REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ILOILO CITY GOVERNMENT represented by its CITY MAYOR, HON. JERRY P. TREÑAS, and ILOILO CITY TREASURER JINNY HERMANO,
Plaintiffs,

- *versus* -

LEMACEL TRADING CORPORATION and JUAN MANUEL V. LOPEZ, its President,
Defendants.

CTA CASE NO. OC-028

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:

AUG 07 2025
11:50 a.m.

x - x

RESOLUTION

For the Court's resolution is plaintiffs' *Motion to Reconsider (Resolution dated December 27, 2024)* filed by registered mail on January 21, 2025 and received by the Court on January 30, 2025 and by electronic mail (e-mail) also on January 21, 2025 with defendants *Comment/Opposition (Re: Motion for Reconsideration dated 20 January 2025)* filed by accredited courier on February 7, 2025 and received by the Court on February 10, 2025 and by e-mail on February 7, 2025.

Plaintiffs seek the reconsideration of the Resolution of the Court dated December 27, 2024, the relevant portion of which, reads as follows:

> Based on the evidence offered and admitted by the Court, we find that the plaintiffs failed to prove their allegations, particularly the several demands made upon the defendants on their alleged LBT deficiencies; the refusal of defendants to pay despite these demands and the amounts that the defendants were required to pay the Iloilo City Government. In sum, plaintiffs failed to support their allegation that defendants are liable to pay the alleged LBT deficiencies for the period involved, hence, there is no legal justification for plaintiffs' action to collect the same.

> ***WHEREFORE,*** premises considered, defendants *Demurrer to Evidence* is hereby **GRANTED**.
>
> **SO ORDERED.**

Plaintiffs present the following grounds for their *Motion to Reconsider*, and we quote:

> **FIRST GROUND**: The Honorable Court gravely erred in granting the Defendant's *Demurrer to Evidence,* notwithstanding the sufficiency of evidence for the plaintiff citing Sections 4(b) and 4(c) of Rule 130 of the 2019 Rules on Evidence which expressly provides the admissibility of duplicates into evidence.
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> **SECOND GROUND**: The Honorable Court gravely erred in granting the Defendants' *Demurrer to Evidence* even if jurisprudence provides that ..... *Where the issue is only as to whether such document was actually executed, or exists, or on the circumstances relevant to or surrounding the execution, the best evidence rule does not apply and testimonial evidence is admissible. Any other substitutionary evidence is likewise admissible without need for accounting for the original.*
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> **THIRD GROUND**: The Honorable Court gravely erred in granting the Defendants' *Demurrer to Evidence* even if jurisprudence allows evidence not formally offered to be admitted and considered by the trial court in deciding the case.

Plaintiffs' Arguments

On the First Ground

Plaintiffs aver that the duplicates are admissible as evidence to the same extent as the originals in light of Sections 4(b) and 4(c) of Rule 130 of the Revised Rules on Evidence which provide that "a duplicate is admissible to the same extent as an original unless: (1) a genuine question is raised as to the authenticity of the original, or (2) in the circumstances, it is unjust or inequitable to admit the duplicate in lieu of the original." Plaintiff claims that the records would show that the defendants did not question the authenticity of the duplicates, hence, must be admitted as part of their evidence.

On the Second Ground

Plaintiffs contend that the Best Evidence Rule applies only when the terms of a written agreement are the subject of the inquiry and submit that the questioned duplicates are admissible without necessarily accounting for the original copies thereof. Citing relevant jurisprudence, plaintiff asserts that if the Best Evidence Rule does not apply, any other substitutionary evidence is admissible such as the duplicates in the present case.

On the Third Ground

Plaintiffs also maintain that there are cases where the Supreme Court allows the admissibility of evidence even if the same were not formally offered, thus, negating the basis for the Court's granting of defendants' *Demurrer to Evidence.* Plaintiffs assert that courts may relax this particular rule depending on the circumstances of the case such as when the evidence have been identified by testimony duly recorded and that the evidence must have been duly incorporated in the records of the case.

Defendants' Counter-Arguments

In their *Comment/Opposition,* defendants emphasize the fact that plaintiffs failed to file a timely Motion for Reconsideration of the Court's Resolution dated March 24, 2023 denying vital exhibits that led to the granting of the defendants' Demurrer to Evidence. Defendants allege that the failure of plaintiffs to request the Court to reconsider the denial of these exhibits made the same final and executory and can no longer be admitted in evidence. Defendants counter that this major lapse of plaintiffs can no longer be cured by requesting the Court to relax procedural rules in an attempt to "excuse" their failure to timely avail an appropriate remedy.

Going into the merits of the arguments of plaintiffs, defendants aver that the duplicate originals are inadmissible because their genuineness has been questioned contrary to the claim of plaintiffs. Defendants aver that their pleadings reflect their objection when they stated that the originals of the subject exhibits of plaintiffs have neither been presented nor identified by their witnesses.

RULING OF THE COURT

The Court shall first resolve the timeliness of the filing of petitioners' *Motion to Reconsider (Resolution dated December 27, 2024).*

Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that a party dissatisfied with a decision or resolution of the Court must file a motion for reconsideration or new trial within fifteen (15) days from receipt thereof, and we quote:

> **Rule 15**
> **Motion for Reconsideration or New Trial**
>
> **Section 1.** *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision , resolution or order of the Court by filing a motion for reconsideration or new trial within **fifteen days** from the date of receipt of notice of the decision, resolution or order of the Court in question. *(Emphasis supplied)*

On December 27, 2024, the Court issued a Resolution in the above-captioned case, granting defendants' Demurrer to Evidence consequently dismissing CTA Case No. OC-028 for insufficiency of evidence.

Records show that a copy of the Court Resolution dated December 27, 2024 was sent by the Court to plaintiffs via e-mail on January 3, 2025 and by accredited courier on January 10, 2025.[1]

If counted from plaintiffs' receipt of the Resolution via e-mail on January 3, 2025, they had until January 18, 2025 to file their Motion for Reconsideration. Since January 18, 2025 fell on a Saturday, the last day for filing a Motion for Reconsideration is on the next business day or on January 20, 2025 which is a Monday. Records further show that plaintiffs filed their Motion for Reconsideration by registered mail on January 21, 2025 (which was received by the Court on January 30, 2025),[2] hence, filed beyond the fifteen (15)-day period. However, if counted from plaintiffs' receipt via accredited

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[1] LBC Tracking Number 127381573917, Court Docket, Volume V, pp. 2231 -2232-A.
[2] Court Docket, Volume V, pp. 2248-2267.

courier on January 10, 2025, they had until January 25, 2025 to file their Motion for Reconsideration.

This Court, in the interest of justice and fairness, considering that plaintiffs' office and office of counsel are all located in Iloilo, will consider the receipt by plaintiffs by accredited courier on January 10, 2025 as the reckoning point of the fifteen-day period, hence, the filing of the present *Motion to Reconsider (Resolution dated December 27, 2024)* on January 21, 2025 was within the fifteen-day period and was thus, timely filed.

Now on to the merits of the case.

The several grounds raised by plaintiffs all focus on the admissibility of the duplicates which have been denied admission by the Court Resolution dated March 24, 2023 resolving petitioners' Formal Offer of Evidence.

Instead of filing a timely Motion for Reconsideration to raise the grounds now being presented to this Court, petitioners filed a Motion for Leave to Tender Excluded Evidence which was made clear during the hearing held on April 12, 2023, and we quote:

> **Justice Del Rosario**:
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> All right. You made mention of Leave of Court. You see, in criminal cases, there is such a thing as Leave of Court with respect to Demurrer of Evidence, but when we talk of Tender of Excluded Evidence, there is actually evidence that was excluded by the Court, meaning, **it may not form part of the record**. So, the essence of a Tender of Excluded Evidence is for the party-litigant to be allowed to include in the docket the excluded evidence. Let us clarify this. Would you agree with the Court that you have not filed a Motion for Reconsideration from the Resolution of the Court dated March 24, 2023 with respect to the Formal Offer of Evidence?
>
> **Atty. Cuñada**:
>
> Yes, your Honors, **we have not filed a Motion for Reconsideration, instead we opted to file a Tender of Excluded Evidence**. *(Emphases supplied)*

This Court subscribes to the contention of defendants that the denial of the vital exhibits has already become final and executory when plaintiffs failed to file a timely Motion for Reconsideration on the Resolution denying said exhibits. The Court Resolution dated December 27, 2024 granting defendants' Demurrer to Evidence reflected the dearth of evidence on the part of plaintiffs and consequently ruled that based on the evidence offered and admitted by the Court, they failed to prove their allegations, particularly the several demands made upon defendants on their alleged LBT deficiencies and their alleged refusal to pay despite these demands. Quoted below is a portion of the assailed Resolution, thus:

> Records, however, show that vital documents demanding payment of deficiency LBT including the Letter of Authority and Final Demand for Payment were all denied admission in the Court's Resolution dated March 24, 2023 for failure to submit the originals for comparison. Among those denied admission by the Court are the following, thus:

Exhibit	Description
P-5	Letter of Authority No. 7
P-10	City Treasurer's Office Letter dated 08 November 2016
P-11	New Order of Payment dated November 8, 2016
P-12	Summons dated 13 March 2017
P-14	Final Demand issued on August 3, 2017
P-16	Mr. Jinny Hermano's Letter dated September 11, 2017
P-22	Demand dated January 8, 2018
P-23	Second Demand dated January 25, 2018
P-24	Final Demand dated February 13, 2018

WHEREFORE, premises considered, plaintiffs' *Motion to Reconsider (Resolution dated December 27, 2024)* is **DENIED** for lack of merit.

Accordingly, the Resolution of the Court dated December 27, 2024 dismissing CTA Case No. OC-028 is hereby **AFFIRMED**.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice