REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA EB CRIM. NO. 028** (CTA Crim. Case Nos. O-188 O-189, O-190, O-191, O-192 and O-193)
	Present:
- versus -	Del Rosario, *PJ,* Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, *JJ.*
EDWIN T. SO, RAYMOND R. LEE, TECHPOINT COMPUTER CORPORATION, *Respondents.*	Promulgated: SEP 04 2015 3:58 p.m.

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AMENDED DECISION

COTANGCO-MANALASTAS, J.:

For resolution is petitioner People of the Philippines' Motion for Reconsideration, filed on March 31, 2015. Respondents have not filed their Comment.[1]

Petitioner, People of the Philippines, seeks reconsideration of the Court *En Banc*'s Decision, dated March 6, 2015, which disposed of the case as follows:

> "WHEREFORE, premises considered, the instant Petition for Review is hereby DISMISSED for lack of merit."

The CTA Special First Division's Resolutions in CTA Crim. Case Nos. O-188, O-189, O-190, O-191, O-192, and O-193,

[1] Respondents have not been served with process since the initiation of this En Banc case, as the respondents have not informed this Court of their new address.

dated March 14, 2013 and September 27, 2013, subject of the instant *En Banc* case are quoted below:

March 14, 2013

> "WHEREFORE, the Demurrer to Evidence dated November 28, 2012, by the accused Raymond R. Lee, is hereby GRANTED. Consequently, accused-movant Raymond R. Lee is ACQUITTED for failure of prosecution to prove his guilt beyond reasonable doubt. The instant criminal cases are therefore DISMISSED."

September 27, 2013

> "WHEREFORE, the prosecution's *Motion for Partial Reconsideration (of the Civil Aspect of the Case)* filed on 17 April 2013 is hereby DENIED for lack of merit.

Petitioner, in its motion, argues that the preliminary assessment notice (PAN) and formal letter of demand (FLD) were validly served on respondent Techpoint Computer Corporation (TCC). With the PAN and FLD validly served, petitioner argues that the civil liability of TCC has been duly proved and prays that the CTA *En Banc* reconsider its Decision.

Before discussing the grounds of the instant motion for reconsideration, the Court *En Banc* finds it prudent to first discuss the propriety of the Special First Division's dismissal of the entire consolidated cases and the civil aspect thereof.

Upon reconsideration, the Court *En Banc* sees the need to amend its Decision, dated March 6, 2015, and correct the Special First Division's Resolution, dated March 14, 2013, with respect to the dismissal of the case.

The case before the Special First Division had three (3) accused: (1) Edwin T. So; (2) Raymond R. Lee; and (3) Techpoint Computer Corporation (TCC). Of the three, only Raymond R. Lee surrendered to the jurisdiction of the court. The court did not acquire jurisdiction over accused Edwin T. So and TCC.

That being the case, the Special First Division could not have dismissed the criminal cases against the person of accused Edwin T. So and TCC. The jurisdiction of the Special

First Division was limited only to the resolution of accused Raymond R. Lee's demurrer to evidence. The dismissal of the criminal cases should not have extended to the other accused Edwin T. So and TCC, and neither should TCC be declared free from any civil liability.

In *Paramount Insurance Corporation vs. Japzon*[2], the Supreme Court said:

> "Jurisdiction is the power with which the courts are invested for administering justice, that is, for hearing and deciding cases. **In order for the court to have authority to dispose of the case on the merits, it must acquire jurisdiction over the subject matter and the parties.**" (*Emphasis ours*)

And in *People of the Philippines vs. Sandiganbayan, et al*[3], the Supreme Court had occasion to rule:

> "A judgment of acquittal cannot be reopened or appealed because of the doctrine that nobody may be put twice in jeopardy for the same offense. Hence, even if seemingly erroneous, a judgment of acquittal is the final verdict. **But where the court never acquired jurisdiction over the person of the accused, it would be grave abuse of discretion on the part of the court to acquit him**.
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> Records show that two of the respondents, Jesus Clavecila and Manuel Malapitan, Sr., were never arraigned before the Sandiganbayan. Nor were they ever arrested. Hence, the Sandiganbayan did not acquire jurisdiction over them. Basic is the rule that before a court can upon the case of an accused, it must first acquire jurisdiction over his person. Jurisdiction over the accused is acquired by (a) his arrest, or (b) his voluntary submission. If the accused is a fugitive from justice, the court cannot even proceed with a trial in *absentia*, unless he has been previously arraigned. We thus hold that the Sandiganbayan committed grave abuse of discretion in acquitting both respondents for lack of jurisdiction over their persons. Clearly, they could not validly file a demurrer to evidence."

Based on the foregoing, the Court *En* Banc amends its Decision, dated March 6, 2015, dismissing petitioner's petition

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[2] G.R. No. L-68037, July 29, 1992.
[3] G.R. Nos. 137707-11, December 17, 2004.

for review for lack of merit. As to the issues raised in the instant motion for reconsideration, the same cannot be resolved until the Court has acquired jurisdiction over accused TCC.

WHEREFORE, premises considered, the instant motion for reconsideration is **DENIED** for lack of jurisdiction.

However, the Court *En Banc* **AMENDS** the Decision, dated March 6, 2015, to read as follows:

> "WHEREFORE, premises considered, the instant Petition for Review is hereby DISMISSED for lack of merit.
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> However, the decision of the Special First Division is clarified with respect to the dismissal of the consolidated criminal cases. The said cases are DISMISSED only with respect to accused Raymond R. Lee.
>
> With respect to accused Edwin T. So and Techpoint Computer Corporation, CTA Crim. Case Nos. O-188, O-189, O-190, O-191, O-192, and O-193 are hereby ARCHIVED, without prejudice to its revival immediately upon the Court's acquisition of jurisdiction over any of the above-named remaining accused."

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

(on official business)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(on official business)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice