REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES, Plaintiff,	**CTA CRIM CASE NO. O-212** For: Tax Evasion under Section 254 of the NIRC of 1997, as amended
- versus -	Members: **UY, *Chairperson*,** *and* **RINGPIS-LIBAN, *JJ.***
WILLIAM R. VILLARICA, Accused.	Promulgated: FEB 26 2019 9:05 a.m.

x---x

DECISION

RINGPIS-LIBAN, J.:

The Case

Accused William R. Villarica ("Villarica") is charged before this Court of the crime of attempt to evade or defeat the payment of income tax under Section 254 of the National Internal Revenue Code ("NIRC") of 1997, as amended, for taxable year 2007.

The plaintiff, on the other hand, is represented by the Bureau of Internal Revenue ("BIR"), the government agency primarily tasked to collect internal revenue taxes for the support of the government, with office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

The Information[1] against the accused reads as follows:

[1] Docket, pp. 01-02.

> "That on or about April 11, 2008, in Bulacan, and within the jurisdiction of this Honorable Cort, the above-named accused, required to pay internal revenue taxes did then and there, willfully, unlawfully and feloniously attempt to evade or defeat the imposition of income tax as well as payment thereof by filing his 2007 Income Tax Return at Revenue District Office No. 25-Bulacan, and making it appear that he has no income for taxable year 2007, when in truth and in fact, said accused has other income during same taxable year but failed to declare them in his Income Tax Return as shown by his financial transactions, to the damage and prejudice of the government in the amount of Eight Million Two Hundred Eighty Five Thousand Pesos (Php 8,285,000.00) as basic internal revenue tax liability, exclusive of penalties, surcharges and interests.
>
> Contrary to law."

On June 22, 2011, accused Villarica voluntarily appeared before the Regional Trial Court ("RTC") Branch 11 of Malolos, Bulacan and submitted himself to the jurisdiction of the Court by posting a cash bond in the amount of two hundred thousand pesos (Php200,000.00), for his provisional liberty.[2]

On June 23, 2011, Arlita C. Bautista, OIC-RTC Branch 11 of Malolos, Bulacan, transmitted the cash bail bond posted by accused Villarica to this Court, which We noted in a Resolution[3] dated July 07, 2011.

During the arraignment on October 13, 2011, accused, with the assistance of his counsel *de parte*, entered a plea of "Not Guilty" to the crime charged.[4] After the termination of the pre-trial held on April 25, 2012, the parties presented their respective evidence.[5]

Trial ensued and, to prove its case, plaintiff presented thirty (30) witnesses, namely: Angela Marie T. Simpit, Atty. Aurora V. Flor, Isabel A. Paulino, Lolita Dela Paz Castro, Ma. Gracia R. Bolutano, Teresita L. Cabrera, Elizabeth Gracia V. Sacramento, Reuben U. Enriquez, Anabel S. Evangelista, Maximo T. Cebrecus, Jr., Rodolfo G. Mendoza, Clavelina S. Nacar, Ray Anthony O. Geli, Sixto C. Dy, Jr., Rosalie C. Padilla, Evelyn I. Sarmiento, Francie J. Narvaez,

---

2 *Id.*, pp. 37-41. Since CTA Crim Case No. O-213 was dismissed without prejudice, the Court ordered the partial release of the cash bail bond posted under O.R. No. 7073341 before the Regional Trial Court Br. 11 of Malolos City but only for the amount of Php100,000.00; Docket, pp. 449-450.

3 *Id.*, p. 55.

4 *Id.*, p. 134.

5 *Id.*, pp. 616-617.

Renato Agullana, Angelo Grienzo, Marcelino T. Reyes, Engr. Magtanggol dela Cruz San Miguel, Martin Armando C. Cruz, Benedicto R. De Dios, Alita C. Pulga, Atty. Melchor Jearmond A. Arañas, Bernard V. Corrales, Vicente T. De Villa III, Mildred J. San Martin, Simeon L. Sanchez and Roel L. Miraveles.

The plaintiff's first witness, ***Angela Marie T. Simpit***,[6] Revenue Officer II, is presently assigned at National Investigation Division ("NID"), BIR National Office.[7] She testified that the NID Memorandum of Assignment No. 2007-05-547[8] dated May 17, 2007 authorized their group to conduct preliminary investigation against the accused to ascertain the veracity of confidential information received by the BIR.[9] They commenced the investigation by getting the tax profile of accused Villarica through the BIR Integrated Tax System ("ITS"). There, they found out that accused was registered as a single proprietorship with two (2) trade names, namely, W Villarica Pawnshop and Marilao Coliseum.[10] W Villarica Pawnshop on the other hand had five (5) branches: (1) Caloocan City, (2) Concepcion, Malabon, (3) Tanong, Malabon, (4) Sto Niño, Marikina City, and (5) Meycauayan, Bulacan .[11] Thereafter, they caused the issuance of Access Letters to the following: (1) BIR District Offices to check whether or not accused filed his Income Tax Return ("ITR") from 1998 to 2010, (2) Land Transportation Office ("LTO") to get all the vehicles registered under the name of accused[12], and (3) Bangko Sentral ng Pilipinas ("BSP")[13]. According to her, the January 14, 2011 Certification[14] from the BSP pertaining to the Consolidated Statement of Condition ("CSOC") and Consolidated Statement of Income and Expenses ("CSIE") of W. Villarica Pawnshop for year ending December 31, 2002 showed that the accused has no sufficient declared income to purchase the Lamborghini Gallardo sports vehicle[15] in 2007[16]. She also based her findings on the documents received from BIR which showed that the accused did not file his ITR for taxable years 2002 to 2006.[17] The documents are as follows: (1) August 24, 2010 Certification from Revenue District Office ("RDO") 52-Parañaque[18], (2) July 14, 2010 Certifications from RDO 25B-Sta. Maria, Bulacan[19], and (3) July 14, 2010 Certification from RDO 26 Malabon-

6 Testified on June 06, 2012, June 27, 2012, February 13, 2013 and March 20, 2013; *Id.*, Minutes of Hearing, pp. 1044, 1266-1268, 1473-1482 and 1485-1490.
7 Transcript of Stenographic Notes ("TSN"), June 06, 2012, pp. 19-20.
8 Docket, Exhibit "EEEE", p. 1679.
9 TSN, June 27, 2012, p. 76.
10 Docket, Exhibit "K", pp. 1684-1685.
11 *Id.*, Exhibit "L", pp. 1686-1688.
12 TSN, June 27, 2012, pp. 76-77.
13 TSN, February 13, 2013, p. 71.
14 Docket, Exhibit "UU", pp. 1694-1697.
15 *Id.*, Exhibits "NN", "OO", "PP" & "QQ", pp. 1813-1816.
16 TSN, February 13, 2013, p. 54.
17 TSN, February 13, 2013, p. 54.
18 Docket, Exhibit "S", p. 1689.
19 *Id.*, Exhibits "T-1", "U", "W" and "X", pp. 1698-1706, 1691-1692.

Navotas[20]. And in year 2007, the year of acquisition of the Lamborghini Gallardo, the accused filed his ITR but no income was declared thereon.[21]

On cross examination, she clarified that W. Villarica Pawnshop was still operational after 2002 based on BIR ITS and based on the January 17, 2011 Certification[22] from BSP that it has been delisted only on 2008.[23] She also confirmed that the computation of accused's estimated tax liabilities[24] was done before filing the criminal complaint.[25]

The plaintiff's second witness, ***Atty. Aurora V. Flor***,[26] Attorney IV is presently assigned at NID, BIR.[27] She testified that her group was authorized to investigate accused pursuant to NID Memorandum of Assignment No. 2007-05-547[28] dated May 17, 2007.[29] They checked the tax profile of the accused which showed that he filed an ITR for 2007, but declared no income due to non-operation.[30] From 1998 to 2001, accused had a total net taxable income of one seventy four thousand, four hundred sixty seven pesos (Php174,467.00). For 2001, accused suffered losses. From 2002 to 2006 and 2008 to 2009, accused did not file any ITR.[31] She attested that on paragraph 12 of the Joint Complaint Affidavit[32] filed with the Department of Justice ("DOJ"), the computation refers to accused's estimated tax deficiency for taxable year 2007.[33]

They also adopted the Taxpayer Lifestyle Check prescribed under Revenue Memorandum Order No. 19-2010. They requested the LTO to furnish them certifications or relevant documents relative to the vehicles registered in the name of accused.[34] Consequently, they gathered the following: (1) September 13, 2010 Certification[35] on the list of cars registered under the name of accused, (2) September 07, 2007 Verification[36] of accused's 2000 Toyota MR2 Spyder with plate no. HRV 333 with attachments, (3) September 07, 2007 Verification[37] of accused's Toyota Super Grandia with plate no. WSR 691 with Invoice issued by

---

20 *Id.*, Exhibit "T", p. 1709.
21 *Id.*, Exhibit "V", pp. 1707-1708; TSN, February 13, 2013, p. 54.
22 Docket, Exhibit "TT", p. 1693.
23 TSN, February 13, 2013, pp. 69-71.
24 Docket, Exhibit "VV", p. 1837-1838.
25 TSN, February 13, 2013, p. 96.
26 Testified on July 04, 2012, January 16, 2013 and February 13, 2013; Docket, Minutes of Hearing, pp. 1283-1285, 1456-1461 and 1473-1482.
27 TSN, July 04, 2012, pp. 5-6.
28 Docket, Exhibit "EEEE", p. 1679.
29 TSN, July 04, 2012, pp. 27-28; TSN, January 16, 2013, p. 14.
30 Docket, Exhibit "V", pp. 1707-1708.
31 TSN, July 04, 2012, pp. 71, 81-82.
32 Docket, Exhibit "B", pp. 1852-1855.
33 TSN, July 04, 2012, p. 74.
34 TSN, January 16, 2013, p. 16.
35 Docket, Exhibit "BBBB", pp. 1819-1826.
36 *Id.*, Exhibits "BB", "CC", "DD", "EE" and "FF", pp. 1802, 1804-1807.
37 *Id.*, Exhibits "GG" and "HH", pp. 1808-1809.

Toyota Shaw for the purchase, (4) September 07, 2007 Verification[38] of accused's Ferrari Coupe with plate no. ZEH 430 with attachments, and (5) September 07, 2007 Verification[39] of accused's 1998 Volkswagen Beetle with plate no. WEV 610 with attachments. Lastly, she examined the certified true copies of the following documents from LTO: (1) Deed of Absolute Sale[40] dated April 02, 2007 between Romeo Fuentes as vendor and accused as vendee, showing a sale of Lamborghini Gallardo for a consideration of twenty-six million pesos (Php26,000,000.00), (2) Certificate of Registration[41] in the name of accused, and (3) Official Receipt.[42]

According to her, there were four (4) factors that their group considered in their finding that accused underdeclared his income in 2007, namely:[43]

1) For 2002 to 2006, the accused failed to file his ITR. Non-filing of return means non-declaration of income;

2) For 2007, accused declared no operation in his ITR;

3) Based on the documents gathered from the Department of Trade and Industry ("DTI") and Securities and Exchange Commission ("SEC"), accused has businesses registered aside from pawnshop from 2009 to 2010[44], and it was impossible to use the income from these businesses to purchase the Lamborghini Gallardo in 2007; and

4) Based on the Certificate of Live Birth and the Marriage Contract obtained from the National Statistics Office ("NSO"), and documents secured from the various District Offices of the BIR, they verified the tax compliance of accused's wife and parents to determine if the accused received donation or inheritance from them[45], and it was found out that there was none.

On cross examination, she testified on the other considerations used in determining the tax deficiencies of the accused aside from the documents

---

38 *Id.*, Exhibits "II", "JJ", "KK, "LL" and "MM", pp. 1798-1801, 1803.
39 *Id.*, Exhibits "Y", "Z" and "AA", pp. 1810-1812.
40 *Id.*, Exhibit "OO", p. 1813.
41 *Id.*, Exhibit "NN", p. 1815.
42 *Id.*, Exhibit "PP", p. 1814.
43 TSN, January 16, 2013, pp. 34-36.
44 Docket, Exhibits "BBB", "CCC", "EEE', "FFF", "KKKK" and "LLLL", pp. 1738, 1733, 1737, 1739, 1732 and 1736.
45 *Id.*, Exhibits "XX" and "YY", pp. 1680 and 1681.

furnished by LTO on the alleged purchase of Lamborghini Gallardo. She stated that the accused started his pawnshop business in 1991[46], that they considered the tax profile of accused[47], and that he did not receive any inheritance or donation from his relatives.[48]

The plaintiff's third witness, ***Isabel A. Paulino***,[49] former Revenue District Officer of RDO No. 41-Mandaluyong, testified that among her duties is to be in-charge of the endorsement issued by her staff or personnel.[50] In compliance with the request for information from BIR Deputy Commissioner Estela V. Sales whether or not returns were filed by the Villarica clan, she issued a (1) Memorandum stating that no donor's tax return was filed by any of the Villarica clan in RDO No. 41[51], and (2) August 24, 2010 Certification stating that no return was filed by Harvey Lawrence R. Villarica in RDO No. 41[52].

On cross examination, she testified that she issued the two (2) documents on the basis of the endorsements made by her staff based on the ITS records. She was not the one who made the actual examination of the ITS.[53]

The plaintiff's fourth witness, ***Lolita Dela Paz Castro***,[54] previously assigned as Chief of Taxpayer's Service Section of RDO No. 41-Mandaluyong, testified that among her duties is to provide compliance services with regard to the registration of taxpayers, which is encoded in the ITS records. She executed the August 23, 2010 Certification[55] issued by RDO No. 41-Mandaluyong on the tax registration of Harvey Lawrence R. Villarica.[56]

On cross examination, she testified that she examined the tax registration data of Harvey Lawrence R. Villarica from the ITS.[57]

The plaintiff's fifth witness, ***Ma. Gracia R. Bolutano***,[58] previously assigned as Chief of the Document Processing Section ("DPS") of RDO No.

---

46 TSN, July 04, 2012, pp. 79-81; Docket, Exhibit "K", pp. 1684-1685.
47 TSN, July 04, 2012, pp. 81-82; Docket, Exhibit "L", pp. 1686-1688.
48 TSN, July 04, 2012, p. 82; Docket, Exhibits "HHH", "III", "JJJ", "LLL", "MMM", "NNN", "OOO", "QQQ", "RRR", "SSS", "UUU", "VVV", "WWW", "XXX", "YYY" and "ZZZ", pp. 1761-1762, 1776-1777, 1778-1779, 1782-1783, 1784-1785, 1769, 1771-1772, 1775, 1774, 1749-1755, 1768, 1764-1767, 1786, 1787, 1794-1797 and 1790-1793.
49 Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
50 TSN, July 11, 2012, p. 10.
51 Docket, Exhibit "GGG", p. 1756.
52 *Id.*, Exhibit "NNN", p. 1769.
53 TSN, July 11, 2012, pp. 18-24.
54 Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
55 *Id.*, Exhibit "PPP", p. 1770.
56 TSN, July 11, 2012, pp. 32-34.
57 TSN, July 11, 2012, p. 35.
58 Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.

41-Mandaluyong, testified that among her duties is to supervise the personnel assigned in that Section. She issued the August 23, 2010 Certification[59] stating that no donor's tax return was filed by Ludivina Villarica, Harvey Lawrence R. Villarica, Windie C. Villarica, Willyn C. Vilalrica or Wesley C. Villarica for 1998 to 2009.[60]

On cross examination, she testified that she accessed the ITS of the BIR, the database maintained by the System Administrator at the BIR National Ofiice. Though it is her section which encoded the data, she was not the one who personally did the encoding.[61]

The plaintiff's sixth witness, ***Teresita L. Cabrera***,[62] presently assigned as Revenue Officer IV at RDO No. 29 San Nicolas, Tondo was previously assigned at RDO No. 26 Malabon, Navotas. She issued a Certification[63] stating that the accused did not file any ITR for 2009 and prior years. She extracted the said information from the ITS.[64]

On cross examination, she testified that the returns were stored in the bodega of RDO No. 26 Malabon, Navotas, but she did not examine the bodega to determine if there was any return filed by accused.[65]

The plaintiff's seventh witness, ***Elizabeth Gracia V. Sacramento***,[66] presently assigned as RPS Error Handler of RDO No. 32 Quiapo and previously assigned as Chief of DPS of RDO No. 52 Parañaque City, testified that she executed the August 24, 2010 Certification[67] stating that accused is registered as a single proprietor from 1991 to 2008, and no ITR was filed since 1999 with RDO No. 52 Parañaque City. The DPS receives the returns coming from the bank, collection section and assessment section and pre-process them. Then, the returns are encoded and retrieved and systematically filed until they are archived. She further testified that she can search and extract data from the ITS if a taxpayer filed his income tax return or not.[68]

---

[59] *Id.*, Exhibits "III", "JJJ", "KKK", "LLL", "MMM" and "OOO", pp. 1776-1777, 1778-1779, 1780-1781, 1782-1783, 1784-1785 and 1771-1772.
[60] TSN, July 11, 2012, pp. 50-60.
[61] TSN, July 11, 2012, pp. 65-69.
[62] Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
[63] *Id.*, Exhibit "T", p. 1709.
[64] TSN, July 11, 2012, pp. 78-81.
[65] TSN, July 11, 2012, pp. 82-84.
[66] Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
[67] *Id.*, Exhibit "S", p. 1689.
[68] TSN, July 11, 2012, pp. 87-95.

On cross examination, she testified that the certification was based on the verification of the ITS.[69]

The plaintiff's eighth witness, ***Reuben U. Enriquez***,[70] previously assigned as OIC Chief of the DPS of RDO No. 40 Cubao, Quezon City, testified that a September 03, 2010 Certification[71] was issued by Assistant Revenue District Officer Ma. Victoria Go-Reinante, and verified by him, stating that no return was filed by Hans Lerwyn R. Villarica with RDO No. 40.[72]

On cross examination, he testified that the Assistant Revenue District Officer Ma. Victoria Go-Reinante instructed him to inquire if Hans Lerwyn R. Villarica was in their system. He then issued a certification based on the inquiry search of the DPS. He accessed the ITS to determine the tax registration of Hans Lerwyn R. Villarica.[73]

The plaintiff's ninth witness, ***Anabel S. Evangelista***,[74] Tax Clearance Certificate encoder from RDO No. 25B Sta. Maria, Bulacan, testified that she executed an August 25, 2010 Certification[75] stating that what was only found in the records was the donation of Henry R. Villarica of a property to the Municipality of Marilao, and the sale of another property to Hailey Lynne Ramos Villarica.[76]

On cross examination, she testified that she was the one who encoded the Tax Clearance Certificates[77] of Henry R. Villarica dated December 26, 2007 and August 11, 2008.[78]

The plaintiff's tenth witness, ***Maximo T. Cebrecus, Jr.***,[79] Assistant Revenue District Officer of RDO No. 38 North, Quezon City, testified that he executed a February 14, 2012 Certification stating that based on the ITS, Linabel Ruth R. Villarica with registered business address at Poblacion 1, Marilao, Bulacan is registered as local employee in RDO No. 38.[80]

---

69 TSN, July 11, 2012, pp. 95-96.
70 Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
71 *Id.*, Exhibit "UUU", p. 1768.
72 TSN, July 11, 2012, pp. 109-111.
73 TSN, July 11, 2012, pp. 112-114.
74 Testified on July 11, 2012; Docket, Minutes of Hearing, pp. 1286-1290.
75 *Id.*, Exhibits "XXX", p. 1787.
76 TSN, July 11, 2012, pp. 116-125.
77 Docket, Exhibits "YYY" and "ZZZ", pp. 1794-1797, 1790-1793.
78 TSN, July 11, 2012, pp. 127-129.
79 Testified on July 25, 2012; Docket, Minutes of Hearing, pp. 1292-1295.
80 TSN, July 25, 2012, pp. 15-27.

On cross examination, he testified that he merely checked on the registration data found on the database from the ITS.[81]

The Court notes however that said February 14, 2012 Certification from RDO No. 38, signed by Maximo T. Cebrecus, Jr. was not found in the records, nor was it offered by plaintiff or admitted by this Court.

The plaintiff's eleventh witness, ***Rodolfo G. Mendoza***,[82] OIC Revenue District Officer of RDO No. 25-A Plaridel, Bulacan, testified that he executed a September 13, 2010 Certification[83] stating that per verification on the ITS, the estate of Peciencia R. Villarica has no record of estate tax return filed with RDO No. 25-A, nor was there a Deed of Extrajudicial Settlement filed.[84]

On cross examination, he testified that he relied on the ITS for the Certification.[85]

For the plaintiff's twelfth witness, ***Clavelina S. Nacar***,[86] Revenue District Officer of RDO No. 39 South, Quezon City, it was stipulated by plaintiff and accused that she executed a February 14, 2012 Memorandum stating that the five (5) page document attached thereon are faithful reproductions of the returns of Henry Lester R. Villarica and Hailey Lynne R. Villarica. It was also stipulated that the basis of the certification is the ITS.[87]

The Court notes however that said February 14, 2012 Memorandum from RDO No. 39, signed by Clavelina S. Nacar was not found in the records, nor was it offered by plaintiff or admitted by this Court.

For the plaintiff's thirteenth witness, ***Atty. Sixto C. Dy, Jr.***,[88] Chief of NID, BIR, it was stipulated by plaintiff and accused that he has access to the ITS and he identified the Tax Compliance Certificate of Luzdivina C. Villarica[89] as faithful reproduction of the documents found in the ITS.[90]

81 TSN, July 25, 2012, pp. 33-34.
82 Testified on July 25, 2012; Docket, Minutes of Hearing, pp. 1292-1295.
83 *Id.*, Exhibit "SSS", pp. 1749-1755.
84 TSN, July 25, 2012, pp. 40-55.
85 TSN, July 25, 2012, p. 56.
86 Testified on July 25, 2012; Docket, Minutes of Hearing, pp. 1292-1295.
87 TSN, July 25, 2012, pp. 63-72.
88 Testified on July 25, 2012; Docket, Minutes of Hearing, pp. 1292-1295.
89 *Id.*, Exhibits "AAAA", "AAAA-1" and "AAAA-2", pp. 1757-1760.
90 TSN, July 25, 2012, pp. 86-92.

On cross examination, he testified that the examination of the tax record of Luzdivina C. Villarica was to determine whether or not she filed a donor's tax return.[91]

The plaintiff's fourteenth witness, ***Rosalie C. Padilla***,[92] presently Team Leader of the Return Processing System, Document Processing Division of Revenue Region No. 7, and previously assigned as the Chief of DPS of RDO No. 25-B Sta. Maria, Bulacan, testified that among her duties is to supervise the personnel in receiving and batching the returns, and encoding of the contents in the ITS of the BIR.[93] She also testified that she executed three (3) Certifications on July 14, 2010, namely: (1) Certification[94] stating that accused only filed ITR for taxable years 1998, 1999, 2000, 2001 and 2007, (2) Certification[95] stating that accused has no records on file of income tax return for taxable year 2009 and (3) Certification[96] stating that accused has no records on file of income tax return for taxable years 2002, 2003, 2004, 2005, 2006 and 2008.[97] Further, she admitted having seen the 2007 ITR[98] of accused showing "no operation". She identified her signature above the name of Orlando Chio, the Revenue District Officer who resigned at that time. As Chief of DPS, she can sign documents issued by the DPS in the absence of the Revenue District Officer or the Assistant Revenue District Officer. She was the one who issued a certification that the said exhibit was a certified true copy of the original.[99]

On cross examination, she testified that she had not seen the ITRs of accused for taxable years 1999 to 2001. She also admitted that she is not the legal custodian of these documents, as well as the ITRs for taxable years 2002 to 2006 and 2008 to 2009.[100]

The plaintiff's fifteenth witness, ***Ray Anthony O. Geli***,[101] Assistant Revenue District Officer of RDO No. 25-B Sta. Maria, Bulacan, testified that he certified the following copies as certified true copies of the original: (1) Application for Registration Info Update of accused with RDO 52 for change of address on February 14, 2008[102], (2) Application for Registration Info Update of accused on September 26, 2008[103], (3) Application for Registration Info Update

91 TSN, July 25, 2012, p. 56.
92 Testified on March 23, 2013; Docket, Minutes of Hearing, pp. 1485-1490.
93 TSN, March 20, 2013, pp. 14-15.
94 Docket, Exhibits "T-1", "U", "U-1" to "U-7-a", pp. 1698-1706.
95 *Id.*, Exhibit "W", p. 1691.
96 *Id.*, Exhibit "X", p. 1692.
97 TSN, March 20, 2013, pp. 17, 34, 38-74, 91-94.
98 Docket, Exhibit "V", p. 1707-1708.
99 TSN, March 20, 2013, pp. 79-91.
100 TSN, March 20, 2013, pp. 100-108.
101 Testified on May 15, 2013; Docket, Minutes of Hearing, pp. 1493-1494.
102 *Id.*, Exhibit "M", p. 1690.
103 *Id.*, Exhibit "N", pp. 1710-1711.

of accused on March 12, 2010 changing registered address, business activities and trade name to "Villarica Country Homes"[104], (4) Certificate of Registration of accused under the trade name "Villarica Country Homes"[105] and (5) Certificate of Registration of accused under the trade name "Hapag Marilena Eatery"[106]. He also executed an August 25, 2010 Letter[107] issued in his capacity as OIC-RDO 25B Sta. Maria Bulacan, Ray Anthony Geli to Deputy Commissioner Estela V. Sales, stating that as per records of RDO 25B-Sta Maria, Bulacan: (1) Paz R. Villarica has no records on file and (2) Henry R. Villarica made two (2) transfers of property.

On cross examination, it was stipulated that he does not have the personal custody of all the documents stated above but are in the custody of other officers within RDO 25B Sta. Maria, Bulacan.[108]

The plaintiff's sixteenth witness, ***Evelyn I. Sarmiento***,[109] presently Section Chief of Data Processing Division of Revenue Region No. 5 Caloocan City and previously assigned as Section Chief of the DPS of RDO No. 39 South Quezon City, testified that she executed two (2) August 24, 2010 Certifications[110] on the non-filing of tax returns of Hailey Lynne R. Villarica and Henry Lester R. Villarica for the years 1999 to 2010 with RDO No. 39 South Quezon City.[111]

On cross examination, she testified that she did not know the relationship of accused to Hailey Lynne R. Villarica and Henry Lester R. Villarica. Further, it takes about six (6) months from the date of filing for the information to appear on the Returns Processing System, one of the menus in the ITS.[112]

The plaintiff's seventeenth witness, ***Francie J. Narvaez***,[113] Records Officer I, LTO Central Office, testified that she belongs to the Management Information Division and that among her duties include plate verification.[114] Upon receipt of the BIR request for the list of plate numbers of motor vehicles under the name of accused, she searched the LTO database and executed the following September 07, 2007 Verification, stating that per verification of the LTO database, the following motor vehicles were registered under accused's

[104] *Id.*, Exhibit "P", pp. 1714-1715.
[105] *Id.*, Exhibit "O-1", p. 1713.
[106] *Id.*, Exhibit "EEE", p. 1737.
[107] *Id.*, Exhibit "WWW", p. 1786.
[108] TSN, May 15, 2013, p. 41.
[109] Testified on May 15, 2013; Docket, Minutes of Hearing, pp. 1493-1494.
[110] *Id.*, Exhibits "QQQ" and "RRR", pp. 1774-1775.
[111] TSN, May 15, 2013, pp. 76-55.
[112] TSN, May 15, 2013, pp. 84-89, 97-98.
[113] Testified on June 26, 2013; Docket, Minutes of Hearing, pp. 1503-1505.
[114] TSN, June 26, 2013, pp. 11-12.

name:[115] (1) 1998 Volkswagen bearing plate number WEV-610[116], (2) 2000 Toyota MR2 Spyder bearing plate number HRV-333[117], (3) 2001 Toyota Super Grandia bearing plate number WSR-691[118] and (4) 2006 Ferrari Coupe bearing plate number ZEH-430[119].

On cross examination, she testified that she relied on the LTO System Database for the Verification, and that she was not the one who encoded the pieces of information appearing in the Certificate of Registration of the motor vehicles.[120]

The plaintiff's eighteenth witness, ***Renato Agullana***,[121] Data Controller III, LTO, testified that among his duties is to sign on behalf of Ms. Arabelle Petilla, the Chief of Records Section of LTO. In fact, he was the one who signed on behalf of Ms. Arabelle Petilla in the four (4) Verifications[122] all dated September 07, 2007.[123]

On cross examination, he testified that it was common practice in the office that he signs for and on behalf of Ms. Arabelle Petilla for the verification.[124]

The plaintiff's nineteenth witness, ***Angelo Grienzo***,[125] previously the acting Records Custodian, testified that he was the one who certified the Invoice[126] issued by Toyota Shaw for the purchase of a Toyota Super Grandia with plate no. WSR-691, as certified true copy of the original.[127]

On cross examination, he testified that he had seen the original document for he was designated as the records custodian at that time.[128]

The plaintiff's twentieth witness, ***Marcelino T. Reyes***,[129] Records Officer III, LTO, Diliman District Office testified that he was the one who certified the

---

115 TSN, June 26, 2013, pp. 24-32.
116 Docket, Exhibit "Y", p. 1812.
117 *Id.*, Exhibit "BB", p. 1806.
118 *Id.*, Exhibit "GG", p. 1809.
119 *Id.*, Exhibit "II", p. 1803.
120 TSN, June 26, 2013, p. 34-40.
121 Testified on June 26, 2013; Docket, Minutes of Hearing, pp. 1503-1505.
122 *Id.*, Exhibits "Y", "BB", "GG" and "II" pp. 1812, 1806, 1809 and 1803.
123 TSN, June 26, 2013, pp. 58-63.
124 TSN, June 26, 2013, pp. 70-72.
125 Testified on June 26, 2013; Docket, Minutes of Hearing, pp. 1503-1505.
126 *Id.*, Exhibit "HH", p. 1808.
127 TSN, June 26, 2013, pp. 78, 81-85.
128 TSN, June 26, 2013, pp. 88-91.
129 Testified on June 26, 2013, July 17, 2013 and August 28, 2013; Docket, Minutes of Hearing, pp. 1503-1505, 1518-1519 and 1533-1535.

following documents as true copy of the original:[130] (1) Deed of Absolute Sale[131] dated April 02, 2007 between Romeo Fuentes as vendor and accused as vendee, showing a sale of Lamborghini Gallardo for a consideration of twenty six million pesos (Php26,000,000.00), (2) Certificate of Registration[132] in the name of accused, (3) Official Receipt[133], and (4) PNP Motor Vehicle Clearance Certificate[134]. He also testified that in 2007, accused sold the said vehicle to a certain Ryan Jeffrey S. Son, and as proof thereof, he certified a Deed of Absolute Sale[135] dated August 22, 2007 as true copy of the original.[136]

On cross examination, he testified that he was not the one who received the Deed of Absolute Sale[137] dated April 02, 2007 between Romeo Fuentes as vendor and accused as vendee, but the same is in his custody as a Records Officer of the LTO.[138] He also clarified that the Owner's Certificate of Registration in the name of accused was actually surrendered to the LTO by accused on August 22, 2007, when there was transfer of ownership from accused to Ryan Jeffrey S. Son.[139]

The plaintiff's twenty-first witness, ***Engr. Magtanggol dela Cruz San Miguel***,[140] Municipal Engineer, Municipality of Marilao, Bulacan testified that he issued on September 17, 2009 a Building Permit[141] for the construction of a cockpit arena in the name of accused. The name of the said building is Cockpit Arena of Marilao and the business started operating in early 2010.[142]

On cross examination, he testified that in the issuance of a building permit, they do not require proof from the applicant on who will spend for the construction of the said building.[143]

The plaintiff's twenty-second witness, ***Martin Armando C. Cruz***,[144] Chief Business Permit and Licensing Office of Municipality of Marilao, Bulacan testified that his office is the one in-charge in the preservation of the carbonized

---

[130] TSN, June 26, 2013, pp. 102-110.
[131] Docket, Exhibit "OO", p. 1813.
[132] *Id.*, Exhibit "NN", p. 1815.
[133] *Id.*, Exhibit "PP", p. 1814.
[134] *Id.*, Exhibit "QQ", p. 1816.
[135] *Id.*, Exhibit "AAAAA", p. 1817.
[136] TSN, June 26, 2013, pp. 115-121; TSN, July 17, 2013, p. 5.
[137] Docket, Exhibit "OO", p. 1813.
[138] TSN, August 28, 2013, pp. 15-16.
[139] TSN, August 28, 2013, pp. 32-34.
[140] Testified on August 28, 2013; Docket, Minutes of Hearing, pp. 1533-1535.
[141] *Id.*, Exhibit "SS", p. 1731.
[142] TSN, August 28, 2013, pp. 51-58.
[143] TSN, August 28, 2013, pp. 79-80.
[144] Testified on August 28, 2013, November 13, 2013 and November 27, 2013; Docket, Minutes of Hearing, pp. 1533-1535, 1580-1583 and 1601-1603.

copies of business permits. He then identified the Business Permits of:[145] (1) Villarica Country Homes[146], (2) Marilao Coliseum[147] and (3) Hapag Marileña Eatery[148].

On cross examination, he testified that he was not able to personally check the actual business subject of the business permits, for the one in-charge of inspection is the Municipal Engineer and Municipal Planning and Development Office.[149] He also clarified that the business permits for Marilao Coliseum and Hapag Marileña Eatery were initially issued in 2010, whereas the business permit for Villarica Country Homes was a renewal.[150]

The plaintiff's twenty-third witness, ***Benedicto R. De Dios***,[151] OIC Consumer Welfare Division, DTI Provincial Office, Bulacan testified that among his functions is to verify and issue business name certification. On February 13, 2012, he issued certified true copies of DTI Certificate of Business Name Registration[152] of Marilao Coliseum and Hapag Marileña Eatery.[153]

On cross examination, he testified that it is his office who is in actual custody of the duplicate copy and electronic copy of the Certificate of Business Name Registration.[154]

The plaintiff's twenty-fourth witness, ***Alita C. Pulga***, [155] Chief, Transportation Regulation Officer, LTO Regional Office, Region 7 Cebu City testified that among her functions is to approve or disapprove applications for registration of motor vehicles and to act on the request or communications from other goverment entities or private entities relative to the motor vehicle registration. She also testified that she executed two (2) Certifications[156] both dated September 13, 201 – the first one listing the motor vehicles registered under the name of accused, and the second one stating that the motor vehicle with plate number ZEH 430 is registered under the name of accused.[157]

---

[145] TSN, November 27, 2013, pp. 4-17.
[146] Docket, Exhibit "RR", p. 1728.
[147] *Id.*, Exhibit "CCC", p. 1733.
[148] *Id.*, Exhibit "FFF", p. 1739.
[149] TSN, November 27, 2013, pp. 20-25.
[150] TSN, November 27, 2013, pp. 35-36.
[151] Testified on September 11, 2013; Docket, Minutes of Hearing, pp. 1550-1553.
[152] *Id.*, Exhibits "KKKK" and "LLLL", pp. 1732 and 1736.
[153] TSN, September 11, 2013, pp. 10-12.
[154] TSN, September 11, 2013, p. 14-16.
[155] Testified on September 11, 2013; Docket, Minutes of Hearing, pp. 1550-1553.
[156] *Id.*, Exhibits "BBBB" and "CCCC", pp. 1819-1826 and 1787A-1789.
[157] TSN, September 11, 2013, pp. 34-38.

On cross examination, she testified that in the said Certifications, the list does not include a certain motor vehicle identified as a Lamborghini Sedan type.[158]

The plaintiff's twenty-fifth witness, ***Atty. Melchor Jearmond A. Aranas***,[159] Securities Counsel II, SEC testified that he was authorized[160] by the SEC to appear pursuant to the Subpoena *Ad Testificandum* dated July 23, 2013. He also testified that among his functions is to appear and testify on documents filed with the SEC. He then identified the following documents and the signature of the persons who certified them as true copies of the original:[161] (1) General Information Sheet ("GIS") of Villarica Country Homes, Inc. for 2009[162], (2) Certificate of Incorporation of Villarica Trading, Inc. dated February 28, 2005[163] and (3) Articles of Incorporation of Villarica Trading, Inc. dated January 26, 2005[164].

On cross examination, he testified that he is familiar with the signature of Ms. Isma Gonzales, the person who certified the GIS of Villarica Country Homes, Inc. for 2009, because she has worked with her since 2009.[165]

The plaintiff's twenty-sixth witness, ***Bernard V. Corrales***,[166] Legal Assistant II, NSO testified that that he was authorized[167] by the NSO to appear as its representative pursuant to the Subpoena *Ad Testificandum* in relation to this criminal case. He then identified the following documents and the signature of Ms. Carmelita N. Ericta who certified them as true copies of the original:[168] (1) Certificate of Live Birth of accused[169] and (2) Marriage Contract of accused and Ludivina A. Cruz[170].

On cross examination, he testified that the two documents from the NSO do not prove income of accused.[171]

---

[158] TSN, September 11, 2013, pp. 39-40.
[159] Testified on September 11, 2013; Docket, Minutes of Hearing, pp. 1550-1553.
[160] *Id.*, Exhibit "BBBBB", p. 1727.
[161] TSN, September 11, 2013, pp. 48-56.
[162] Docket, Exhibit "R", pp. 1718-1726.
[163] *Id.*, Exhibit "IIII", p. 1742.
[164] *Id.*, Exhibit "JJJJ", pp. 1744-1748.
[165] TSN, September 11, 2013, p. 56.
[166] Testified on September 11, 2013; Docket, Minutes of Hearing, pp. 1550-1553.
[167] *Id.*, Exhibits "CCCCC" and "DDDDD", pp. 1682 and 1683.
[168] TSN, September 11, 2013, pp. 66-70.
[169] Docket, Exhibit "XX", p. 1680.
[170] *Id.*, Exhibit "YY", pp. 1681.
[171] TSN, September 11, 2013, pp. 74-75.

The plaintiff's twenty-seventh witness, ***Vicente T. De Villa III***,[172] Director of Supervisory Data Center ("SDC"), Financial Supervision Research and Consumer Protection Sub-sector, BSP testified that he executed a January 14, 2011 Certification stating that the latest available files of W. Villarica Pawnshop based on the records of the SDC are its CSOC and CSIE for year ended December 31, 2002. He clarified however that the said Certification was not accurate since there were in fact CSOC and CSIE filed for 2003.[173]

On cross examination, he clarified that there is no other information on file with his office pertaining to the Financial Statement of W. Villarica Parnshop after 2003.[174]

The plaintiff's twenty-eighth witness, ***Mildred J. San Martin***,[175] Manager of Integrated Supervision Department I, Supervision and Examination Section of the BSP testified that she was instructed by her office to testify in the instant case in place of Mr. Fernando Caballa, the former director of Integrated Supervision Department I. The function of her department is to supervise pawnshops among others. In particular, she was the one in-charge of pawnshops. The former director, Mr. Caballa executed a January 17, 2011 Certification[176] stating that W. Villarica Pawnshop has been delisted from BSP registry of pawnshops on September 25, 2008. In fact, her division was the one who made the draft certification. She also testified that being delisted from the BSP Registry means that the business shall cease to operate as a pawnshop.[177]

On cross examination, she testified that her office was notified in 2008 by William R. Villarica through a letter that he closed his pawnshops sometime in 2005, thus, they delisted the same.[178]

The plaintiff's twenty-ninth witness, ***Simeon L. Sanchez***,[179] Immigration Officer II of the Bureau of Immigration ("BID"), also the Acting Chief of the Certification and Clearance Section of the BIS, testified that among his duties is to sign travel records. He executed a January 03, 2012 Certification[180] with attached travel records of accused. The travel records show that accused departed for abroad eighteen (18) times and arrived from abroad nineteen (19)

---

172 Testified on November 27, 2013; Docket, Minutes of Hearing, pp. 1601-1603.
173 TSN, November 27, 2013, pp. 40-59.
174 TSN, November 27, 2013, p. 67.
175 Testified on November 27, 2013; Docket, Minutes of Hearing, pp. 1601-1603.
176 *Id.*, Exhibit "TT", p. 1693.
177 TSN, November 27, 2013, pp. 70-83.
178 TSN, November 27, 2013, pp. 92-98.
179 Testified on February 19, 2014; Docket, Minutes of Hearing, pp. 1633-1640.
180 *Id.*, Exhibit "DDDD", pp. 1827-1829.

times from 2001 to 2010. The countries the accused visited were also indicated in the travel report.[181]

On cross examination, he testified that the Certification he issued and signed was entirely based on the verification made by Mr. Manolo A. Melendrez, the verifier.[182]

The plaintiff's thirtieth witness, ***Roel L. Miraveles***,[183] Assistant Records Officer, Pasay City District Office of the LTO, testified that his functions include among others the evaluation of documents upon request, issue certified true copies, and attend court hearings. He also signs documents such as Circulars, request for confirmation if the Records Officer is absent.[184] He also testified that as per record on file with the LTO, the first owner of the Ferrari is Bong dela Peña. As the Assistant Records Officer, he is the custodian of the following documents in relation to said Ferrari: (1) Certificate of Registration No. 2502341-2[185], (2) Official Receipt No. 369951536[186], (3) Deed of Sale of Motor Vehicle[187] from Bong dela Peña to accused and (4) PNP Motor Vehicle Clearance Certificate[188] dated June 08, 2006 under the name of the new owner, accused.[189]

On cross examination, he testified that he has no involvement or participation in the processing of the documents he identified. Due to her health condition, the Chief assigned him instead to testify in connection with the case. He clarified that it is the Records Officer who has custody of the records submitted to the LTO.[190]

On June 16, 2014,[191] the plaintiff filed its Formal Offer of Evidence then rested its case with the admission of most of its documentary evidence in the Resolutions dated October 20, 2014[192] and February 12, 2015[193].

---

181 TSN, February 19, 2014, pp. 6-17, 20-21, 25-26.
182 TSN, February 19, 2014, p. 44.
183 Testified on February 19, 2014 and April 30, 2014; Docket, Minutes of Hearing, pp. 1633-1640 and 1645-1647.
184 TSN, February 19, 2014, pp. 74-77.
185 Docket, Exhibit "JJ", p. 1798.
186 *Id.*, Exhibit "LL", p. 1800.
187 *Id.*, Exhibit "KK", p. 1799.
188 *Id.*, Exhibit "MM", p. 1801.
189 TSN, February 19, 2014, pp. 88-118.
190 TSN, February 19, 2014, pp. 4-12.
191 Docket, pp. 1660-1677.
192 *Id.*, pp. 1937-1938.
193 *Id.*, pp. 2000-2004.

On November 10, 2014,[194] accused filed a Motion for Leave to File Demurrer to Evidence *via* registered mail, which We granted in the Resolution dated February 12, 2015[195].

On March 03, 2015,[196] accused filed his Demurrer to Evidence *via* registered mail. The same was denied in a Resolution dated May 11, 2015[197]. Accordingly, the initial presentation of evidence for the accused was set on July 15, 2015, at 9:00 a.m.

The defense presented two (2) witnesses, namely: accused Villarica and Elsa R. Reataza-Morales.

Accused Villarica[198], testified that he is sixty-five (65) years old, presently residing at No. 23, Sandico Poblacion, Marilao, Bulacan. He issued a Counter-Affidavit[199] before the DOJ, consisting of twelve (12) pages. In 2007, accused got his day-to-day expenditures from his savings from his pawnshop business. His pawnshop stopped its operations in 2001. During its operation, things of value are pawned to him such as jewelries, cars, and the like. Accused Villarica denied having bought a Lamborghini Gallardo in 2007. He denied the signature on top of the name William R. Villarica in the Deed of Absolute Sale[200] dated April 02, 2007. He claimed he has never bought a luxury car from a supposed seller in the name of Romeo Fuentes. Neither did he know the notary public Atty. Steve G. Cudal.[201]

On cross examination, he testified that his parents made jewelry and owned a bakery since 1947. His brother Atty. Henry Villarica owns several pawnshops while his sister Dr. Shirley Villarica-Salbatierra is a doctor by profession now residing in the United States. He also testified that he first worked in 1981 in the family-owned pawnshop business. Out of the thirty (30) pawnshops, he owned two (2) of them. In 2001, he closed his business as evidenced by the Certification[202] issued by the BSP on October 22, 2010. He informed the BSP that he is closing his pawnshop business because at that time he had had a problem with his wife. It was the accountant of Villarica Pawnshop who reported the closure of business with BSP. He conveyed his request to his brother and he told him to arrange for the closure of his pawnshop business. He

---

194 *Id.*, pp. 1956-1960.
195 *Id.*, pp. 2000-2004.
196 *Id.*, pp. 2021-2033.
197 *Id.*, pp. 2058-2070.
198 Testified on September 16, 2015 and May 17, 2017; Docket, Minutes of Hearing, pp. 2085-2090, 2484-2488.
199 *Id.*, Exhibit "1", pp. 218-229.
200 *Id.*, Exhibit "14", p. 2308.
201 TSN, September 16, 2015, pp. 20-21, 25-31, 41-46, 48-55, 60-62.
202 Docket, Exhibit "2", p. 230.

was sure he closed the business in 2001, all twenty-eight (28) branches. However, he was not sure whether or not his brother still maintained them by 2002. [203]

On clarification, accused admitted he maintains and operate a cockpit as his source of income at present, despite his earlier statement that he was jobless. The cockpit operation started in 2009 and is still operation up to present. He earns rental income from the cockpit, which was owned by the family. His share from the rental income ranges from fifty thousand pesos (Php50,000.00) to one hundred thousand (Php100,000.00) per month. In 2007, his brother had given him allowances. He also had personal savings in the bank. He owns a house and lot located at No. 23, Sandico Poblacion, Marilao, Bulacan. He owns three (3) cars in 2007, a Toyota Hi-Ace Grandia, Toyota MR and a Jeep. He was aware of the news article claiming that he owns a Lamborghini Gallardo but he did not file any complaint aginst the newspaper. Instead, he went to his brother and told him about the news article in 2010.[204]

Upon recall, accused identified the following documents where his signatures appear: [205] (1) Joint Motion for Partial Judgment based on Compromise Agreement[206] dated November 24, 1999 filed before the Regional Trial Court Branch 140 of Makati City, (2) Pre-Nuptial Agreement[207] dated October 15, 2007, (3) Original specimen signatures found on three (3) short bond papers[208] and (4) Senior Citizen's identification card[209].

Elsa R. Reataza-Morales[210], testified that she is a Document Examiner II of the National Bureau of Investigation ("NBI"). She is also a member of the NBI Registered Criminologist Association and the Professional Criminologist Association of the Philippines.[211] She also testified that there was no definite opinion as the specimen signatures of accused wre not enough to render a definition opinion on the matter. She was not able to conduct a signature examination of accused's signature, due to insufficiency of specimen signatures. Accused's senior citizen's identification card was not submitted to her. The only documents submitted were the Joint Motion for Partial Judgment based on Compromise Agreement, the Pre-Nuptial Agreement dated October 27, 2007 and the three (3) pieces short coupon bond bearing the signatures of the accused.[212]

---

203 TSN, September 16, 2015, pp. 66-75, 84, 94-102, 104-105.
204 TSN, September 16, 2015, pp. 133-146.
205 TSN, May 17, 2017, pp. 24-38.
206 Docket, Exhibit "A-19", p. 2310.
207 *Id.*, Exhibit "A-23", pp. 2504-2506.
208 *Id.*, Exhibit "A-20", p. 2323-2325.
209 *Id.*, Exhibits "A-21-A" and "A-22-A", pp. 2284-2285.
210 Testified on December 07, 2016 and May 17, 2017; Docket, Minutes of Hearing, pp. 2334-2339, 2484-2488.
211 TSN, December 07, 2016, pp. 9, 43-44.
212 TSN, May 17, 2017, pp. 19-21.

She identified her Judicial Affidavit[213] marked as Exhibit "A-18."[214]

The defense filed its Formal Offer of Evidence[215] on October 09, 2017 and Supplemental Formal Offer of Documentary Evidence[216] on May 21, 2018. Accused rested his case with the admission of some of his documentary evidence on the Resolutions[217] dated December 21, 2017 and September 10, 2018.

The defense submitted its Memorandum *via* registered mail on May 11, 2018,[218] while the plaintiff filed its Memorandum on May 18, 2018 *via* registered mail.[219] The case was submitted for decision in the Resolution dated June 19, 2018.[220]

The Issues

This Court is confronted with these main issues:[221]

1. Whether or not accused Villarica is guilty as charged;

2. Whether or not accused Villarica was truly involved in any transaction over the alleged luxury car, Lamborghini Gallardo; and

3. Whether or not there is a factual and/or legal basis to the charge of tax evasion against the accused.

The Arguments

Plaintiff claims that it presented competent and sufficient evidence to sustain the indictment of accused Villarica for the crime of tax evasion. His source of funds is grossly disproportionate to his capacity to acquire the Lamborghini Gallardo given his income declarations with the BIR from 1998 to 2009. Prior to taxable year 2007, his net taxable income is only one seventy four

[213] Docket, Exhibit "A-18", pp. 2293-2303.
[214] TSN, December 07, 2016, pp. 11-13.
[215] Docket, pp. 2568-2579.
[216] *Id.,* pp. 2817-223.
[217] *Id.,* pp. 2713-2715 and 2870-2882.
[218] *Id.,* pp. 777-789.
[219] *Id.,* p. 790-801.
[220] *Id.,* p. 803.
[221] *Id.,* Pre-Trial Order, Issues, p. 1047.

thousand four hundred sixty seven (Php174,467.00). Whereas in 2007, he filed his ITR declaring that his business had "no operation" or no income for the year. Despite this, he was able to buy a Lamborghini Gallardo amounting to twenty-six million pesos (Php26,000,000.00) which did not come from inheritance, donation or sale of real property and other properties subject to capital gains tax. This clearly shows that he has underdeclared income for 2007 in the amount of twenty-six million pesos (Php26,000,000.00) which did not come from inheritance, donation or sale of (Php26,000,000.00); otherwise, he will have no money to pay for the Lamborghini Gallardo. *Nemo dat quod non habet.* One cannot give what he does not have.[222]

On the other hand, accused Villarica argues that he should be acquitted of the charge against him for two (2) reasons. First, the only basis to support plaintiff's claim that he earned income during 2007 is the accusation that he purchased an expensive vehicle. Plaintiff failed to produce evidence to show where the income could have been sourced. Nothing on record showed any factual basis establishing his alleged unaccounted source of cash. More so, plaintiff failed to show proof that said alleged unaccounted source of cash amounted to undeclared income. No proof whatsoever was shown by the plaintiff that he realized or received, whether actually or constructively, any gain or profit for the year 2007. Second, he denies being a party to the Deed of Sale dated April 02, 2007 and Deed of Motor Vehicle dated August 22, 2007, and that the purported signatures appearing therein are products of forgery.[223]

The Ruling of the Court

Accused Villarica was charged in the present case with attempt to evade or defeat the payment of income tax for taxable year 2010 and 2011, under Section 254 of the NIRC of 1997, as amended, which provides:

> "Sec. 254. **Attempt to Evade or Defeat Tax.** – Any person who willfully attempts in any manner to evade or defeat any tax imposed under this Code or the payment thereof shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Thirty thousand ([Php]30,000) but not more than One hundred thousand pesos ([Php]100,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years: Provided, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes."

---

222 *Id.,* Memorandum for the Plaintiff, Third Element, pp. 2908-2909.
223 *Id.,* Memorandum for the Accused, Discussion, pp. 2919-2939.

To sustain a conviction for attempt to evade or defeat tax under Section 254 of the NIRC of 1997, as amended, the following elements must be established:

1) An attempt in any manner to evade or defeat any tax imposed under the NIRC or the payment thereof; and

2) Such attempt to evade or defeat tax or the payment thereof is willful.

In *Commissioner of Internal Revenue v. The Estate of Benigno P. Toda, Jr.*[224], the Supreme Court held that tax evasion connotes the integration of three (3) factors:

1) The end to be achieved, *i.e.,* the payment of less than that known by the taxpayer to be legally due, or the non-payment of tax when it is shown that a tax is due;

2) An accompanying state of mind which is described as being "evil", in "bad faith", "willful", or "deliberate and not accidental"; and

3) A course of action or failure of action which is unlawful.

It is thus necessary for plaintiff to prove beyond reasonable doubt that (1) there was non-declaration and non-payment of income tax legally due from the accused and (2) there was "willfulness" or deliberate intent on the part of accused to evade or defeat the payment of income taxes. The second element under Section 254 of the NIRC of 1997, as amended, is dependent on the first element, that is — the taxpayer did not pay the tax due from him. In other words, there can be no willful failure to evade tax, if there is in fact no requirement to pay the same.

To prove the first element of the offense under Section 254 of the NIRC of 1997, as amended, the prosecution is burdened to establish two (2) essential components, namely: (1) that accused is a registered taxpayer in the Philippines, and (2) the source of income of the accused in taxable year 2007 including the taxable income derived therefrom, which income was not declared in the corresponding ITR for the year. These elements are indispensable to establish that there was failure to declare and pay the alleged income tax legally due for 2007.

---

[224] G.R. No. 147188, September 14, 2004.

Accused Villarica is a registered corporate taxpayer with Tax Identification Number (TIN) 105-176-658-000.[225] There is no question that accused as a a Filipino citizen residing in the Philippines is required to pay his taxes on his taxable income under Section 23(A) of the NIRC of 1997, as amended, to wit:

> "SEC. 23. **General Principles of Income Taxation in the Philippines.** - Except when otherwise provided in this Code:
>
> (A) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines; x x x"

There is also no dispute that accused filed his ITR for 2007. According to plaintiff however, accused did not declare all of his income nor paid the correct taxes due. Plaintiff argues that since accused was able to purchase a Lamborghini Gallardo worth twenty-six million pesos (Php26,000,000.00) in 2007, he has an undeclared income of the same amount for the said year. In other words, in determining the alleged unreported income of the accused, plaintiff utilized the net worth method or the expenditure method.[226]

Section 43[227] of the NIRC of 1997, as amended, allows the BIR to resort to all evidence or resources available to determine a taxpayer's income and to use methods to reconstruct his income. One of these methods is the expenditure method. To show a failure to report the full amount of income by the use of this method, it must be demonstrated that the expenditures made during the taxable year were in excess of the available funds during the year which were reported on the tax return.[228]

It must be pointed out however that in criminal cases, it is essential to identify the likely source of the unreported or undeclared income of the accused

---

225 Docket, Exhibits "K" and "V", pp. 1684-1685 and 1707-1708.

226 TSN, September 16, 2015, p. 108-109.

227 SEC. 43. **General Rule**. - The taxable income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been so employed, **<u>or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner clearly reflects the income</u>**. If the taxpayer's annual accounting period is other than a fiscal year, as defined in Section 22(Q), or if the taxpayer has no annual accounting period, or does not keep books, or if the taxpayer is an individual, the taxable income shall be computed on the basis of the calendar year.

228 Revenue Audit Memorandum Order No. 1-00, Updated Handbook on Audit Procedures and Techniques Volume I (Revision - Year 2000), March 17, 2000.

in order to sustain a conviction. The Supreme Court in *Bureau of Internal Revenue v. Court of Appeals, Et. Al.*[229] ruled in this wise:

> "In *Ungab v. Judge Cusi, Jr.,* we ruled that tax evasion is deemed complete when the violator has knowingly and willfully filed a fraudulent return with intent to evade and defeat a part or all of the tax. Corollarily, an assessment of the tax deficiency is not required in a criminal prosecution for tax evasion. However, in *Commissioner of Internal Revenue v. Court of Appeals*, we clarified that although a deficiency assessment is not necessary, the fact that a tax is due must first be proved before one can be prosecuted for tax evasion.
>
> In the case of income, for it to be taxable, there must be a gain realized or received by the taxpayer, which is not excluded by law or treaty from taxation. The government is allowed to resort to all evidence or resources available to determine a taxpayer's income and to use methods to reconstruct his income. A method commonly used by the government is the expenditure method, which is a method of reconstructing a taxpayer's income by deducting the aggregate yearly expenditures from the declared yearly income. The theory of this method is that when the amount of the money that a taxpayer spends during a given year exceeds his reported or declared income and the source of such money is unexplained, it may be inferred that such expenditures represent unreported or undeclared income.
>
> xxx xxx xxx
>
> The CA, however, found no probable cause to indict respondent spouses for tax evasion. It agreed with Acting Justice Secretary Devanadera that petitioner failed to make 'a categorical finding of the exact amount of tax due from [respondent spouses]' and '**to show sufficient proof of a <u>likely</u> <u>source</u> <u>of</u>** [respondent spouses'] **<u>income</u> that enabled them to purchase the real and personal properties adverted to** x x x.'
>
> We find otherwise.
>
> xxx xxx xxx

---
[229] G.R. No. 197590, November 24, 2014.

> The revenue officers also identified the likely source of the unreported or undeclared income in their Reply-Affidavit xxx.
>
> Apparently, **the revenue officers considered respondent Antonio's rental business to be the <u>likely</u> <u>source</u> <u>of</u> their unreported or undeclared <u>income</u> due to his unjustified refusal to allow the revenue officers to inspect the building**."[230]

In the case at bar, plaintiff presumed that accused has undeclared income to the extent of the purchase price of the Lamborghini Gallardo. Yet, plaintiff failed to establish the likely source and the nature of the alleged undeclared income, that is, whether it is an ordinary income that should have been reported in accused Villarica's ITR or that said undeclared income was not from other sources. In fact, if the undeclared income is a passive income, such as dividends, royalties, interests or capital gains, accused is not required to declare the same in his ITR as said income is subject to final tax. More importantly, it was not even established that the funds used for the purchase of the Lamborghini Gallardo did not come from accused's savings.

Since there is absence of proof showing accused's likely source of income in 2007 for which he was able to buy the Lamborghini Gallardo, and the corresponding income therefrom which was not declared in the ITR for the said year, plaintiff failed to prove beyond reasonable doubt the first element of the crime.

To reiterate, plaintiff failed to prove that accused filed an inaccurate return resulting in the underdeclaration of his income for taxable year 2007. Hence, there exists a doubt whether there was payment of income tax which is less than that known by the accused to be legally due.

Assuming *arguendo*, that the prosecution was able to prove the likely source of income of accused Villarica, this Court finds that it was still unable to prove the second element of the crime charged.

In this case, the prosecution failed to present any evidence to illustrate any accompanying state of mind, which could be described as "evil", "in bad faith", "willful" or "deliberate and not accidental".

---

[230] *Emphasis and underscoring supplied.*

It bears noting that in *Yutivo Sons Hardware Company v. Court of Tax Appeals*[231], the Supreme Court held that "tax evasion" is a term that connotes fraud thru the use of pretenses and forbidden devices to lessen or defeat taxes. However, in this case, there was no showing or proof of the use of any pretense or forbidden device to lessen or defeat taxes.

It must be stressed that the required burden of proof in the instant case (*i.e.,* proof beyond reasonable doubt) charges plaintiff with the immense responsibility of establishing moral certainty. The plaintiff's case must rise on its own merits, not merely on relative strength as against that of the defense. Should plaintiff fail to discharge its burden, acquittal must follow as a matter of course.[232]

With regard to the civil aspect of this case, the same is deemed simultaneously instituted pursuant to Section 7(b)(1) of Republic Act No. 9282, which provides that "criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized."

In this case, plaintiff presented an undated Preliminary Assessment Notice ("PAN")[233] and Formal Letter of Demand dated June 16, 2011 with Assessment Notice ES-IT-2007-0921 ("FLD")[234], among others, to prove that "due process was observed in pursuing the civil aspect of the tax evasion case against accused WRV for violating Section 254 of the NIRC of 1997".[235]

This Court, however, notes that the subject assessments are void for failure of the BIR to comply with due process.

The requirement of informing the taxpayer of the assessment is mandatory in nature as provided in Section 228 of the NIRC of 1997, as amended, and Section 3 of Revenue Regulations ("RR") No. 12-99, as amended by RR 18-2013, the pertinent portions of which are quoted hereunder for ready reference:

> "SEC. 228. *Protesting of Assessment.* – When the Commissioner or his duly authorized representative finds that

---

[231] G.R. No. L-13203, January 28, 1961.
[232] Capistrano Daayata v. People of the Philippines, G.R. No. 205745, March 08, 2017.
[233] Docket, Exhibit "G", pp. 1839-1841.
[234] *Id.*, Exhibits "J" and "J-1", pp. 1842-1843.
[235] *Id.*, Formal Offer of Evidence, p. 1675.

proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however*, That a preassessment notice shall not be required in the following cases:

xxx xxx xxx

The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable."[236]

"SECTION 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –

3.1 Mode of procedure in the issuance of a deficiency tax assessment:

3.1.1 *Preliminary Assessment Notice (PAN).* – If after review and evaluation by the Commissioner or his duly authorized

---

[236] *Emphasis supplied.*

> representative, as the case may be, it is determined that there exists sufficient basis to assess the taxpayer for any deficiency tax or taxes, the said Office shall issue to the taxpayer a Preliminary Assessment Notice (PAN) for the proposed assessment. It shall show in detail the facts and the law, rules and regulations, or jurisprudence on which the proposed assessment is based xxx.
>
> **If the taxpayer fails to respond <u>within fifteen (15) days from date of receipt of the PAN</u>, he shall be considered in default, in which case, a Formal Letter of Demand and Final Assessment Notice (FLD/FAN) shall be issued calling for payment of the taxpayer's deficiency tax liability, inclusive of the applicable penalties.**
>
> If the taxpayer, within fifteen (15) days from date of receipt of the PAN, responds that he/it disagrees with the findings of deficiency tax or taxes, an FLD/FAN shall be issued within fifteen (15) days from filing/submission of the taxpayer's response, calling for payment of the taxpayer's deficiencytax liability, inclusive of the applicable penalties."[237]

On the basis of the foregoing, after the issuance of the PAN, the Commissioner of Internal Revenue ("CIR") or his duly authorized representative is **duty bound to wait for the expiration of fifteen (15) days from the date of receipt** thereof. If the taxpayer fails to respond to the PAN within the said period, it is only then that the CIR or his duly authorized representative can consider the taxpayer in default, and correspondingly cause the issuance of a formal letter of demand and assessment notice, which shall be subsequently served to the said taxpayer. Such procedure is mandatory under the due process requirement in the issuance of a deficiency tax assessment.

It is an elementary rule enshrined in the 1987 Constitution that no person shall be deprived of property without due process of law. In balancing the scales between the power of the State to tax and its inherent right to prosecute perceived transgressors of the law on one side, and the constitutional rights of a citizen to due process of law and the equal protection of the laws on the other, the scales must tilt in favor of the individual, for a citizen's right is amply protected by the Bill of Rights under the Constitution. Thus, while taxes are the lifeblood of the government, the power to tax has its limits, in spite of all its

---

[237] *Emphasis and underscoring supplied.*

plenitude.[238] But even as We concede the inevitability and indispensability of taxation, it is a requirement in all democratic regimes that it be exercised reasonably and in accordance with the prescribed procedure.[239]

In other words, the persuasiveness of the right to due process reaches both substantial and procedural rights and the failure of the CIR to strictly comply with the requirements laid down by law and its own rules is a denial of the taxpayer's right to due process.

In this case, a perusal of the registry return card[240] of the PAN shows that it was received on June 13, 2011. However, it appears that the FLD[241] was issued only three (3) days later or on June 16, 2011, a clear violation of accused's right to due process.

Clearly, the BIR rushed into the issuance of the FLD, without waiting for the lapse of the period, depriving the accused an opportunity to respond to the PAN. Consequently, the subject assessments are deemed a nullity for having been issued in violation of accused's right to due process.

Without any other evidence presented by plaintiff as proof for the civil aspect of this case, this Court cannot impose any civil liability on the accused in this case.

CONCLUSION

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged.[242]

---

[238] Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc., G.R. No. 197515, July 02, 2014 *citing* Commissioner of Internal Revenue v. Metro Star Superama, Inc., G.R. No. 185371, December 08, 2010.

[239] Commissioner of Internal Revenue v. United Salvage and Towage (Phils.), Inc., G.R. No. 197515, July 02, 2014 *citing* Commissioner of Internal Revenue v. Algue, Inc., G.R. No. L-28896, February 17, 1988.

[240] Docket, Exhibit "WWWW", pp. 849-850.

[241] *Id.*, Exhibits "J" and "J-1", pp. 1842-1843.

[242] Boac, et al. v. People of the Philippines, G.R. No. 180597, November 07, 2008 *citing* People of the Philippines v. Ganguso, G.R. No. 115430, November 23, 1995.

In all criminal prosecutions, the burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in the Information to warrant a finding of guilt for the said crime or for any other crime necessarily included therein.[243]

In the appreciation of evidence in criminal cases, it is a basic tenet that the prosecution has the burden of proof in establishing the guilt of the accused for the offense with which he is charged. *Ei incumbit probation qui dicit non qui negat; i.e.*, "he who asserts, not he who denies, must prove." The conviction of appellant must rest not on the weakness of his defense, but on the strength of the prosecution's evidence.[244]

After careful consideration of the testimonial and documentary evidence presented by both parties, the Court finds that plaintiff failed to prove that there is any tax due from accused Villarica, creating reasonable doubt as to his guilt. Accordingly, the Court finds that plaintiff failed to discharge the burden to prove all the essential elements of the crime attributed to accused. Accused Villarica should be acquitted of the offense charged.

While an assessment is not required in the prosecution of a criminal case, the final determination of the BIR as to the tax liability is necessary in order for the Court to rule on the civil liability. As painstakingly discussed above, the assessment in the case at bar is void for denial of due process. Thus, the same cannot be a basis for accused Villarica's alleged civil tax liability.

WHEREFORE, premises considered, this case is **DISMISSED** for failure of plaintiff to prove beyond reasonable doubt the guilt of accused. Therefore, accused **WILLIAM R. VILLARICA** is **ACQUITTED** of the crime charged.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[243] Leonila Batulanon v. People of the Philippines, G.R. No. 139857, September 16, 2006.
[244] People of the Philippines v. Nenita B. Hu, G.R. No. 182232, October 06, 2008 *citing* People of the Philippines v. Corpuz, G.R. No. 148198, October 01, 2003.

I CONCUR:

ERLINDA P. UY
Associate Justice

ATTESTATION

I attest 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.

ERLINDA P. UY
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice