



**REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY**

**FIRST DIVISION**

**CTA CASE NO. SCA-0008**

**SAN ROQUE POWER  
CORPORATION,**

Petitioner,

- versus -

**REGIONAL TRIAL COURT,  
BRANCH 46 URDANETA CITY,  
PANGASINAN, OFFICE OF THE  
SECRETARY OF JUSTICE and  
MUNICIPALITY OF SAN  
MIGUEL, PANGASINAN,**

Respondents.

**NOTICE OF DECISION**

**To:**

**SENIOR STATE SOLICITOR CHERYL ANGELINE M.  
ROQUE-JAVIER**  
OFFICE OF THE SOLICITOR GENERAL  
134 Amorsolo Street, Legazpi Village, Makati City

**OFFICE OF THE SECRETARY OF JUSTICE**  
Department of Justice  
Padre Faura St., Ermita, Manila

**MUNICIPALITY OF SAN MANUEL, PANGASINAN**  
Municipal Mayor's Office  
Poblacion, San Manuel, Pangasinan

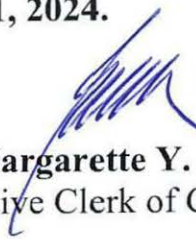
**SYCIP SALAZAR HERNANDEZ & GATMAITAN**  
7th Floor, SyCiplaw Center  
105 Paseo de Roxas, Makati City

**REGIONAL TRIAL COURT  
BRANCH 46, URDANETA CITY, PANGASINAN**  
Provincial Capitol Compound  
Lingayen, Pangasinan

**GREETINGS:**

You are hereby notified by these presents that on **January 30, 2024**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 31, 2024.**

  
**Atty. Margarette Y. Guzman**  
Executive Clerk of Court III

**REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY**

**FIRST DIVISION**

**SAN ROQUE POWER  
CORPORATION,**

**CTA SCA Case No. 0008**

*Petitioner,      Members:*

*-versus-*

**DEL ROSARIO, P.J., Chairperson,  
BACORRO-VILLENA, and  
CUI-DAVID, JJ.**

**REGIONAL TRIAL COURT,  
BRANCH 46, URDANETA  
CITY, PANGASINAN,  
OFFICE OF THE  
SECRETARY OF JUSTICE,  
and MUNICIPALITY OF SAN  
MANUEL, PANGASINAN,**

*Promulgated:*

*Respondents.*

**JAN 30 2024 3:00PM**

X- - - - - X

**DECISION**

**CUI-DAVID, J.:**

Before this Court is a Petition for *Certiorari*<sup>1</sup> filed by petitioner San Roque Power Corporation praying that the Court (i) set aside the Orders dated October 29, 2021<sup>2</sup> (first assailed Order) and February 14, 2023<sup>3</sup> (second assailed Order) of the Regional Trial Court (RTC) Urdaneta, Pangasinan – Branch 46 and (ii) issue an Order declaring that respondent Secretary of Justice is a proper respondent in RTC Case No. U-11239.

**THE PARTIES**

Petitioner is a power generation company with principal office located in the Municipality of San Manuel, Pangasinan.<sup>4</sup>

<sup>1</sup> Docket, pp. 5-29.

<sup>2</sup> *Id.*, pp. 30-32.

<sup>3</sup> *Id.*, pp. 33-36.

<sup>4</sup> Par. 19, The Parties, Petition for *Certiorari*, Docket, p. 9.

## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 2 of 15

x-----x

Respondent Municipality of San Manuel, Pangasinan, is the local government unit (LGU) that hosts petitioner's principal office.<sup>5</sup>

Respondent Office of the Secretary of Justice (OSJ) is the head of the Department of Justice (DOJ) with the lawful and mandated authority to review the constitutionality or legality of local tax ordinances under Section 187 of the Local Government Code (LGC).<sup>6</sup> It is represented by the Office of the Solicitor General (OSG).<sup>7</sup>

## THE FACTS AND THE PROCEEDINGS

On December 4, 2018, petitioner filed a *Petition*<sup>8</sup> with the DOJ pursuant to Section 187 of the LGC to question the constitutionality or legality of Municipal Ordinance No. 2017-12<sup>9</sup> (assailed ordinance) enacted by respondent municipality (DOJ Petition).

Due to respondent OSJ's inaction to resolve the DOJ Petition within 60 days from filing thereof, or until February 2, 2019, petitioner filed with the RTC Urdaneta, Pangasinan a *Petition (with Application for the Issuance of a Writ of Preliminary Injunction)* on March 4, 2019 (RTC Petition).<sup>10</sup> The RTC Petition was raffled to the court *a quo* and docketed as Civil Case No. U-11239 entitled "*San Roque Power Corporation v. Office of the Secretary of Justice and Municipality of San Manuel, Pangasinan.*"

Thereafter, respondent OSJ filed a *Motion for Exclusion as Party*,<sup>11</sup> arguing that it is not a real-party-in-interest in this case because it has no material interest and will not be affected in any degree by the judgment that may be issued. Neither can it be considered as a nominal party because it was not able to issue a resolution to determine the validity of the assailed ordinance after it lost its jurisdiction because of the filing of the RTC Petition, and it is not an indispensable nor necessary party to the action because a final determination and a complete relief

<sup>5</sup> Par. 20, *id.*, Docket, pp. 9-10.

<sup>6</sup> Par. 21, *id.*, Docket, p. 10.

<sup>7</sup> Par. 22, *id.*, Docket, p. 10.

<sup>8</sup> Docket, pp. 37-60.

<sup>9</sup> An Ordinance Providing for the Enactment of the 2018 Revised Local Revenue Code of the Municipality of San Manuel, Pangasinan

<sup>10</sup> *Id.*, pp. 220-252.

<sup>11</sup> *Id.*, pp. 202-209.



**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 3 of 15

x-----x

would be accorded to the party even without it being impleaded.<sup>12</sup>

Petitioner, in its *Comment re: Motion for Exclusion as Party dated April 23, 2021*,<sup>13</sup> prayed that respondent's *Motion for Exclusion as Party* be denied considering that the RTC Petition involves the validity of a tax ordinance and countered that respondent OSJ is the proper party with the power to review, in the first instance, the constitutionality and legality of the assailed ordinance in accordance with the LGC; and, that the RTC Petition was filed due to respondent OSJ's failure to render decision in its appeal questioning the constitutionality and legality of the assailed ordinance.<sup>14</sup>

On October 29, 2021, the court *a quo* issued the first assailed Order<sup>15</sup> disposing respondent OSJ's *Motion for Exclusion as Party* in this manner:

WHEREFORE, in view of the foregoing considerations, the motion of the Office of the Secretary of Justice (OSEC) is granted.

Accordingly, defendant OSEC is ordered excluded as party in this case.

SO ORDERED.

The court *a quo* ruled that Section 187 of the LGC does not require the inclusion of respondent OSJ as a party in a court action. Thus, the court *a quo* applied the Rules of Court in determining the interest of respondent OSJ as a party in the RTC Petition. It found that respondent OSJ is not a real party-in-interest nor a compulsory party because it does not stand to benefit from the outcome of the RTC Petition. Neither is respondent OSJ a nominal party because it failed to issue a ruling on the appeal questioning the constitutionality or legality of the assailed ordinance.

Petitioner filed a *Motion for Reconsideration [Re: Order dated October 29, 2021]*<sup>16</sup> on the first assailed Order, which the court *a quo* denied in its second assailed Order:<sup>17</sup>

<sup>12</sup> Pars. 2-4, Order dated October 29, 2021, Docket, p. 30.

<sup>13</sup> Docket, pp. 265-269.

<sup>14</sup> Order dated October 29, 2021, Docket, pp. 30-32.

<sup>15</sup> *Supra*, note 2.

<sup>16</sup> Docket, pp. 210-217.

<sup>17</sup> *Supra*, note 3.

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City,  
Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel,  
Pangasinan

Page 4 of 15

X-----X

WHEREFORE, premises considered, the Motion for Reconsideration is DENIED. The Order dated October 29, 2021 stands.

SO ORDERED.

Hence, this Petition for *Certiorari* was filed on May 16, 2023.

On June 23, 2023, this Court issued a Minute Resolution<sup>18</sup> directing respondents to file comment or opposition to petitioner's Petition for *Certiorari* within ten (10) days from notice.

On July 17, 2023, respondent OSJ filed a *Motion for Extension of Time to File Opposition to Petition for Certiorari*<sup>19</sup> and a *Motion for Extension of Time to File Comment or Opposition*,<sup>20</sup> which the Court received on July 25, 2021.

On July 26, 2023, the Court granted respondent OSJ's *Motion for Extension of Time to File Opposition to Petition for Certiorari*.<sup>21</sup>

On July 28, 2023, the Court rendered moot respondent OSJ's *Motion for Extension of Time to File Comment or Opposition* posted on July 17, 2023.<sup>22</sup>

On August 16, 2023, the Court submitted the case for decision *sans* respondent OSJ's comment as per Records Verification dated August 9, 2023,<sup>23</sup> stating that respondent OSJ failed to file comment or opposition to the Petition for *Certiorari*.<sup>24</sup>

On August 23, 2023, the Court received respondent OSJ's *Motion for Additional Time to File Comment or Opposition*<sup>25</sup> posted on August 14, 2023, which the Court noted without action.<sup>26</sup>



---

<sup>18</sup> Docket, p. 283.

<sup>19</sup> *Id.*, pp. 285-288.

<sup>20</sup> *Id.*, pp. 289-293.

<sup>21</sup> Minute Resolution, *id.*, p. 295.

<sup>22</sup> Minute Resolution, *id.*, p. 298.

<sup>23</sup> Minute Resolution, *id.*, p. 301.

<sup>24</sup> Docket, unpagged.

<sup>25</sup> Docket, unpagged.

<sup>26</sup> Minute Resolution dated September 14, 2023, Docket, unpagged.

## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 5 of 15

X-----X

On September 11, 2023, the Court received respondent OSJ's *Motion for Further Extension of Time to File Comment*<sup>27</sup> posted on September 4, 2023, which the Court noted without action.<sup>28</sup>

On September 13, 2023, respondent OSJ filed its *Comment*,<sup>29</sup> which the Court noted without action.<sup>30</sup>

On September 23, 2023, the Court received respondent OSJ's *Manifestation and Motion*, praying that its comment be noted and considered in the resolution of the present Petition for *Certiorari*.

In its Resolution dated October 13, 2023,<sup>31</sup> the Court granted respondent OSJ's *Manifestation and Motion* and admitted respondent OSJ's *Comment* as part of the case records.

On November 16, 2023, the Court received respondent municipality's *Comment (Re: Petition for Certiorari dated May 10, 2023)* filed through registered mail on November 8, 2023.

## THE ISSUES

Petitioner put forth the following grounds for the resolution of this Court:

### I

The RTC committed grave abuse of discretion amounting to lack or excess of jurisdiction in dropping [r]espondent [OSJ] as a party in the RTC [Petition] despite the facts that: a) it is [r]espondent [OSJ] who has the authority and duty to review, in the first instance, the legality of the [a]ssailed [o]rdinance, and b) any decision or final order promulgated in the RTC [Petition] will effectively set a precedent and affect all other pending or future proceedings before [r]espondent [OSJ] involving the [a]ssailed [o]rdinance and similar local tax ordinances, including in respect of [petitioner]'s future assessments under the [a]ssailed [o]rdinance.



<sup>27</sup> Docket, unpaginated.

<sup>28</sup> Minute Resolution dated September 26, 2023, Docket, unpaginated.

<sup>29</sup> Docket, unpaginated.

<sup>30</sup> Minute Resolution dated September 27, 2023, Docket, unpaginated.

<sup>31</sup> Docket, unpaginated.

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 6 of 15

X-----X

## II

Even assuming that [r]espondent [OSJ] had not been a real party-in-interest, the RTC still also committed grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that [r]espondent [OSJ] is not even a nominal party and should not be impleaded even on that basis, despite the fact that the RTC [Petition] requires the RTC to review, and asks it to reverse, the inaction, and effective denial, by [r]espondent [OSJ] of the DOJ Petition challenging the [a]ssailed [o]rdinance.<sup>32</sup>

**Petitioner's arguments:**

Petitioner argues that respondent OSJ is a real party-in-interest in its RTC Petition, given respondent OSJ's statutory mandate to review and pass judgment on the validity of the assailed ordinance under Section 187 of the LGC. Without respondent OSJ, no final determination nor complete relief can be accorded in its RTC Petition. Further, petitioner claims that any final order or decision promulgated by the court *a quo* in the RTC Petition affects respondent OSJ and determines its future rulings not only on cases involving the assailed ordinance but also similar ordinances. If respondent OSJ had acted and ruled on the DOJ Petition, it would have been impleaded in a court action; so, there is no reason why respondent OSJ should be excluded in the RTC Petition simply because it fails to act on the said DOJ Petition.

**Respondent's arguments:**

Respondent OSJ counters that the court *a quo* did not commit grave abuse of discretion amounting to lack of jurisdiction when it dropped respondent OSJ as a party in the RTC Petition because respondent OSJ has already been stripped of its jurisdiction over the DOJ Petition upon the filing of the RTC Petition.

While it has the authority and duty to review, at first instance, the legality of the assailed ordinance, respondent OSJ is not a real party-in-interest in the RTC Petition because it does not have any material interest therein as it does not stand to be affected in any degree by the judgment that may be issued by

---

<sup>32</sup> Grounds, Petition for *Certiorari*, Docket, p. 12.

## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 7 of 15

X-----X

the court *a quo*. Therefore, the real party-in-interest is respondent municipality that issued the assailed ordinance.

Also, respondent OSJ is not a nominal party, considering that it was not able to issue the pertinent resolution after it lost its jurisdiction to determine the validity of the assailed ordinance by reason of the filing of the RTC Petition. No law or rule requires the inclusion of respondent OSJ as a party in judicial action questioning the constitutionality or legality of a municipal ordinance before the RTC when respondent OSJ has not rendered any ruling thereon.

For respondent OSJ, petitioner's cause of action to have the assailed ordinance invalidated will be completely resolved, and the appropriate relief will be completely awarded even without its presence or participation.

Meanwhile, respondent municipality propounds that the court *a quo* did not commit any grave abuse of discretion in issuing the assailed Orders because respondent OSJ did not issue a decision regarding the DOJ Petition and Section 187 of the LGC does not include any provision that states that respondent OSJ must be impleaded as a nominal party.

Considering the parties' arguments, the sole issue to be resolved is whether the court *a quo* committed grave abuse of discretion in excluding respondent OSJ as a party in the RTC Petition.

## THE COURT'S RULING

***The error involved is not one of jurisdiction that is reviewable on certiorari.***

Petitioner contends that the court *a quo* acted with grave abuse of discretion in excluding respondent OSJ, which petitioner alleges is a real party-in-interest that must be impleaded in the petition.

We are not convinced.



## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 8 of 15

X-----X

Even on the assumption that the RTC erred in issuing the assailed interlocutory orders excluding respondent OSJ as a party in the RTC Petition, the said error would be, at most, one of judgment or procedure and *not* of jurisdiction that may be reviewed in *certiorari* proceedings.

A Petition for *Certiorari* under Rule 65 is intended for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction.<sup>33</sup> In the case of *Leonis Navigation Co., Inc. v. Villamater*,<sup>34</sup> the Supreme Court clearly distinguished reversible errors of judgment, which may be the subject of an ordinary appeal and a judgment that borders on grave abuse of discretion amounting to lack or excess of jurisdiction, and We quote:

**A petition for *certiorari* does not normally include an inquiry into the correctness of its evaluation of evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for *certiorari*, which is merely confined to issues of jurisdiction or grave abuse of discretion.** ... By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically. [*Emphasis supplied*]

Errors of judgment or procedure, where the issue involved affects the wisdom or soundness of the decision and not relating to the court's jurisdiction to render said decision or its validity, are not reviewable on *certiorari*.<sup>35</sup> Where a court has jurisdiction over the person and subject matter, the decision on all other questions arising in the case is an exercise of that jurisdiction.<sup>36</sup> Thus, all errors committed in the exercise of such jurisdiction are merely errors of judgment.<sup>37</sup>

Petitioner raises arguments anchored on perceived errors made by the court *a quo* in its appreciation of procedural rules. Thus, *certiorari* will not lie "to review the intrinsic correctness of a judgment of the lower court — on the basis either of the law

<sup>33</sup> *People of the Philippines v. Court of Appeals*, G.R. No. 142051, February 24, 2004.

<sup>34</sup> G.R. No. 179169, March 3, 2010.

<sup>35</sup> *Fernando v. Vasquez*, G.R. No. L-26417 January 30, 1970; *Maritime Company of the Philippines v. Paredes*, G.R. No. L-24811, March 3, 1967, citing *Bimeda v. Perez, et al.*, G.R. No. L-5588, August 26, 1953; *Philippine Surety and Insurance Co. v. Jacala, et al.*, G.R. No. L-12766, May 25, 1960.

<sup>36</sup> *Microsoft Corporation v. Best Deal Computer Center Corp et al.*, G.R. No. 148029, September 24, 2002.

<sup>37</sup> *Id.*

## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 9 of 15

X-----X

or the facts of the case, or of the wisdom or legal soundness of the decision.”<sup>38</sup>

Just because the court *a quo* allegedly misinterpreted the rules, no grave abuse of discretion may be attributed to it.<sup>39</sup>

***The court a quo did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in excluding respondent OSJ as a party in the RTC Petition.***

It bears reiterating that even if the court *a quo* committed an error of jurisdiction, the petition is still unmeritorious. The court *a quo* did not act with grave abuse of discretion amounting to lack or excess of jurisdiction in excluding respondent OSJ as a party in the RTC Petition.

Section 7, Rule 3 of the Revised Rules of Court defines indispensable parties as “parties in interest without whom no final determination can be had of an action.”<sup>40</sup> They are those parties who possess such an interest in the controversy that a final decree would necessarily affect their rights so that the courts cannot proceed without their presence.<sup>41</sup> A party is indispensable if its interest in the subject matter of the suit and the relief sought is inextricably intertwined with the other parties’ interest.<sup>42</sup>

Petitioner claims that respondent OSJ must be kept impleaded in the RTC Petition as a real party-in-interest as it determines respondent OSJ’s *future* rulings involving the assailed ordinance<sup>43</sup> and leaves respondent OSJ free to unlawfully refuse to act on similar cases involving the assailed ordinance, including future assessments against petitioner under the assailed ordinance.<sup>44</sup>

<sup>38</sup> *People v. Honorable Sandiganbayan (Fourth Division), et al.*, G.R. No. 228281, June 14, 2021, citing *Yushi Kondo v. Toyota Boshoku (Phils.) Corporation*, G.R. No. 201396, September 11, 2019.

<sup>39</sup> See *Agfa, Inc. v. Court of Tax Appeals and Commissioner of Customs*, G.R. Nos. 172051 & 173813, July 27, 2007.

<sup>40</sup> REVISED RULES OF COURT, Rule 3, Sec. 7 provides:

SEC. 7. *Compulsory joinder of indispensable parties.* — Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

<sup>41</sup> *Macababbad, Jr. v. Masirag*, G.R. No. 161237, January 14, 2009, citing *Seno v. Mangubat*, G.R. No. L-44339, December 2, 1987.

<sup>42</sup> *Id.*, citing *Uy v. Court of Appeals*, G.R. No. 157065, July 11, 2006.

<sup>43</sup> Par. 48, Petition for *Certiorari*, Docket, p. 17.

<sup>44</sup> Par. 52, Petition for *Certiorari*, Docket, p. 18.

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 10 of 15

x-----x

Petitioner's stance is unfounded.

In *Regner v. Logarta, et al. (Regner)*,<sup>45</sup> the Supreme Court established the parameters before a person can be declared as an indispensable party:

An indispensable party is a party who has such an interest in the controversy or subject matter that a final adjudication cannot be made, in his absence, without injuring or affecting that interest, a party who has not only an interest in the subject matter of the controversy, but also has an interest of such nature that a final decree cannot be made without affecting his interest or leaving the controversy in such a condition that its final determination may be wholly inconsistent with equity and good conscience. It has also been considered that an indispensable party is a person in whose absence there cannot be a determination between the parties already before the court which is effective, complete, or equitable. Further, an indispensable party is one who must be included in an action before it may properly go forward.

A person is not an indispensable party, however, if his interest in the controversy or subject matter is separable from the interest of the other parties, so that it will not necessarily be directly or injuriously affected by a decree which does complete justice between them. Also, a person is not an indispensable party if his presence would merely permit complete relief between him and those already parties to the action, or if he has no interest in the subject matter of the action. **It is not a sufficient reason to declare a person to be an indispensable party that his presence will avoid multiple litigation.** [*Emphasis supplied*]

As discussed in *Regner*, it is not enough to declare a person an indispensable party simply because its presence will avoid multiple litigation. Instead, it is a person's material interest in the case, such that the Court cannot make a definitive ruling without the said person, that matters.

Again, the issue in the RTC Petition is whether the assailed ordinance is constitutional and valid. Applying the foregoing rules and jurisprudence, whatever outcome or whoever prevails in the RTC Petition would not bring any benefit or injury to respondent OSJ since its only participation is to review the constitutionality or legality of the tax ordinance, which it was not able to act upon within the prescribed period.

<sup>45</sup> G.R. No. 168747, October 19, 2007.



## DECISION

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 11 of 15

X-----X

Respondent OSJ cannot be considered an indispensable party because it has no interest in the controversy. As such, the court *a quo* can proceed without respondent OSJ's presence, and a final decree would not affect respondent OSJ's rights.<sup>46</sup> In other words, respondent OSJ's non-inclusion would not render the RTC Petition defective because even without respondent OSJ, any decision promulgated by the court *a quo* can attain finality.

Petitioner asserts that even if respondent OSJ is not a real party-in-interest, it should be considered a nominal party that must also be impleaded in the RTC Petition.

The Court finds no merit in petitioner's contention.

In *Samaniego v. Aguila (Samaniego)*,<sup>47</sup> the Supreme Court differentiated between an indispensable and a nominal party and declared that the Office of the President—to whom the decisions of the Department of Agrarian Reform (DAR) were appealed to—need not be impleaded in the court action based on the prevailing procedure and rules, to wit:

*First.* At the time petitioners brought their case to the Court of Appeals, the procedure governing appeals to said court from quasi-judicial agencies was embodied in Revised Administrative Circular No. 1-95[.] ...

... ..

Thus, it is clear that **petitioners' failure to implead the Office of the President does not warrant the dismissal of the case as it is in accordance with this circular.** ...

*Second.* The Court of Appeals held that in appeals from decisions of the Office of the President, the latter is an indispensable party. This is error. Under Rule 7, §3 of the Rules of Civil Procedure, an indispensable party is a party in interest without whom no final determination can be had of an action without that party being impleaded. Indispensable parties are those with such an interest in the controversy that a final decree would necessarily affect their rights, so that the court cannot proceed without their presence. **"Interest", within the meaning of this rule, should be material, directly in issue and to be affected by the decree,** as distinguished from a mere incidental interest

<sup>46</sup> See *Pascual v. Robles*, G.R. No. 182645, December 15, 2010 (Resolution), citing *Tay Chun Suy v. Court of Appeals*, G.R. Nos. 91004-05, August 20, 1992.

<sup>47</sup> G.R. No. 125567, June 27, 2000.

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 12 of 15

X-----X

in the question involved. On the other hand, **a nominal or *pro forma* party is one who is joined as a plaintiff or defendant, not because such party has any real interest in the subject matter or because any relief is demanded, but merely because the technical rules of pleadings require the presence of such party on the record.**

In the case at bar, even assuming that the Office of the President should have been impleaded by petitioner, it is clear that **the Office of the President is merely a *pro forma* party, in the same way that a respondent court is a *pro forma* party in special civil actions for *certiorari*.**

The issue in the petition before the Court of Appeals is whether a private land should be exempted from the coverage of P.D. No. 27. Whatever happens to that case and whoever wins would not bring any prejudice or gain to the government. The only participation of the Office of the President in this case is its role as the office which entertains appeals from decisions of the DAR. Indeed, the very reason that the appellate court excused the Office of the Solicitor General from filing a comment is that it deemed that the case involved "purely private interests." [*Emphasis supplied*]

Following *Samaniego*, We first examine the procedure governing appeals to determine whether respondent OSJ must be impleaded as a nominal or *pro forma* party in the RTC Petition.

The governing procedure that must be followed in assailing tax ordinances is outlined in Section 187 of the LGC:

SEC. 187 — *Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.* — The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided further*, That **any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal**: *Provided, however*, That such appeal not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided, finally*, That **within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate**



**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City, Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel, Pangasinan

Page 13 of 15

x-----x

**proceedings with a court of competent jurisdiction.**

[*Emphasis supplied*]

Section 187 of the LGC is silent as to whether respondent OSJ must be impleaded as a party in the case filed with the courts. It only provides that a party could already proceed and seek relief in court when respondent OSJ fails to act on the appeal after the lapse of 60 days.<sup>48</sup>

Since there are no technical rules that require the presence of respondent OSJ in a court case pursuant to Section 187 of the LGC, unlike in a petition for *certiorari* under Rule 65,<sup>49</sup> wherein the respondent court is included as a nominal party, respondent OSJ need not be impleaded.

Even if respondent OSJ could be considered a nominal party, its exclusion from the RTC Petition is not *fatal* to the case since a nominal party does not need to participate in the proceedings to adjudicate the rights of petitioner and respondent.<sup>50</sup>

As a final note, We see no error in the court *a quo*'s assailed Order excluding respondent OSJ as a party in the RTC Petition. This is without prejudice, however, to the court *a quo*'s discretion requiring the appearance of the Solicitor General pursuant to Section 22, Rule 3<sup>51</sup> of the Revised Rules of Court.

**WHEREFORE**, premises considered, the *Petition for Certiorari* is **DENIED** for lack of merit.



<sup>48</sup> *De Lima, in her capacity as Secretary of Justice v. City of Manila*, G.R. No. 222886. October 17, 2018.

<sup>49</sup> RULES OF COURT, Rule 65, Sec. 5 provides:

SEC. 5. *Respondents and costs in certain cases.* — When the petition filed relates to the acts or omissions of a judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person, the petitioner shall join, as private respondent or respondents with such public respondent or respondents, the person or persons interested in sustaining the proceedings in the court; and it shall be the duty of such private respondents to appear and defend, both in his or their own behalf and in behalf of the public respondent or respondents affected by the proceedings, and the costs awarded in such proceedings in favor of the petitioner shall be against the private respondents only, and not against the judge, court, quasi-judicial agency, tribunal, corporation, board, officer or person impleaded as public respondent or respondents.

Unless otherwise specifically directed by the court where the petition is pending, the public respondents shall not appear in or file an answer or comment to the petition or any pleading therein. If the case is elevated to a higher court by either party, the public respondents shall be included therein as nominal parties. However, unless otherwise specifically directed by the court, they shall not appear or participate in the proceedings therein.

<sup>50</sup> *De Leon v. Chu*, G.R. No. 186522, September 2, 2015.

<sup>51</sup> SEC. 22. *Notice to the Solicitor General.* - In any action involving the validity of any treaty, law, ordinance, executive order, presidential decree, rules or regulations, the court, in its discretion, may require the appearance of the Solicitor General who may be heard in person or through a representative duly designated by him.

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City,  
Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel,  
Pangasinan

Page 14 of 15

x-----x

**SO ORDERED.**



**LANEE S. CUI-DAVID**

Associate Justice

*WE CONCUR:*



**ROMAN G. DEL ROSARIO**

Presiding Justice



**JEAN MARIE A. BACORRO-VILLENA**

Associate Justice

**DECISION**

CTA SCA Case No. 0008

San Roque Power Corporation v. Regional Trial Court, Branch 46, Urdaneta City,  
Pangasinan, Office of the Secretary of Justice, and Municipality of San Manuel,  
Pangasinan

Page 15 of 15

X-----X

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ROMAN G. DEL ROSARIO**

Presiding Justice

