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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PURISIMO M. CABAOBAS, EXUPERIO C. MOLINA, GILBERTO V. OPINION, VICENTE R. LAURON, RAMON M. DE PAZ, JR., ZACARIAS E. CARBO, JULITO G. ABARRACOSO, DOMINGO B. GLORIA, and FRANCISCO P. CUMPIO, Petitioners,	G.R. No. 176908 Present: VELASCO, JR., *J.*, *Chairperson*, PERALTA, VILLARAMA, JR., REYES, and JARDELEZA, *JJ.*
- versus -	
PEPSI-COLA PRODUCTS PHILIPPINES, INC., Respondent.	Promulgated: March 25, 2015

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DECISION

PERALTA, *J.*:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Court of Appeals (*CA*) Decision[1] dated July 31, 2006, and its Resolution[2] dated February 21, 2007 in CA-G.R. S.P. No. 81712. The assailed decision denied the petition for *certiorari* filed by petitioners Purisimo M. Cabaobas, Exuperio C. Molina, Gilberto V. Opinion, Vicente R. Lauron, Ramon M. De Paz, Jr., Zacarias E. Carbo, Julito G. Abarracoso, Domingo B. Gloria and Francisco P. Cumpio, seeking a partial nullification of the Decision[3] dated September 11, 2002 of the National Labor Relations

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[1] Penned by Associate Justice Romeo F. Barza, with Associate Justices Arsenio J. Magpale and Vicente L. Yap, concurring, *rollo*, pp. 33-41.

[2] Penned by Associate Justice Romeo F. Barza, with Associate Justices Arsenio J. Magpale and Agustin S. Dizon, concurring, *id.* at 43-44.

[3] Penned by Presiding Commissioner Irenea E. Ceniza, with Commissioner Oscar S. Uy, concurring and Commissioner Edgardo M. Enerlan, dissenting, *id.* at 186-229.

Commission (*NLRC*) in NLRC Certified Case No. V-000001-2000.[4] The NLRC dismissed petitioners' complaints for illegal dismissal and declared the retrenchment program of respondent Pepsi-Cola Products Philippines, Inc. as a valid exercise of management prerogative.

The facts follow.

Respondent Pepsi-Cola Products Philippines, Inc. (*PCPPI*) is a domestic corporation engaged in the manufacturing, bottling and distribution of soft drink products, which operates plants all over the country, one of which is the Tanauan Plant in Tanauan, Leyte.

In 1999, PCPPI's Tanauan Plant allegedly incurred business losses in the total amount of Twenty-Nine Million One Hundred Sixty-Seven Thousand and Three Hundred Ninety (₱29,167,390.00) Pesos. To avert further losses, PCPPI implemented a company-wide retrenchment program denominated as Corporate-wide Rightsizing Program (*CRP*) from 1999 to 2000, and retrenched forty-seven (47) employees of its Tanauan Plant on July 31, 1999.

On September 24, 1999, twenty-seven (27) of said employees,[5] led by Anecito Molon (*Molon, et al.*), filed complaints for illegal dismissal before the NLRC which were docketed as NLRC RAB Cases Nos. VIII-9-0432-99 to 9-0458-99, entitled "*Molon, et al. v. Pepsi-Cola Products, Philippines, Inc.*"

On January 15, 2000, petitioners, who are permanent and regular employees of the Tanauan Plant, received their respective letters, informing them of the cessation of their employment on February 15, 2000, pursuant to PCPPI's CRP. Petitioners then filed their respective complaints for illegal dismissal before the National Labor Relations Commission Regional Arbitration Branch No. VIII in Tacloban City. Said complaints were docketed as NLRC RAB VIII-03-0246-00 to 03-0259-00, entitled "*Kempis, et al. v. Pepsi-Cola Products, Philippines, Inc.*"

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[4] NLRC Certified Case No. V-000001-2000 (NCR CC No. 000171-99), NCMB-RBVIII-NS-07-10-99 and NCMB-RBVIII-NS-07-14-99. ***Subsumed Cases****:* (1) RAB Case No. VIII-7-0301-99 (For: Illegal Strike Under Article 217 of the Labor Code); (2) NLRC Injunction Case No. V-000013-99; (3) RAB Case No. VIII-9-0432-99 to 9-0560-99; and (4) RAB Case No. VIII-9-0459-99; ***Consolidated Cases****:*(1) RAB Case No. VIII-03-0246-2000 to 03-0259-2000; and (2) NLRC Injunction Case No. V-000003-2001.

[5] Anecito Molon, Augusto Tecson, Jonathan Villones, Bienvenido Lagartos, Jaime Cadion, Eduardo Troyo, Rodulfo Mendigo, Aurelio Moralita, Estanislao Martinez, Reynaldo Vasquez, Orlando Guantero, Eutropio Mercado, Francisco Gabon, Rolando Arandia, Reynaldo Talbo, Antonio Devaras, Honorato Abarca, Salvador Maquilan, Reynaldo Anduyan, Vicente Cinco, Felix Rapiz, Roberto Cataros, Romeo Dorotan, Rodolfo Arrope, Danilo Casilan, Alfredo B. Estrera and Saunder Santiago Remandaban III.

In their Consolidated Position Paper,[6] petitioners alleged that PCPPI was not facing serious financial losses because after their termination, it regularized four (4) employees and hired replacements for the forty-seven (47) previously dismissed employees. They also alleged that PCPPI's CRP was just designed to prevent their union, Leyte Pepsi-Cola Employees Union-Associated Labor Union (*LEPCEU-ALU*), from becoming the certified bargaining agent of PCPPI's rank-and-file employees.

In its Position Paper,[7] PCPPI countered that petitioners were dismissed pursuant to its CRP to save the company from total bankruptcy and collapse; thus, it sent notices of termination to them and to the Department of Labor and Employment. In support of its argument that its CRP is a valid exercise of management prerogative, PCPPI submitted audited financial statements showing that it suffered financial reverses in 1998 in the total amount of SEVEN HUNDRED MILLION (₱700,000,000.00) PESOS, TWENTY-SEVEN MILLION (₱27,000,000.00) PESOS of which was allegedly incurred in the Tanauan Plant in 1999.

On December 15, 2000, Labor Arbiter Vito C. Bose rendered a Decision[8] finding the dismissal of petitioners as illegal, the dispositive portion of which reads:

> **WHEREFORE**, premises duly considered, judgment is hereby rendered finding the dismissal of the ten (10) complainants herein illegal. Consequently, respondent Pepsi-Cola Products Phils., Inc. (PCPPI) is ordered to reinstate them to their former positions without loss of seniority rights and to pay them full backwages and other benefits reckoned from February 16, 2000 until they are actually reinstated, which as of date amounted to NINE HUNDRED FORTY-SEVEN THOUSAND FIVE HUNDRED FIFTY-EIGHT PESOS AND THIRTY-TWO CENTAVOS (₱947,558.32) inclusive of the 10% attorney's fees.
>
> Other claims are dismissed for lack of merit.
>
> SO ORDERED.[9]

PCPPI appealed from the Decision of the Labor Arbiter to the Fourth Division of the NLRC of Tacloban City. Meanwhile, the NLRC consolidated all other cases involving PCPPI and its dismissed employees.

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6 *Rollo*, pp. 57-70.
7 *Id.* at 71-93.
8 *Id.* at 46-56.
9 *Id.* at 56.

On September 11, 2002, the NLRC rendered a Consolidated Decision,[10] the dispositive portion of which states:

> WHEREFORE, judgment is hereby rendered:
>
> (1) DECLARING, in NLRC Certified Case No. V-000001-2000 (NLRC NCR CC No. 000171-99), Pepsi-Cola Products Philippines, Incorporated, not guilty of union busting/unfair labor practice, and dismissing LEPCEU-ALU's Notice of Strike dated July 19, 1999;
>
> (2) DECLARING, in the subsumed NLRC Case No. 7-0301-99, LEPCEU-ALU's strike on July 23, 1999 ILLEGAL for having been conducted without legal authority and without observing the 7-day strike vote notice requirement as provided in Section 2 and Section 7 of Rule XXII, Book V of the Omnibus Rules Implementing Art. 263 (c) and (f) of the Labor Code, but DENYING PEPSI-COLA's supplemental prayer to declare loss of employment status of union leaders and some of its members as identification of officers and members, and the knowing participation of union officers in the illegal strike, or that of the officers and members in illegal acts during the strike, have not been established;
>
> (3) DISMISSING in the subsumed NLRC Injunction Case No. V-000013-99, LEPCEU-ALU's Petition for a Writ of Preliminary Injunction with Prayer for the Issuance of Temporary Restraining Order, because Pepsi Cola had already implemented its Corporate-wide CRP in the exercise of management prerogative. Moreover, LEPCEU-ALU had adequate remedy in law;
>
> (4) DISMISSING, in subsumed case NLRC RAB VIII Cases Nos. 9-0432-99 to 9-0459-99 (Molon, et al. vs. PCPPI) all the complaints for Illegal Dismissal except that of Saunder Santiago T. Remandaban III, for having been validly and finally settled by the parties, and ORDERING PEPSI COLA Products Phils., Inc. to reinstate Saunder Santiago T. Remandaban III to his former position without loss of seniority rights but without backwages;
>
> **(5) Nullifying, in NLRC Consolidated Case No. V-000071-01 (RAB VIII cases nos. 3-0246-2000 to 3-0258-2000; Kempis, et al. vs. PCPPI), the Executive Labor Arbiter's Decisions dated December 15, 2000, and DISMISSING the complaints for illegal dismissal, and in its stead DECLARING the retrenchment program of Pepsi Cola Products Phils., Inc. pursuant to its CRP, a valid exercise of management prerogatives; Further, ORDERING Pepsi Cola Products Philippines, Inc. to pay the following complainants their package separation benefits of 1 & ½ months salary for every year of service, plus commutation of all vacation and sick leave credits in the respective amounts hereunder indicated opposite their names:**

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10 *Id.* at 186-221.

1. ARTEMIO S. KEMPIS –	₱167,486.80
2. EXUPERIO C. MOLINA –	**168,196.38**
3. GILBERTO V. OPINION –	**31,799.74**
4. PURISIMO M. CABAOBAS –	**165,466.09**
5. VICENTE P. LAURON –	**167,325.86**
6. RAMON M. DE PAZ, JR. -	**109,652.98**
7. ZACARIAS E. CARBO –	**160,376.47**
8. JULITO C. ABARRACOSO –	**161,366.44**
9. DOMINGO B. GLORIA –	**26,119.26**
10. FRANCISCO P. CUMPIO –	**165,204.41**

(6) DECLARING, in NLRC Injunction Case No. V-000003-2001, Pepsi-Cola's Petition for Injunction and Application for immediate issuance of Temporary Restraining Order, moot and academic, and DISMISSING the same; Further, DECLARING moot and academic all incidents to the case of Kempis, et al. vs. PCPPI (NLRC Case No. V-000071-2000 relating to the execution or implementation of the nullified Decision dated December 15, 2000, and likewise, nullifying them.

All other claims and petitions are dismissed for want of merit.

SO ORDERED.[11]

Petitioners and PCPPI filed their respective motions for reconsideration of the consolidated decision, which the NLRC denied in a Resolution[12] dated September 15, 2003. Dissatisfied, petitioners filed a petition for *certiorari* with the CA [docketed as CA-G.R. SP No. 81712 and raffled to the Eighteenth (18th) Division]. On July 31, 2006, the CA rendered a Decision, denying their petition and affirming the NLRC Decision dated September 11, 2002, the dispositive portion of which reads:

WHEREFORE, premises considered, the petition filed in this case is hereby **DENIED** and the decision dated September 11, 2002, and the resolution dated September 15, 2003, promulgated by the National Labor Relations Commission, Fourth Division in NLRC Certified Case No. V-000001-2000 (NCR CC. No. 000171-99) are hereby **AFFIRMED**.

SO ORDERED.[13]

On February 21, 2007, the CA 18th Division issued a Resolution[14] denying petitioners' motion for reconsideration.

In contrast, when Molon, *et al*. earlier questioned the consolidated decision of the NLRC *via* a petition for *certiorari* [docketed as CA-G.R. SP

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11 *Id.* at 219-220. (Emphasis added).
12 *Id.* at 233-238.
13 *Id.* at 40.
14 *Id.* at 43-44.

No. 82354 and raffled to its Twentieth (20th) Division], the CA rendered on March 31, 2006 a Decision[15] granting their petition and reversing the same NLRC Decision dated September 11, 2002, the dispositive portion of which states:

> **IN LIGHT OF ALL THE FOREGOING**, the instant petition is **GRANTED**. The decision of the NLRC dated September 11, 2002 is hereby **REVERSED** and **SET ASIDE** and judgment is rendered as follows:
>
> > Declaring the strike conducted on July 23, 1999 as legal, it falling under the exception of Article 263, Labor Code;
> >
> > Declaring the manner by which the corporate rightsizing program or retrenchment was effected by PEPSI-COLA to be contrary to the prescribed rules and procedure;
> >
> > Declaring that petitioners were illegally terminated. Their reinstatement to their former positions or its equivalent is hereby ordered, without loss of seniority rights and privileges and PEPSI-COLA is also ordered the payment of their backwages from the time of their illegal dismissal up to the date of their actual reinstatement. If reinstatement is not feasible because of strained relations or abolition of their respective positions, the payment of separation pay equivalent to 1 month salary for every year of service, a fraction of at least 6 months shall be considered a whole year. The monetary considerations received by some of the employees shall be deducted from the total amount they ought to receive from the company.
>
> Attorney's fees equivalent to 10% of the amount which petitioners may recover pursuant to Article 111 of the Labor Code is also awarded.
>
> No pronouncement as to costs.
>
> SO ORDERED.[16]

Aggrieved, petitioners come before the Court in this petition for review on *certiorari* assailing the CA 18th Division Decision dated July 31, 2006, and its Resolution dated February 21, 2007 on these grounds:

> A.
>
> THE HONORABLE COURT OF APPEALS, SPECIAL FORMER EIGHTEENTH DIVISION, COMMITTED AN ERROR OF LAW

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15 *Id.* at 258-273.

16 *Id.*, at 272-273. (Emphasis in the original)

> WHEN IT IGNORED THE EARLIER DECISION OF THE TWENTIETH DIVISION ON THE SAME FACTUAL AND LEGAL ISSUES.
>
> B.
>
> THE HONORABLE COURT OF APPEALS, SPECIAL FORMER EIGHTEENTH DIVISION, COMMITTED AN ERROR OF LAW WHEN IT REFUSED TO REVERSE THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION, DESPITE PRIVATE RESPONDENT'S FAILURE TO COMPLY WITH THE REQUISITES OF A VALID RETRENCHMENT.
>
> C.
>
> THE HONORABLE COURT OF APPEALS, SPECIAL FORMER EIGHTEENTH DIVISION, COMMITTED AN ERROR OF LAW WHEN IT AFFIRMED THE DECISION OF THE NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION, DECLARING AS LEGAL THE ILLEGAL DISMISSAL OF PETITIONERS AND DISMISSING THEIR COMPLAINTS FOR ILLEGAL DISMISSAL.[17]

The three issues raised by petitioners boil down to the legality of their dismissal pursuant to PCPPI's retrenchment program.

The petition has no merit.

During the pendency of the petition, the Court rendered a Decision dated February 18, 2013 in the related case of *Pepsi-Cola Products Philippines, Inc. v. Molon*,[18] the dispositive portion of which reads:

> WHEREFORE, the petition is GRANTED. The assailed March 31, 2006 Decision and September 18, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 82354 are hereby REVERSED and SET ASIDE. Accordingly, the September 11, 2002 Decision of the National Labor Relations Commission is hereby REINSTATED insofar as (1) it dismissed subsumed cases NLRC-RAB VIII Case Nos. 9-0432-99 to 9-0458-99 and; (2) ordered the reinstatement of respondent Saunder Santiago Remandaban III without loss of seniority rights but without backwages in NLRC-RAB VIII Case No. 9-0459-99.
>
> SO ORDERED.

Subsumed cases NLRC-RAB VIII Case Nos. 9-0432-99 to 9-0458-99 pertain to the dismissal of the complaints for illegal dismissal filed by Molon, *et al*., the 27 former co-employees of petitioners in PCPPI. On the issue of whether the retrenchment of the petitioners' former co-employees

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17 *Id.* at. 16-17.

18 G.R. No. 175002, February 18, 2013, 691 SCRA 113.

was in accord with law, the Court ruled that PCPPI had validly implemented its retrenchment program, *viz.*:

> Essentially, the prerogative of an employer to retrench its employees must be exercised only as a last resort, considering that it will lead to the loss of the employees' livelihood. It is justified only when all other less drastic means have been tried and found insufficient or inadequate. Corollary thereto, the employer must prove the requirements for a valid retrenchment by clear and convincing evidence; otherwise, said ground for termination would be susceptible to abuse by scheming employers who might be merely feigning losses or reverses in their business ventures in order to ease out employees. These requirements are:
>
> > (1) That retrenchment is reasonably necessary and likely to prevent business losses which, if already incurred, are not merely *de minimis*, but substantial, serious, actual and real, or if only expected, are reasonably imminent as perceived objectively and in good faith by the employer;
> > (2) That the employer served written notice both to the employees and to the Department of Labor and Employment at least one month prior to the intended date of retrenchment;
> > (3) That the employer pays the retrenched employees separation pay equivalent to one (1) month pay or at least one-half (½) month pay for every year of service, whichever is higher;
> > (4) That the employer exercises its prerogative to retrench employees in good faith for the advancement of its interest and not to defeat or circumvent the employees' right to security of tenure; and
> > (5) That the employer used fair and reasonable criteria in ascertaining who would be dismissed and who would be retained among the employees, such as status, efficiency, seniority, physical fitness, age, and financial hardship for certain workers.
>
> In due regard of these requisites, the Court observes that Pepsi had validly implemented its retrenchment program:
>
> > (1) Records disclose that both the CA and the NLRC had already determined that Pepsi complied with the requirements of substantial loss and due notice to both the DOLE and the workers to be retrenched. The pertinent portion of the CA's March 31, 2006 Decision reads:
> >
> > In the present action, the NLRC held that PEPSI-COLA's financial statements *are substantial evidence which carry great credibility and reliability viewed in light of the financial crisis that hit the country which saw multinational corporations closing shops and walking away, or adapting* [*sic*] *their own corporate rightsizing program*. Since these findings are supported by evidence

> submitted before the NLRC, we resolve to respect the same. x x x x The notice requirement was also complied with by PEPSI-COLA when it served notice of the corporate rightsizing program to the DOLE and to the fourteen (14) employees who will be affected thereby at least one (1) month prior to the date of retrenchment. (Citations omitted)
>
> It is axiomatic that absent any clear showing of abuse, arbitrariness or capriciousness, the findings of fact by the NLRC, especially when affirmed by the CA – as in this case – are binding and conclusive upon the Court. Thus, given that there lies no discretionary abuse with respect to the foregoing findings, the Court sees no reason to deviate from the same.
>
> (2) Records also show that the respondents had already been paid the requisite separation pay as evidenced by the September 1999 quitclaims signed by them. Effectively, the said quitclaims serve *inter alia* the purpose of acknowledging receipt of their respective separation pays. Appositely, respondents never questioned that separation pay arising from their retrenchment was indeed paid by Pepsi to them. As such, the foregoing fact is now deemed conclusive.
>
> (3) Contrary to the CA's observation that Pepsi had singled out members of the LEPCEU-ALU in implementing its retrenchment program, records reveal that the members of the company union (*i.e.*, LEPCEU-UOEF#49) were likewise among those retrenched.

Also, as aptly pointed out by the NLRC, Pepsi's Corporate Rightsizing Program was a company-wide program which had already been implemented in its other plants in Bacolod, Iloilo, Davao, General Santos and Zamboanga. Consequently, given the general applicability of its retrenchment program, Pepsi could not have intended to decimate LEPCEU-ALU's membership, much less impinge upon its right to self-organization, when it employed the same.

In fact, it is apropos to mention that Pepsi and its employees entered into a collective bargaining agreement on October 17, 1995 which contained a union shop clause requiring membership in LEPCEU-UOEF#49, the incumbent bargaining union, as a condition for continued employment. In this regard, Pepsi had all the reasons to assume that all employees in the bargaining unit were all members of LEPCEU-UOEF#49; otherwise, the latter would have already lost their employment. In other words, Pepsi need not implement a retrenchment program just to get rid of LEPCEU-ALU members considering that the union shop clause already gave it ample justification to terminate them. It is then hardly believable that union affiliations were even considered by Pepsi in the selection of the employees to be retrenched.

> Moreover, it must be underscored that Pepsi's management exerted conscious efforts to incorporate employee participation during the implementation of its retrenchment program. Records indicate that Pepsi had initiated sit-downs with its employees to review the criteria on which the selection of who to be retrenched would be based. This is evidenced by the report of NCMB Region VIII Director Juanito Geonzon which states that "Pepsi's] [m]anagement conceded on the proposal to review the criteria and to sit down for more positive steps to resolve the issue."
>
> Lastly, the allegation that the retrenchment program was a mere subterfuge to dismiss the respondents considering Pepsi's subsequent hiring of replacement workers cannot be given credence for lack of sufficient evidence to support the same.
>
> Verily, the foregoing incidents clearly negate the claim that the retrenchment was undertaken by Pepsi in bad faith.
>
> (5) On the final requirement of fair and reasonable criteria for determining who would or would not be dismissed, records indicate that Pepsi did proceed to implement its rightsizing program based on fair and reasonable criteria recommended by the company supervisors.
>
> Therefore, as all the requisites for a valid retrenchment are extant, the Court finds Pepsi's rightsizing program and the consequent dismissal of respondents in accord with law.[19]

In view of the Court's ruling in *Pepsi-Cola Products Philippines, Inc. v. Molon,*[20] PCPPI contends that the petition for review on *certiorari* should be denied and the CA decision should be affirmed under the principle of *stare decisis*.

The Court sustains PCPPI's contention.

The principle of *stare decisis et non quieta movere* (to adhere to precedents and not to unsettle things which are established) is well entrenched in Article 8 of the New Civil Code which states that judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines.

In *Pepsi-Cola Products Philippines, Incorporated v. Pagdanganan,*[21] the Court explained such principle in this wise:

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19 *Pepsi-Cola Products Philippines, Inc. v. Molon, supra*, at 127-131. (Citations omitted)

20 *Supra* note 18.

21 535 Phil. 540 (2006).

> The doctrine of *stare decisis* embodies the legal maxim that a principle or rule of law which has been established by the decision of a court of controlling jurisdiction will be followed in other cases involving a similar situation. It is founded on the necessity for securing certainty and stability in the law and does not require identity of or privity of parties. This is unmistakable from the wordings of Article 8 of the Civil Code. It is even said that such decisions "assume the same authority as the statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria which must control the actuations not only of those called upon to decide thereby but also of those in duty bound to enforce obedience thereto." Abandonment thereof must be based only on strong and compelling reasons, otherwise, the becoming virtue of predictability which is expected from this Court would be immeasurably affected and the public's confidence in the stability of the solemn pronouncements diminished.[22]

In *Philippine Carpet Manufacturing Corporation v. Tagyamon*,[23] the Court further held:

> Under the doctrine of *stare decisis*, when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same, even though the parties may be different. Where the facts are essentially different, however, *stare decisis* does not apply, for a perfectly sound principle as applied to one set of facts might be entirely inappropriate when a factual variant is introduced.[24]

Guided by the jurisprudence on *stare decisis*, the remaining question is whether the factual circumstances of this present case are substantially the same as the *Pepsi-Cola Products Philippines, Inc. v. Molon* case.[25]

The Court rules in the affirmative.

There is no dispute that the issues, subject matters and causes of action between the parties in *Pepsi-Cola Products Philippines, Inc. v. Molon*[26] and the present case are identical, namely, the validity of PCPPI's retrenchment program, and the legality of its employees' termination. There is also substantial identity of parties because there is a community of interest between the parties in the first case and the parties in the second case, even if the latter was not impleaded in the first case.[27] The respondents in *Pepsi-*

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22 *Pepsi-Cola Products Phils. Inc. v. Pagdanganan, supra*, at 554. (Citations omitted)
23 G.R. No. 191475. December 11, 2013, 712 SCRA 489.
24 *Philippine Carpet Manufacturing Corporation v. Tagyamon, supra*, at 500. (Citations omitted)
25 *Supra* note 18.
26 *Id.*
27 *Social Security Commission v. Rizal Poultry and Livestock Association, Inc.*, G.R. No. 167050, June 1, 2011.

Cola Products Philippines, Inc. v. Molon[28] are petitioners' former co-employees and co-union members of LEPCEU-ALU who were also terminated pursuant to the PCPPI's retrenchment program. The only difference between the two cases is the date of the employees' termination, *i.e.*, Molon, et al. belong to the first batch of employees retrenched on July 31, 1999, while petitioners belong to the second batch retrenched on February 15, 2000. That the validity of the same PCPPI retrenchment program had already been passed upon and, thereafter, sustained in the related case of *Pepsi-Cola Products Philippines, Inc. v. Molon,*[29] albeit involving different parties, impels the Court to accord a similar disposition and uphold the legality of same program. To be sure, the Court is well aware of the pronouncement in *Philippine Carpet Manufacturing Corporation v. Tagyamon,*[30] that:

> The doctrine though is not cast in stone for upon a showing that circumstances attendant in a particular case override the great benefits derived by our judicial system from the doctrine of *stare decisis*, the Court is justified in setting it aside. For the Court, as the highest court of the land, may be guided but is not controlled by precedent. Thus, the Court, especially with a new membership, is not obliged to follow blindly a particular decision that it determines, after re-examination, to call for a rectification.

However, abandonment of the ruling in *Pepsi-Cola Products Philippines, Inc. v. Molon*[31] on the same issue of the validity of PCPPI's retrenchment program must be based only on strong and compelling reasons. After a careful review of the records, the Court finds no such reasons were shown to obtain in this case.

Even upon evaluation of petitioners' arguments on its supposed merits, the Court still finds no reason to disturb the CA ruling that affirmed the NLRC. In their petition for review on *certiorari*, petitioners argue that PCPPI failed to prove that it was suffering from financial losses, and that its financial statements were perplexing. In support of their argument, they cite the observation of the Labor Arbiter that the alleged losses amounting to ₱1.2 billion in PCPPI's audited financial statements included those of two subsidiaries that were not yet in commercial operation, interest payments on short-term and long-term debts, and the adverse effect of the peso devaluation.[32] They also cite the Dissenting Opinion of Commissioner Edgardo M. Enerlan that the Majority decision ignored the previous

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28 *Supra* note 18.

29 *Id.*

30 *Supra* note 21, at 504, citing *Abaria v. National Labor Relations Commission*, G.R. No. 154113, December 7, 2011, 661 SCRA 686, 713.

31 *Supra* note 18.

32 *Rollo*, p. 20.

financial statement and relied on the new document presented by PCPPI during the appeal stage, and that the accountant admitted that the financial statement as of and for the year ended June 30, 2000 and 1999 are still incomplete.[33] They also insist that PCPPI failed to explain its acts of regularizing four (4) employees and hiring sixty-three (63) replacements and additional workers.

Petitioners' arguments are untenable.

At the outset, the issues petitioners raised would entail an inquiry into the factual veracity of the evidence presented by the parties, the determination of which is not the Court's statutory function. Indeed, petitioners are asking the Court to sift through the evidence on record and pass upon whether PCPPI had, in fact, suffered from serious business losses. That task, however, would be contrary to the well-settled principle that the Court is not a trier of facts, and cannot re-examine and re-evaluate the probative value of the evidence presented to the Labor Arbiter, and the NLRC, which formed the basis of the questioned CA decision.[34]

At any rate, the Court finds that the September 11, 2002 NLRC Decision has exhaustively discussed PCPPI's compliance with the requirement that for a retrenchment to be valid, such must be reasonably necessary and likely to prevent business losses which, if already incurred, are not merely *de minimis*, but substantial, serious, actual and real, to wit:

> More pertinent would have been SGV & Co.'s report to the stockholder. It says:
>
> > The accompanying statement of assets, liabilities and home office account of Tanauan Operations of Pepsi-Cola Products Philippines, Inc. ('company') as of June 30, 1999 and the related statement of income for the year then ended, are integral parts of the financial statements of the company taken as a whole. In 1999, the Company's Tanauan Operations incurred a net loss of ₱29,167,390 as reported in such plant's financial statement (ANNEX I) which forms part of the audited consolidated financial statements as of and for the year ended June 30, 1999, to which we have rendered our opinion dated October 28, 1999, attached hereto as ANNEX II.

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33 *Id.*

34 *Manila Polo Club Employees' Union (MPCEU) FUR-TUCP v. Manila Polo Club, Inc.* G.R. No. 172846. July 24, 2013.

> On the other hand, the accompanying financial statements as of and for the year ended June 30, 2000 of the company's Tanauan Plant operations, which reported a net loss ₱22,327,175 (ANNEX III) are included in the financial statements of the company taken as a whole as also hereto attached (as ANNEX IV). The financial statements were accordingly derived from the Company's accounting records, with certain adjustments and are subject to any additional adjustments as may be disclosed upon the completion of an audit of the financial statements of the company taken as a whole, which is currently in progress. Since the audit of the company's financial statements as of and for the year ended June 2000 has not yet been completed, we are unable to express and we do not express our opinion on the statement of assets, liabilities and home office account of Tanauan operations of the company as of June 30, 2000 and the related statement if income for the year then ended.
>
> The statements of assets, liabilities and home office account and the related statements of income of the company's Tanauan Operations are not intended to be a complete presentation of the company's financial statement as of end for the year ended June 30, 2000 and 1999.
>
> The letter of SGV & Co. was accompanied by a consolidat[ed] statement of Income and Deficit (supplementary schedule) showing a net loss of ₱29,167,000. in the company's Tanauan Operations as of June 30, 1999, and ₱22,328,000 as of June 2000. This illustrates that the income statements and the balance sheets pertaining to the Tanauan Plant Operations as prepared by Rodante F. Ramos were audited by SGV & Co. This situation would have been avoided had the persistent requests for ample opportunity to present evidence made by the respondent were not persistently denied by the Executive Labor Arbiter.
>
> At least the Income Statements and the Balance Sheets regularly prepared and submitted by AVR-Asst. Controller Rodante Ramos to SGV & Co. for audit are substantial evidence which carry great credibility and responsibility viewed in the light of the financial crisis that hit the country which saw multinational corporations closing shops and walking away, or adapting their own corporate rightsizing programs.[35]

The aforequoted NLRC ruling also explains why there is no merit in Commissioner Enerlan's contention that the incomplete financial statements as of and for the year ended June 30, 2000 and 1999 are inconclusive to establish that PCPPI incurred serious business losses. Given that the financial statements are incomplete, the independent auditing firm, SGV & Co., aptly explained nonetheless that they were derived from the PCPPI's accounting records, and were subject to further adjustments upon the

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35 *Rollo*, pp. 210-211. (Citations omitted)

completion of the audit of financial statements of the company taken as a whole, which was then in progress. The Court thus agrees with the CA and the NLRC that the letter of SGV & Co., accompanied by a consolidated Statement of Income and Deficit showing a net loss of ₱29,167,000. in the company's Tanauan Operations as of June 30, 1999, and ₱22,328,000 as of June 2000,[36] is sufficient and convincing proof of serious business losses which justified PCPPI's retrenchment program. After all, the settled rule in quasi-judicial proceedings is that proof beyond reasonable doubt is not required in determining the legality of an employer's dismissal of an employee, and not even a preponderance of evidence is necessary, as substantial evidence is considered sufficient.[37] Substantial evidence is more than a mere scintilla of evidence or relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise.[38]

There is likewise no merit in Commissioner Enerlan's dissenting opinion that the majority decision ignored the previous financial statement and relied on the new document presented by PCPPI during the appeal stage. Such act of the majority is sanctioned by no less than Article 221 of the Labor Code, as amended, and Section 10, Rule VII of the 2011 NLRC Rules of Procedure which provide that in any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of the Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process.

On PCPPI's alleged failure to explain its acts of regularizing four (4) employees and hiring sixty-thee (63) replacements and additional workers, the Court upholds the NLRC's correct ruling thereon, *viz.*:

> Let Us squarely tackle this issue of replacements in the cases of the complainants in this case. We bear in mind that replacements refer to the regular workers subjected to retrenchment, occupying regular positions in the company structure. Artemio Kempis, a filer mechanic with a salary of ₱9,366.00 was replaced by Rogelio Castil. Rogelio Castil was hired through an agency named Helpmate Janitorial Services. Castil's employer is Helpmate Janitorial Services. How can a janitorial service employee perform function of a filer mechanic? How much does Pepsi Cola pay Helpmate Janitorial Services for the contract of service? These questions

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36 *Id.*, at 213-214.

37 *San Miguel Corporation v. National Labor Relations Commission*, G.R. Nos. 146121-22, April 16, 2008; *Community Rural Bank of San Isidro (N.E.), Inc. v. Paez*, G.R. No. 158707, November 27, 2006.

38 *Id.*

> immediately come to mind. Being not a regular employee of Pepsi Cola, he is not a replacement of Kempis. The idea of rightsizing is to reduce the number of workers and related functions and trim down, streamline, or simplify the structure of the organization to the level of utmost efficiency and productivity in order to realize profit and survive. After the CRP shall have been implemented, the desired size of the corporation is attained. Engaging the services of service contractors does not expand the size of the corporate structure. In this sense, the retrenched workers were not replaced.
>
> The same is true in the case of Exuperio C. Molina who was allegedly replaced by Eddie Piamonte, an employee of, again, Helpmate Janitorial Services; of Gilberto V. Opinion who was allegedly replaced by Norlito Ulahay, an employee of Nestor Ortiga General Services; of Purisimo M. Cabasbas who was allegedly replaced by Christopher Albadrigo, an employee of Helpmate Janitorial Services; of Vicente R. Lauron who was allegedly replaced by Wendylen Bron, an employee of Doublt "N" General Services; of Ramon M. de Paz, who was disabled, and replaced by Alex Dieta, an employee of Nestor Ortiga General Services; and of Zacarias E. Carbo who was allegedly replaced by an employee of Double "N" General Services. x x x[39]

On petitioners' contention that the true motive of the retrenchment program was to prevent their union, LEPCEU-ALU, from becoming the certified bargaining agent of all the rank-and-file employees of PCPPI, such issue of union-busting was duly resolved in the September 11, 2002 NLRC Decision, as follows:

> The issue of union busting has been debunked by Us in the Certified Notice of Strike Case No. V-000001-2000. We said in that case that Pepsi Cola, in the selection of workers to be retrenched, did not take into consideration union affiliation because the unit was supposed to be composed of all members of good standing of LEPCEU-UOEF#49 there being a "UNION SHOP" provision in the existing CBA. In the conciliation conference, PEPSI COLA expressed its willingness to sit down with unions and review the criteria. When this was suggested by the conciliator, the idea was then and there rejected by the unions, giving the impression that the real conflict was inter-union. There being no cooperation from the unions, PEPSI COLA went on with the first batch of retrenchment involving 47 workers. It bears stressing that all 47 workers signed individual release and quitclaims and settled their complaints with respondent Pepsi Cola, apparently with the assistance of LEPCEU-ALU. It is awkward for LEPCEU-ALU to argue that a serious corporate-wide rightsizing program cannot be implemented in PEPSI-COLA Tanauan Plant because a nascent unrecognized union would probably be busted. Even the Executive Labor Arbiter did not take this issue up in his Decision. The issue does not merit consideration.[40]

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39 *Rollo*, p. 213.

40 *Id.* at 212.

Significantly, the foregoing NLRC ruling was validated in *Pepsi-Cola Products Philippines, Inc. v. Molon*,[41] thus:

> Mindful of their nature, the Court finds it difficult to attribute any act of union busting or ULP on the part of Pepsi considering that it retrenched its employees in good faith. As earlier discussed, Pepsi tried to sit-down with its employees to arrive at mutually beneficial criteria which would have been adopted for their intended retrenchment. In the same vein, Pepsi's cooperation during the NCMB-supervised conciliation conferences can also be gleaned from the records. Furthermore, the fact that Pepsi's rightsizing program was implemented on a company-wide basis dilutes respondents' claim that Pepsi's retrenchment scheme was calculated to stymie its union activities, much less diminish its constituency. Therefore, absent any perceived threat to LEPCEU-ALU's existence or a violation of respondents' right to self-organization–as demonstrated by the foregoing actuations–Pepsi cannot be said to have committed union busting or ULP in this case.

Finally, this case does not fall within any of the recognized exceptions[42] to the rule that only questions of law are proper in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their respective jurisdiction, are generally accorded not only respect but even finality, and bind us when supported by substantial evidence.[43] Certainly, it is not the Court's function to assess and evaluate the evidence all over again, particularly where the findings of both the CA and the NLRC coincide.[44]

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41 *Supra* note 22.

42 *Andrada v. Pilhino Sales Corporation*, G.R. No. 156448, February 23, 2011, 644 SCRA 1, 8-9. Among the recognized exceptions are the following:

(a) When the findings are grounded entirely on speculation, surmises, or conjectures;
(b) When the inference made is manifestly mistaken, absurd, or impossible;
(c) When there is grave abuse of discretion;
(d) When the judgment is based on a misapprehension of facts;
(e) When the findings of facts are conflicting;
(f) When in making its findings the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee;
(g) When the CA's findings are contrary to those by the trial court;
(h) When the findings are conclusions without citation of specific evidence on which they are based;
(i) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent;
(j) When the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or
(k) When the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

43 *Vergara, Jr. v. Coca-Cola Bottlers Philippines, Inc.*, G.R. No. 176985, April 1, 2013.

44 *Id.*

WHEREFORE, the petition is **DENIED**. The Court of Appeals Decision dated July 31, 2006, and its Resolution dated February 21, 2007 in CA-G.R. SP No. 81712, are **AFFIRMED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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

TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

APR 08 2015