered a Decision²¹ in favor of private respondent, as follows:

In fine, public respondent SSC had sufficient basis in concluding that private respondent's husband was an employee of petitioner and should, therefore, be entitled to compulsory coverage under the Social Security Law.

Having ruled in favor of the existence of employer-employee relationship between petitioner and the late Jaime Fulo, it is no longer necessary to dwell on the other issues raised.

Resultantly, for his failure to report Jaime Fulo for compulsory social security coverage, petitioner should bear the consequences thereof. Under the law, an employer who fails to report his employee for social security coverage is liable to [1] pay the benefits of those who die, become disabled, get sick or reach retirement age; [2] pay all unpaid contributions plus a penalty of three percent per month; and [3] be held liable for a criminal offense punishable by fine and/or imprisonment. But an

¹⁷ CA rollo, pp. 79-87.

¹⁸ Rollo, pp. 108-110.

¹⁹ Id. at 107.

²⁰ Id. at 37-52.

²¹ Id. at 54-65.

employee is still entitled to social security benefits even is (sic) his employer fails or refuses to remit his contribution to the SSS.

WHEREFORE, premises considered, the Resolution appealed from is **AFFIRMED in toto**.

SO ORDERED.

In holding thus, the CA gave credence to the findings of the SSC. The appellate court held that it “does not follow that a person who does not observe normal hours of work cannot be deemed an employee.”²² For one, it is not essential for the employer to actually supervise the performance of duties of the employee; it is sufficient that the former has a right to wield the power. In this case, petitioner exercised his control through an overseer in the person of Amado Gacelo, the tenant on petitioner’s land.²³ Most important, petitioner entered into a Compromise Agreement with private respondent and expressly admitted therein that he was the employer of the deceased.²⁴ The CA interpreted this admission as a declaration against interest, pursuant to Section 26, Rule 130 of the Rules of Court.²⁵

Hence, this petition.

Public respondents SSS²⁶ and SSC²⁷ filed their Comments on 31 January 2011 and 28 February 2011, respectively, while private respondent filed her Comment on 14 March 2011.²⁸ On 6 March 2012, petitioner filed a “Consolidated Reply to the Comments of the Public Respondents SSS and SSC and Private Respondent Rosario Fulo.”²⁹

ISSUE

The sole issue presented before us is whether or not there exists between the deceased Jaime Fulo and petitioner an employer-employee relationship that would merit an award of benefits in favor of private respondent under social security laws.

THE COURT’S RULING

In asserting the existence of an employer-employee relationship, private respondent alleges that her late husband had been in the employ of

²² Id. at 60; CA Decision, p. 7.

²³ Id. at 61; CA Decision, p. 8.

²⁴ Id. at 62; CA Decision, p. 9. The relevant portion of the Compromise Agreement states – “We, the undersigned unto this Honorable Regional Office/District Office/Provincial Agency Office respectively state: 1. The **undersigned employer**, hereby agrees to pay the sum of FORTY THOUSAND PESOS (₱40,000) to the surviving spouse of JAIME POLO, an employee who died of an accident, as a complete full payment for all claims due the victim. x x x (Emphasis and underscoring supplied)

²⁵ Id. at 63; CA Decision, p. 10.

²⁶ Id. at 125-130.

²⁷ Id. at 139-147.

²⁸ Id. at 149-161.

²⁹ Id. at 179-191.

petitioner for 14 years, from 1983 to 1997.³⁰ During that period, he was made to work as a laborer in the agricultural landholdings, a harvester in the abaca plantation, and a repairman/utility worker in several business establishments owned by petitioner.³¹ To private respondent, the “considerable length of time during which [the deceased] was given diverse tasks by petitioner was a clear indication of the necessity and indispensability of her late husband’s services to petitioner’s business.”³² This view is bolstered by the admission of petitioner himself in the Compromise Agreement that he was the deceased’s employer.³³

Private respondent’s position is similarly espoused by the SSC, which contends that its findings are duly supported by evidence on record.³⁴ It insists that *pakyaw* workers are considered employees, as long as the employer exercises control over them. In this case, the exercise of control by the employer was delegated to the caretaker of his farm, Amado Gacelo. The SSC further asserts that the deceased rendered services essential for the petitioner’s harvest. While these services were not rendered continuously (in the sense that they were not rendered every day throughout the year), still, the deceased had never stopped working for petitioner from year to year until the day the former died.³⁵ In fact, the deceased was required to work in the other business ventures of petitioner, such as the latter’s bakery and grocery store.³⁶ The Compromise Agreement entered into by petitioner with private respondent should not be a bar to an employee demanding what is legally due the latter.³⁷

The SSS, while clarifying that it is “neither adversarial nor favoring any of the private parties x x x as it is only tasked to carry out the purposes of the Social Security Law,”³⁸ agrees with both private respondent and SSC. It stresses that factual findings of the lower courts, when affirmed by the appellate court, are generally conclusive and binding upon the Court.³⁹

Petitioner, on the other hand, insists that the deceased was not his employee. Supposedly, the latter, during the performance of his function, was not under petitioner’s control. Control is not necessarily present even if the worker works inside the premises of the person who has engaged his services.⁴⁰ Granting without admitting that petitioner gave rules or guidelines to the deceased in the process of the latter’s performing his work,

³⁰ Id. at 155; Comment, p. 7.

³¹ Id.

³² Id. at 156; Comment, p. 8.

³³ Id. at 157; Comment, p. 9.

³⁴ Id. at 143; Comment, p. 5.

³⁵ Id. at 144; Comment, p. 6.

³⁶ Id. at 144-145; Comment, pp. 6-7.

³⁷ Id.

³⁸ Id. at 128; Comment, p. 4.

³⁹ Id. at 126-127; Comment, pp. 2-3

⁴⁰ Id. at 21; Petition, p. 18

the situation cannot be interpreted as control, because it was only intended to promote mutually desired results.⁴¹

Alternatively, petitioner insists that the deceased was hired by Adolfo Gamba, the contractor whom he had hired to construct their building,⁴² and by Amado Gacelo, the tenant whom petitioner instructed to manage the latter's farm.⁴³ For this reason, petitioner believes that a tenant is not beholden to the landlord and is not under the latter's control and supervision. So if a worker is hired to work on the land of a tenant – such as petitioner – the former cannot be the worker of the landlord, but of the tenant's.⁴⁴

Anent the Compromise Agreement, petitioner clarifies that it was executed to buy peace, because “respondent kept on pestering them by asking for money.”⁴⁵ Petitioner allegedly received threats that if the matter was not settled, private respondent would refer the matter to the New Peoples' Army.⁴⁶ Allegedly, the Compromise Agreement was “extortion camouflaged as an agreement.”⁴⁷ Likewise, petitioner maintains that he shouldered the hospitalization and burial expenses of the deceased to express his “compassion and sympathy to a distressed person and his family,” and not to admit liability.⁴⁸

Lastly, petitioner alleges that the deceased is a freelance worker. Since he was engaged on a *pakyaw* basis and worked for a short period of time, in the nature of a farm worker every season, he was not precluded from working with other persons and in fact worked for them. Under Article 280 of the Labor Code,⁴⁹ seasonal employees are not covered by the definitions of regular and casual employees.⁵⁰ Petitioner cites *Mercado, Sr. v. NLRC*,⁵¹ in which the Court held that seasonal workers do not become regular employees by the mere fact that they have rendered at least one year of service, whether continuous or broken.⁵²

We see no cogent reason to reverse the CA.

⁴¹ Id. at 22; Petition, p. 19.

⁴² Id. at 23; Petition, p. 20.

⁴³ Id. at 26; Petition, p. 23.

⁴⁴ Id.

⁴⁵ Id. at 24; Petition, p. 21.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id. at 25; Petition, p. 22.

⁴⁹ Article 280. *Regular and Casual Employment*. — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

x x x x

⁵⁰ Id. at 29-30; Petition, p. 26.

⁵¹ 278 Phil. 345 (1991).

⁵² *Rollo*, p. 30; Petition, p. 27.

I
**Findings of fact of the SSC
are given weight and credence.**

At the outset, it is settled that the Court is not a trier of facts and will not weigh evidence all over again. Findings of fact of administrative agencies and quasi-judicial bodies, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but finality when affirmed by the CA.⁵³ For as long as these findings are supported by substantial evidence, they must be upheld.⁵⁴

II
***Farm workers may be considered
regular seasonal employees.***

Article 280 of the Labor Code states:

Article 280. *Regular and Casual Employment.* — The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That, any employee who has rendered at least one year of service whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such actually exists.

Jurisprudence has identified the three types of employees mentioned in the provision: (1) regular employees or those who have been engaged to perform activities that are usually necessary or desirable in the usual business or trade of the employer; (2) project employees or those whose employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time of their engagement, or those whose work or service is seasonal in nature and is performed for the duration of the season; and (3) casual employees or those who are neither regular nor project employees.⁵⁵

⁵³ *Ortega v. SSC*, G.R. No. 176150, 25 June 2008, 555 SCRA 353, 363-364, citing *Lazaro v. Social Security Commission*, 479 Phil. 384 (2004); *Reyes v. National Labor Relations Commission*, G.R. No. 160233, 8 August 2007, 529 SCRA 487.

⁵⁴ *Signey v. SSS*, G.R. No. 173582, 28 January 2008, 542 SCRA 629, 635-636.

⁵⁵ *Benares v. Pancho*, 497 Phil. 181, 189-190 (2005), citing *Perpetual Help Credit Cooperative, Inc. v. Faburada*, 419 Phil. 147, 155 (2001).

Farm workers generally fall under the definition of seasonal employees. We have consistently held that seasonal employees may be considered as regular employees.⁵⁶ Regular seasonal employees are those called to work from time to time. The nature of their relationship with the employer is such that during the off season, they are temporarily laid off; but reemployed during the summer season or when their services may be needed.⁵⁷ They are in regular employment because of the nature of their job, and not because of the length of time they have worked.⁵⁸

The rule, however, is not absolute. In *Hacienda Fatima v. National Federation of Sugarcane Workers-Food & General Trade*,⁵⁹ the Court held that seasonal workers who have worked for one season only may not be considered regular employees. Similarly, in *Mercado, Sr. v. NLRC*,⁶⁰ it was held that when seasonal employees are free to contract their services with other farm owners, then the former are not regular employees.

For regular employees to be considered as such, the primary standard used is the reasonable connection between the particular activity they perform and the usual trade or business of the employer.⁶¹ This test has been explained thoroughly in *De Leon v. NLRC*,⁶² viz:

The primary standard, therefore, of determining a regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer. The test is whether the former is usually necessary or desirable in the usual business or trade of the employer. The connection can be determined by considering the nature of the work performed and its relation to the scheme of the particular business or trade in its entirety. Also if the employee has been performing the job for at least one year, even if the performance is not continuous or merely intermittent, the law deems the repeated and continuing need for its performance as sufficient evidence of the necessity if not indispensability of that activity to the business. Hence, the employment is also considered regular, but only with respect to such activity and while such activity exists.

A reading of the records reveals that the deceased was indeed a farm worker who was in the regular employ of petitioner. From year to year, starting January 1983 up until his death, the deceased had been working on petitioner's land by harvesting abaca and coconut, processing copra, and clearing weeds. His employment was continuous in the sense that it was done for more than one harvesting season. Moreover, no amount of reasoning could detract from the fact that these tasks were necessary or desirable in the usual business of petitioner.

⁵⁶ *AAG Trucking and/or Alex Ang Gaeid v. Yuag*, G.R. No. 195033, 12 October 2011, 659 SCRA 91, 102.

⁵⁷ Azucena, *Everyone's Labor Code*, 325 (2012).

⁵⁸ *Id.* at 326.

⁵⁹ 444 Phil. 587 (2003).

⁶⁰ *Supra* note 51. See also *Abasolo v. NLRC*, 400 Phil. 86 (2000); *Philippine Tobacco Flue-Curing & Redrying Corporation v. NLRC*, 360 Phil. 218 (1998).

⁶¹ *Hacienda Bino v. Cuenca*, 496 Phil. 198, 209 (2005), citing *Tan v. Lagrama*, 436 Phil. 190 (2002).

⁶² *De Leon v. NLRC*, 257 Phil. 626, 632-633.

The other tasks allegedly done by the deceased outside his usual farm work only bolster the existence of an employer-employee relationship. As found by the SSC, the deceased was a construction worker in the building and a helper in the bakery, grocery, hardware, and piggery – all owned by petitioner.⁶³ This fact only proves that even during the off season, the deceased was still in the employ of petitioner.

The most telling indicia of this relationship is the Compromise Agreement executed by petitioner and private respondent. It is a valid agreement as long as the consideration is reasonable and the employee signed the waiver voluntarily, with a full understanding of what he or she was entering into.⁶⁴ All that is required for the compromise to be deemed voluntarily entered into is personal and specific individual consent.⁶⁵ Once executed by the workers or employees and their employers to settle their differences, and done in good faith, a Compromise Agreement is deemed valid and binding among the parties.⁶⁶

Petitioner entered into the agreement with full knowledge that he was described as the employer of the deceased.⁶⁷ This knowledge cannot simply be denied by a statement that petitioner was merely forced or threatened into such an agreement. His belated attempt to circumvent the agreement should not be given any consideration or weight by this Court.

III

Pakyaw workers are regular employees, provided they are subject to the control of petitioner.

Pakyaw workers are considered employees for as long as their employers exercise control over them. In *Legend Hotel Manila v. Realuyo*,⁶⁸ the Court held that “the power of the employer to control the work of the employee is considered the most significant determinant of the existence of an employer-employee relationship. This is the so-called control test and is premised on whether the person for whom the services are performed reserves the right to control both the end achieved and the manner and means used to achieve that end.” It should be remembered that the control test merely calls for the existence of the right to control, and not necessarily

⁶³ CA rollo, pp. 82-84; SSC Resolution, pp. 4-6.

⁶⁴ *Eurotech Hair Systems, Inc. v. Go*, 532 Phil. 317, 325 (2006).

⁶⁵ Id. at 325-326.

⁶⁶ *University of the East v. Secretary of Labor and Employment*, G.R. Nos. 93310-12, 21 November 1991, 204 SCRA 254, 260, citing *Dioncla v. Court of Industrial Relations*, 118 Phil. 826 (1963); *Pampanga Sugar Development Co. Inc. v. Court of Industrial Relations*, 200 Phil. 204 (1982); *Chua v. National Labor Relations Commission*, 268 Phil. 590 (1990).

⁶⁷ The relevant portion of the Compromise Agreement states: 1. The **undersigned employer**, hereby agrees to pay the sum of FORTY THOUSAND PESOS (P40,000.00) to the surviving spouse of JAIME POLO, an employee who died of an accident, as a complete and full payment for all claims due the victim. 2. On the other hand, the undersigned surviving spouse of the victim having received the said amount do hereby release and discharge the **employer** from any and all claims that maybe due with victim in connection with the victim’s employment thereat. (Emphasis ours)

⁶⁸ G.R. No. 153511, 18 July 2012, 677 SCRA 10, 22, citing *Coca Cola Bottlers Phils., Inc. v. NLRC*, 366 Phil. 581, 591 (1999); *Leonardo v. Court of Appeals*, 524 Phil. 221 (2006).

the exercise thereof.⁶⁹ It is not essential that the employer actually supervises the performance of duties by the employee. It is enough that the former has a right to wield the power.⁷⁰

In this case, we agree with the CA that petitioner wielded control over the deceased in the discharge of his functions. Being the owner of the farm on which the latter worked, petitioner – on his own or through his overseer – necessarily had the right to review the quality of work produced by his laborers. It matters not whether the deceased conducted his work inside petitioner’s farm or not because petitioner retained the right to control him in his work, and in fact exercised it through his farm manager Amado Gacelo. The latter himself testified that petitioner had hired the deceased as one of the *pakyaw* workers whose salaries were derived from the gross proceeds of the harvest.⁷¹

We do not give credence to the allegation that the deceased was an independent contractor hired by a certain Adolfo Gamba, the contractor whom petitioner himself had hired to build a building. The allegation was based on the self-serving testimony of Joyce Gapay Demate,⁷² the daughter of petitioner. The latter has not offered any other proof apart from her testimony to prove the contention.

The right of an employee to be covered by the Social Security Act is premised on the existence of an employer-employee relationship.⁷³ That having been established, the Court hereby rules in favor of private respondent.

WHEREFORE, the Petition for Review on Certiorari is hereby **DENIED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP. No. 101688 dated 17 March 2010 and 13 August 2010, respectively, are hereby **AFFIRMED**.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

⁶⁹ *Manila Water Company, Inc. v. Dalumpines*, G.R. No. 175501, 4 October 2010, 632 SCRA 76, 94, citing *Lopez v. Metropolitan Waterworks and Sewerage System*, 501 Phil. 119 (2005).

⁷⁰ *Id.*

⁷¹ *Rollo*, pp. 112-113.

⁷² *CA rollo*, p. 84; SSC Resolution, p. 6.

⁷³ *Social Security Commission v. Rizal Poultry And Livestock Association, Inc.*, G.R. No. 167050, 1 June 2011, 650 SCRA 50, 60, citing *Chua v. Court of Appeals*, 483 Phil. 126, 136 (2004).

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Martin S. Villarama Jr.
MARTIN S. VILLARAMA JR.
Associate Justice

Bienvenido L. Reyes
BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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
MARIA LOURDES P. A. SERENO
Chief Justice