

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

EN BANC

PEOPLE OF THE PHILIPPINES, **CTA EB CRIM. NO. 142**
Petitioner, (CTA Crim. Case No. O-895)

Present:

-versus-

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, JJ.**

ENRICO CANDELARIA TUAZON, Promulgated:
NWOOD71 MARKETING,
Respondent. JUN 09 2025

X- -----X

D E C I S I O N

MANAHAN, J.:

Before the Court of Tax Appeals *En Banc* is the instant Petition for Review¹ filed by petitioner on March 25, 2024 seeking the reversal of the Resolutions dated July 31, 2023 and February 12, 2024 issued by the Second Division of this Court (Court in Division) docketed as CTA Crim. Case No. O-895 entitled, "*People of the Philippines vs. Enrico Candelaria Tuazon*," the dispositive portions of which read as follows:

Resolution dated July 31, 2023

"WHEREFORE, premises considered, the Demurrer to Evidence filed by accused is hereby **GRANTED.** The above-captioned case against the .

¹ EB Docket, pp. 6-15. *an*

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 2 of 14

accused is hereby **DISMISSED** for insufficiency of evidence.

SO ORDERED."

Resolution dated February 12, 2024

"**WHEREFORE**, plaintiff's Motion for Reconsideration is hereby **DENIED**. The Resolution dated 31 July 2023, is hereby **AFFIRMED**.

SO ORDERED."

FACTS

On November 9, 2021, an Information was filed against respondent Enrico Candelaria Tuazon for violation of Section 255 of the 1997 National Internal Revenue Code (NIRC), as amended, quoted as follows:

"The undersigned Assistant State Prosecutor of the Department of Justice hereby accuses ENRICO CANDELARIA TUAZON for willful failure to pay National Internal Revenue Tax for taxable year 2011 in violation of Section 255 of the National Internal Revenue Code of 1997, as amended, committed as follows:

That on or about February 13, 2017, in Quezon City and within the jurisdiction of this Honorable Court, accused ENRICO CANDELARIA TUAZON, owner and proprietor of NWOOD71 MARKETING, who is engage[d] in construction business, with Tax Identification Number 900-480-555-000, and who is required by law and by rules and regulations to file correct and accurate annual income tax return and to pay the corresponding income tax, did then and there, knowingly, willfully and unlawfully fail to supply correct and accurate information in his income tax returns, resulting to his failure to pay deficiency income tax in the amount of One Million Sixty-Five Thousand Nine Hundred Fourteen Pesos and 48/100 (Php1,065,914.48) exclusive of interest and surcharge, for taxable year 2011, despite receipt of the Preliminary Assessment Notice, with Details of Discrepancies, on September 15, 2016 and the corresponding Formal Letter of Demand with Details of Discrepancies and Assessment Notice, issued on September 27, 2016, including prior and post-notices and demands to pay, the last of which being the Final Notice Before Seizure dated February 13, 2017 and his failure to file a protest on the said 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 3 of 14

assessment within the prescribed period, to the damage and prejudice of the Government of the Republic of the Philippines in the aforesaid amount exclusive of interest and surcharge.

CONTRARY TO LAW.

Manila for Quezon City, Philippines, 15 February 2021.”

On July 21, 2021, the Court in Division issued a Resolution ordering the prosecution to submit an Amended Information changing the name of the plaintiff from “Bureau of Internal Revenue” to “People of the Philippines” within ten (10) days from notice.

On November 9, 2021, the prosecution filed a Motion to Admit Amended Information with the attached Amended Information. This Motion was granted by the Court in a Resolution dated December 4, 2021 admitting the attached Amended Information reflecting the name of the plaintiff as “People of the Philippines.”

On December 4, 2021, the Court in Division issued a Resolution finding probable cause for the issuance of a Warrant of Arrest against respondent.

On December 18, 2021, a Warrant of Arrest was issued against respondent which also set the bail at Sixty Thousand Pesos (Php60,000.00) for his provisional liberty.

On February 16, 2022, a Return of Warrant of Arrest was issued by Police Colonel Jeremias G. Oyawon reporting that accused Enrico Candelaria Tuazon could not be located in his given address.

A Certification was issued by the Barangay Secretary of Barangay Fairview attesting to the fact that respondent cannot be located at the address indicated in the Warrant of Arrest.

An Alias Warrant of Arrest was issued on March 7, 2022 commanding the concerned officers to bring the respondent to Court. *am*

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 4 of 14

On April 8, 2022, respondent filed a Motion to Reduce Bail which was granted by the Court in Division in a Resolution dated April 22, 2022.²

On May 31, 2022, respondent appeared and submitted himself to the jurisdiction of the Court which led to the lifting of the Alias Warrant of Arrest issued against respondent.

The arraignment and pre-trial conference was originally set on July 6, 2022 but was reset to October 12, 2022.

Upon arraignment for CTA Crim. Case No. O-895 which was held on October 12, 2022, respondent Enrico Candelaria Tuazon (now respondent), assisted by counsel, entered a plea of "Not Guilty" to the criminal charge filed against him.

The Pre-Trial Conference for the said case was thereafter held.

After the Pre-Trial Conference, the parties submitted their Joint Stipulation of Facts and Issues (JSFI) on November 11, 2022³ which was approved by the Court in a Resolution dated December 7, 2022.⁴

A Pre-Trial Order was issued by the Court in Division on January 31, 2023.⁵

On March 20, 2023, petitioner filed its Formal Offer of Documentary Evidence while respondent filed his Comment and/or Objection to Plaintiff's Formal Offer of Evidence.⁶

On May 12, 2023,⁷ the Court issued a Resolution admitting the following exhibits of petitioner, thus:

Exhibits "P-1", "P-1-A", "P-2", "P-3", "P-4", "P-5", "P-5-A", "P-6", "P-7", "P-7-A", "P-8", "P-9", "P-9-A", "P-9-B", "P-9-C", "P-10", "P-11", "P-12", "P-12-A", "P-13", "P-13-A", "P-14", "P-15",

² Bail was reduced from Php60,000.00 to Php30,000.00.

³ Court Docket, pp. 206-214.

⁴ Court Docket, p. 216.

⁵ Court Docket, pp. 219-225.

⁶ Court Docket, pp. 302-310.

⁷ Court Docket, pp. 337-338.



DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 5 of 14

"P-15-A", P-15-B", "P-15-C", "P-16, "P-17", "P-18, "P-19", "P-19-A", P-20", and "P-20-A".

On May 17, 2023, respondent filed a Demurrer to Evidence⁸ with petitioner's comment or opposition.⁹

On July 31, 2023, the Court in Division issued the assailed Resolution granting respondent's Demurrer to Evidence on the ground that the prosecution was not able to establish with competent and sufficient evidence, the guilt of the accused for willful failure to pay any tax that would warrant a conviction under Section 255 of the 1997 NIRC, as amended. The main reason for the grant of the Demurrer to Evidence is the lack of a due date in the Final Assessment Notice (FAN) within which payment of the deficiency taxes must be paid rendering the same void and without any effect. Quoted below are the relevant portions of the assailed Resolution which led to this conclusion, viz:

"Upon perusal of the records in the case at hand, the Court was able to validate accused's [respondent's] claim that the FAN failed to indicate the date within which payment must be made. Indeed, the space for due date was left blank, as shown in the reproduced copy of the FAN below.

XXX

XXX

XXX

The Court, however, agrees with accused [respondent] that such due date is couched in general terms and did not specify that it is the due date for payment. The date is also too equivocal; it could even refer to the due date when the FLD/FAN must be served to the taxpayer.

Moreover, the interest on the assessment is calculated until 31 October 2016, as shown in the reproduced FLD above. The Court finds that it is irreconcilable for the BIR to compute interest until 31 October 2016 if the due date is on 27 October 2016.

Taking the foregoing into consideration, the Court hereby holds that (*sic*) FLD/FAN lacks the due date within which the payment of assessed taxes should be made, thus rendering it void.

⁸ Court Docket, pp. 329-336.

⁹ Court Docket, pp. 312-320. *am*

DECISIONCTA *EB* CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 6 of 14

An invalid assessment bears no fruit. Therefore, the PCL, FNBS, and WDL, issued pursuant to the assessment are likewise ineffectual.”

On August 29, 2023, petitioner filed a Motion for Reconsideration. Respondent did not file any comment thereto.

On February 12, 2024, the Court in Division denied petitioner’s Motion for Reconsideration.

On March 25, 2024, petitioner filed a Petition for Review with the Court *En Banc* which was docketed as CTA *EB* Crim. No. 142.

On May 23, 2024, the Court issued a Minute Resolution directing respondent to file his Comment to the Petition for Review.

On June 18, 2024, respondent filed his Compliance and Comment on the Petition for Review Pursuant to Resolution dated May 23, 2024.¹⁰

On July 4, 2024, this case was submitted for decision.

ISSUE

Petitioner, in its Petition for Review, focuses on the civil liability of the respondent and contends that despite the absence of a valid assessment as ruled by the Court, the respondent is still liable to pay the assessed taxes as required under Section 255 of the 1997 NIRC, as amended.

The issue therefore for this Court’s resolution is as follows:

Whether respondent is civilly liable to pay the deficiency income tax in the amount of Php1,065,914.48 as alleged in the Amended Information.

Petitioner’s arguments

Petitioner disagrees with the Court in Division’s ruling that an invalid assessment negates the alleged willful failure to pay taxes punishable under Section 255 of the 1997 NIRC, as

¹⁰ EB Docket, pp. 37-40. 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 7 of 14

amended. It emphasizes that this does not apply when there is fraud as in the present case when respondent allegedly underdeclared its local purchases equivalent to 87.81% as compared to the Summary List of Sales (SLS) submitted by his suppliers. This wide discrepancy, according to petitioner, constitutes a *prima facie* evidence of fraud in accordance with the provisions of Section 248 of the 1997 NIRC, as amended. Citing Section 222 of the same Code, petitioner argues that tax collection may ensue in the case of a false or fraudulent return with intent to evade tax *even without an assessment*. To further support its position, petitioner quotes the decision of the Supreme Court in the case of *Lucas G. Adamson, et al. vs. Court of Appeals*,¹¹ which supposedly ruled that collection of taxes even without a valid assessment may be pursued in cases where fraudulent tax returns are involved. Petitioner contends that the invalidity of the assessment becomes insignificant when fraud is involved as collection of taxes and/or payment of taxes may still ensue even without an assessment.

Further relying on the relatively recent case of *People of the Philippines vs. Joel C. Mendez*,¹² (*Mendez case*) petitioner asserts that the Supreme Court reiterated the rule that when a criminal action for violation of tax laws is filed, a prior assessment is not required. Petitioner sums up its argument by stating that despite the acquittal of respondent in the criminal case, the latter may still be held civilly liable where the facts established by the evidence so warrants.

Respondent's counter-arguments

Respondent argues that the cases relied upon by petitioner, particularly the *Mendez case* are separable from the present case as the tax deficiency assessment involved in the former case is based on rough estimates as distinguished from the latter where there was a precise computation and final determination of the tax due but nevertheless lacks a clear indication of a date when the same becomes due and demandable. The lack of a due date for payment of the alleged deficiency taxes renders the assessment void and without any effect. Not being on all fours with the present case, respondent attempts to diminish the importance of the Supreme Court

¹¹ G.R. No. 120935, May 21, 2009.

¹² G.R. Nos. 208310-11, March 28, 2023. 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 8 of 14

ruling in the *Mendez* case in the resolution of the pending issue in the present case.

RULING OF THE COURT *EN BANC*

We shall first rule on the timeliness of the filing of the instant appeal.

Section 3(b) of Rule 8 of the Revised Rules of the CTA (RRCTA), as amended, states:

**Rule 8
Procedure in Civil Cases**

Sec. 3. *Who may appeal; period to file petition.* -

xxx xxx xxx

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court **by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, **the Court may grant an additional period, not exceeding fifteen days from the expiration of the original period within which to file the petition for review.** (*Emphasis supplied*)

Records show that petitioner received a copy of the assailed Resolution dated February 12, 2024 on February 22, 2024¹³ denying its Motion for Reconsideration. Pursuant to the afore-quoted Section 3(b) of Rule 8 of the RRCTA, it had fifteen (15) days from receipt of the Resolution to file a Petition for Review with the Court *En Banc*.

Counting from February 22, 2024, petitioner had until March 8, 2024 to file a Petition for Review with the Court *En Banc*. Petitioner filed a Motion for Extension of Time to File Petition for Review on March 8, 2024¹⁴ requesting for an additional period of fifteen (15) days or until March 23, 2024 within which to file the Petition for Review.

¹³ Division Docket, p. 126.

¹⁴ EB Docket, pp. 1-2. *am*

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 9 of 14

In a Minute Resolution dated March 11, 2024, the Court *En Banc* granted petitioner's Motion for Extension of Time giving petitioner until March 23, 2024 to file its Petition for Review.

The Petition for Review filed on March 25, 2024¹⁵ was well-within the extended period, hence, timely filed.

Proceeding now to the merits of the case, we find it bereft of legal basis.

Petitioner insists that the civil liability of the accused to pay the deficiency income tax survives the acquittal of the respondent when there is fraud involved such that the invalidity of the subject tax deficiency assessment is of no moment as collection may proceed even without an assessment.

We find petitioner's arguments without merit.

SEC. 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation. - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct the accurate information, who **willfully fails to pay such tax**, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000.00) and suffer imprisonment of not less than one (1) year but not more than ten (10) years. (*Emphasis supplied*)

Based on the above-quoted provision, the following constitute the elements of the crime, thus:

1. The offender is required under the 1997 NIRC, as amended, or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information; and
2. The offender willfully fails to pay such tax, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes

¹⁵ March 23, 2024 fell on a Saturday. 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 10 of 14

withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations.

Petitioner asserts that the acquittal of respondent in the criminal case, does not preclude the petitioner from pursuing the civil liabilities of respondent even if the assessment is deemed void, citing the *Mendez* case as its legal support.

The Court finds this a sweeping statement that disregards the nuances of a civil liability accompanying a criminal charge for violation of tax laws.

In the case of *Dy vs. People of the Philippines*,¹⁶ (*Dy* case) the Supreme Court qualified the relationship between an acquittal from the criminal action and the corresponding civil liability emanating from the crime and We quote:

“The Civil Code states that when an accused in a criminal prosecution is acquitted on the ground that his guilt has not been proven beyond reasonable doubt, a civil action for damages for the same act or omission may be filed. In the latter case, only preponderance of evidence is required. This is supported by the Rules of Court which provides that the extinction of the criminal action does not result in the extinction of the corresponding civil action. **The latter may only be extinguished when there is a ‘finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.’**”
(*Emphasis supplied*)

In absolving the accused of the crime charged in the present case, the Court found the Formal Letter of Demand/Final Assessment Notice (FLD/FAN) void for failure to indicate the due date for payment.

We quote relevant portions of the Court Resolution dated July 31, 2023:

“The Court, however, agrees with the accused that such due date is couched in general terms and did not specify that it is the due date for payment. The date is also too equivocal; it could even refer to the due date when the FLD/FAN must be served to the taxpayer.

¹⁶ G.R. No. 189081, August 10, 2016. 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 11 of 14

XXX XXX XXX

An invalid assessment bears no fruit. Therefore, the PCL, FNBS, and WDL issued pursuant to the assessment are likewise ineffectual."

The Court in Division then concluded that an invalid assessment negates the willful failure to pay taxes, thus eliminating the existence of the willful element of the crime under Section 255 of the 1997 NIRC, as amended, quoted below:

"To reiterate, the Court finds that the subject FLD/FAN are void. Accordingly, the legal obligation on the part of the accused to pay the subject deficiency tax assessment did not arise."

Although the afore-quoted *Dy* case does not involve a tax violation, the principle enunciated therein may nevertheless be applied in the present case. The subject FLD/FAN which contains the alleged tax liabilities of the accused was deemed void by the Court in Division, hence, negating the existence of willfulness in not paying said taxes. The very reason for the acquittal obviates the criminal intent, hence, closing the door on the imposition of civil liability.

A reading of the Information charging the accused (now respondent) with violation of Section 255 of the 1997 NIRC, as amended, emanates from his alleged willful failure to pay income tax for taxable year 2011 as indicated in the FLD/FAN.

To sustain a conviction under this particular charge against the respondent, there must have been a willful attempt not to pay the taxes demanded or required in the FLD/FAN. There can be no willfulness not to pay the taxes if the basis for said requirement has been rendered void.

The various acts and omissions described and punishable under Section 255 of the 1997 NIRC, as amended, involve an intent or design on the part of the accused to perform or not to perform said acts described therein. Absent such intent or willfulness as it were, the alleged crime is deemed not to have been committed.

Neither can the *Mendez* case be applied here because the accused in the said case was found guilty beyond reasonable 

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 12 of 14

doubt by the Court of Tax Appeals (CTA) and affirmed by the Supreme Court, while in the present case, respondent was acquitted of the crime charged due to a void FLD/FAN. We quote the relevant portion of the Supreme Court ruling in the *Mendez* case, thus:

“All things considered, the Court holds that Joel knew he should file his annual ITR, but he deliberately failed to do so. The prosecution sufficiently proved Joel’s guilt beyond reasonable doubt of violating Section 255 of the Tax Code for willful failure to file or make his annual ITR for taxable year 2002.”

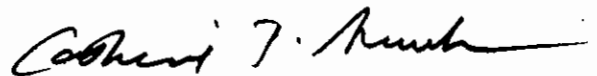
In the *Mendez* case, the Supreme Court overturned the ruling of the CTA when it did not impose the civil liability because the Commissioner of Internal Revenue (CIR) did not issue a final assessment for deficiency taxes. In rejecting this CTA ruling, the Supreme Court in the *Mendez* case stated that a final assessment is not a condition precedent for the imposition of civil liability for unpaid taxes relative to the criminal case.¹⁷ Therefore, the Supreme Court remanded the case to the CTA for the determination of accused’s civil liability for taxes and penalties. In the present case, a final assessment was issued against respondent only that it was found void rendering it without any legal effect.

Extinction of a penal action does not carry with it the eradication of civil liability, *unless* the extinction proceeds from a declaration in the final judgment that the fact from which the civil liability might arise did not exist.¹⁸

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

Accordingly, the Court in Division’s Resolutions dated July 31, 2023 and February 12, 2024 are hereby **AFFIRMED**.

SO ORDERED.


CATHERINE T. MANAHAN
Associate Justice

¹⁷ *Ibid.*

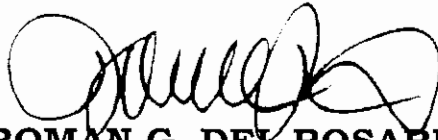
¹⁸ *Nuguid vs. Nicdao*, G.R. No. 150785, September 15, 2006.

DECISION

CTA EB CRIM. NO. 142 (CTA Crim. Case No. O-895)

Page 13 of 14

WE CONCUR:



ROMAN G. DEL ROSARIO

Presiding Justice



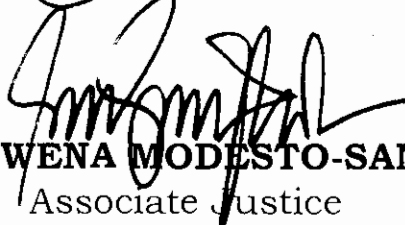
MA. BELEN M. RINGPIS-LIBAN

Associate Justice



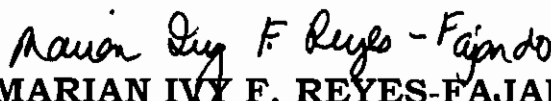
JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



MARIAN IVY F. REYES-FAJARDO

Associate Justice



LANEE S. CUI-DAVID

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice



HENRY S. ANGELES

Associate Justice



DECISION

CTA *EB* CRIM. NO. 142 (CTA Crim. Case No. O-895)
Page 14 of 14

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.

A handwritten signature in black ink, appearing to read 'Roman G. Del Rosario', written over the printed name.

ROMAN G. DEL ROSARIO

Presiding Justice

A small, stylized handwritten mark or signature in the bottom right corner of the page.