REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Plaintiff-appellant,

-versus-

ARNEL CORTEZ MANALOTO and ERWIN SICANGCO CARREON,
Accused-appellees.

CTA EB CRIM. NO. 085
(R-ANG-20-000-73-SC)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes- Fajardo, *and*
Cui-David, *JJ.*

Promulgated:
FEB 09 2022 2:16 p.m.

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DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review filed by plaintiff-appellant People of the Philippines seeking nullification of the Order[1] of the Regional Trial Court, Branch 56- Angeles City (RTC), the dispositive portion of which reads:

> "**WHEREFORE,** the Petition is denied due course.
>
> Serve copies of this Order to Senior Asst. State Prosecutor Edna A. Valenzuela, Asst. City Prosecutor Mark Oliver C. Sison, Atty. Loujean A. Gemanil-Adriano and to the accused.
>
> **SO ORDERED.**"

[1] Rollo, CTA EB CRIM NO. 085, p. 50.

and the Order on the Motion for Reconsideration[2] dated August 27, 2020, denying plaintiff-appellant's "Motion for Reconsideration with Attached Motion to Include Indispensable Party (of the Order dated January 8, 2020)," the dispositive portion thereof reads:

> "WHEREFORE, in view of all the foregoing, the Motion for Reconsideration with Attached Motion to Include Indispensable Party is DENIED.
>
> Send copies of this Order to the Bureau of Internal Revenue, the Municipal Trial Court in Cities of Angeles City Branch 2, and to the respondents.
>
> SO ORDERED."

THE PARTIES

Plaintiff-appellant represents the State. The lawyers of the Bureau of Internal Revenue (BIR) are duly authorized by virtue of a Memorandum of Agreement dated March 17, 2010, executed between the Office of Solicitor General (OSG) and the BIR, to file the present appeal.

Accused-appellee Arnel Cortez Manaloto (accused-appelle Manaloto) is a registered taxpayer with Tax Identification Number (TIN) 240-090-529-000, Filipino, and of legal age.

Accused-appellee Erwin Sicangco Carreon (accused-appellee Carreon) is the Certified Public Accountant (CPA) who signed and certified the financial statements of accused-appellee Manaloto and issued the Independent Auditor's Report attached to the 2011 Income Tax Return of accused-appellee Manaloto.

Public respondent Judge Rochelle Santos Manuel, Acting Presiding Judge of Municipal Trial Court in the Cities, Branch 2- Angeles City (MTCC) is the Court that rendered the Decision dated October 9, 2019.[3]

THE FACTS

Filed before the MTCC against accused-appellee Manaloto is the Information for violation of Section 275, in relation to Section 236 (G) of the NIRC of 1997, as amended, allegedly committed as follows:

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[2] Rollo, pp. 45-50.
[3] Petition for Review, pp. 2-3.

> "That in the year 2011 or on dates thereafter, in Angeles City, Pampanga, and within the jurisdiction of this Honorable Court, the above-named accused, a law practitioner and a Filipino citizen residing in the Philippines who engages in the sale of services in the course of his trade or profession, and at the time required by law, rules and regulations to register for Value-Added Tax (VAT), as his gross sales of services or receipts for the past twelve months of taxable year 2010 as well as his gross sales of services or receipts for the next twelve (12) months of taxable year 2011, other than those that are exempt, had exceeded P1,500,000.00, did then and there, willfully, unlawfully and feloniously fail to register for Value-Added Tax, in violation of Section 275 in relation to Section 236 (G) of the National Internal Revenue Code of 1997, as amended, to the damage and prejudice of the Government of the Republic of Philippines.
>
> CONTRARY TO LAW."[4]

On the other hand, accused-appelle Carreon was charged before the MTCC with violation of Section 257(A)(2) of the NIRC, 1997, as amended, allegedly committed as follows:

> "That in the year 2012, at Angeles City, Pampanga, and within the jurisdiction of this Honorable Court, the above-named accused, as an independent Certified Public Accountant engaged to examine and audit books of accounts and other accounting records of Atty. Arnel Cortez Manaloto for taxable yea (sic) 2011, did, then and there willfully, unlawfully and feloniously certify the financial statements of Atty. Arnel Cortez Manaloto for the period ending 31 December 2011, which contained essential misstatements of fact and omissions in respect of the transactions and taxable income of the latter, in violation of Section 257(A) (2) of the National Internal Revenue Code of 1997, as amended, to the damage and prejudice of the Government of the Republic of the Philippines.
>
> CONTRARY TO LAW."[5]

Upon arraignment, appellees Manaloto and Carreon, duly assisted by their counsel, entered their pleas of not guilty to the crimes charged against them.

During trial, both parties presented their respective evidence.

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[4] Decision, p. 1, Rollo, p. 77.

[5] Decision, p. 2, Rollo, pp. 77-78.

The MTCC was confronted with these issues: "1) Whether accused Arnel Manaloto is guilty of violation of Section 275 in relation to 236 (G) of the National Internal Revenue Code of 1997, as amended, and (2) whether accused Erwin Carreon is guilty of making false entries, records and reports in violation of Section 257 (A)(2) of the National Internal Revenue Code of 1997, as amended?"[6]

On October 9, 2019, the MTCC issued the assailed Decision,[7] the dispositive portion thereof reads as follows:

> "**WHEREFORE,** in view of the foregoing disquisition, the Court finds both accused Arnel Cortez Manaloto and Erwin Sicangco Carreon **ACQUITTED** of their respective charges. No cost of suit."

On January 6, 2020, petitioner filed before the RTC, a Petition for Certiorari[8] dated January 3, 2020, under Rule 65 of the Rules of Court. The case was docketed as R-ANG-20-00073-SC and was raffled to Branch 56 of the said court.

On January 8, 2020, the RTC issued an Order[9] denying due course the Petition for Certiorari. On March 13, 2020, plaintiff-appellant filed a "Motion for Reconsideration with Attached Motion to Include Indispensable Party (of the Order dated January 8, 2020)"[10] dated March 10, 2020.

On August 27, 2020, the RTC issued an Order[11] signed by Assisting Judge Rodrigo I. Del Rosario, denying the "Motion for Reconsideration with Attached Motion to Include Indispensable Party (of the Order dated January 8, 2020).

On October 9, 2020, plaintiff-appellant filed the instant Petition for Review.[12]

In the Resolution[13] dated November 18, 2020, accused-appellee were directed by the Court *En Banc* to file their Comment in this case within ten (10) days from notice.

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[6] Decision, p. 15, Rollo, p. 91.
[7] Rollo, pp. 77-94.
[8] Rollo, pp. 51-76.
[9] Rollo, p. 50.
[10] Rollo, pp. 461-478.
[11] Rollo, pp. 452-460.
[12] Ibid. pp. 1-37, with Annexes.
[13] Ibid pp. 489-490.

On January 18, 2021, the Judicial Records Division of this Court issued a Record Verification Report[14] stating that accused-appellees failed to file their comment on plaintiff-appellant's Petition for Review.

Hence, in the Resolution dated February 2, 2021, the Court *En Banc* gave due course to the Petition for Review, and the case was deemed submitted for decision.[15]

ISSUE

The Court *En Banc* is confronted with this main issue: ***Whether or not the RTC-Branch 56, Angeles City erred in denying the Petition for Certiorari.***

THE ARGUMENTS

Plaintiff-appellant argues that the Court of Tax Appeals has jurisdiction over the instant case pursuant to Section 2(a), Rule 41 of the Rules of Court, and Rule 4 of A.M. No. 05-11-07 or the Revised Rules of the Court of Tax Appeals; that RTC erred in denying the Petition for Certiorari filed under Rule 65 of the Rules of Court; that MTCC gravely erred in acquitting accused-appellee of the crimes charged against them; and that the MTCC, in deciding the cases, blindly considered the self-serving evidence of accused-appellees and disregarding the evidence offered by plaintiff-appellant, proving the guilt of accused-appellees beyond reasonable doubt.

RULING OF THE COURT *EN BANC*

JURISDICTION OF THE COURT

On October 9, 2019, Judge Rochelle Santos Manuel of MTCC-Branch 2, Angeles City rendered judgment acquitting both accused-appellants. Then, within the reglementary period to file a Petition for Certiorari, plaintiff-appellant filed before the RTC, a Petition for Certiorari under Rule 65 of the Rules of Court.

On January 8, 2020, Judge Rodrigo I. Del Rosario of RTC-Branch 56, Angeles City issued an Order denying due course on plaintiff-appellant's Petition for Certiorari. Plaintiff-appellant timely filed a Motion for Reconsideration on March 13, 2020. On August 27, 2020, an Order was issued denying plaintiff-appellant's Motion for Reconsideration. On September 24, 2020, plaintiff-appellant received a copy of the Order on the Motion for Reconsideration.

[14] Rollo, p. 495.
[15] Ibid. pp. 497-498.

Rule 41, Section 3 of the Rules of Court thereof provides that "The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from." Hence, plaintiff-appellant has fifteen (15) days from receipt of the Order to file an appeal before this Court.

On October 9, 2020, plaintiff-appellant filed the present Petition for Review.

Rule 4, Section 2 (h) of the 2005 Rules of the Court of Tax Appeals, as amended, states as follows:

> "SEC. 2. *Cases within the jurisdiction of the Court en banc*. – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:
>
> xxx xxx xxx
>
> (h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over criminal offenses mentioned in subparagraph (f)."

Considering that the Petition for Certiorari before the RTC-Branch 56, Angeles City was rendered in the exercise of its appellate jurisdiction, this Court *En Banc* has jurisdiction over the instant Petition for Review.

A JUDGMENT OF ACQUITTAL MAY BE ASSAILED ONLY BY PETITION FOR CERTIORARI

The RTC dismissed the Petition for Certiorari on the ground that it was filed without the benefit of a motion for reconsideration, and ruled that there was no grave abuse of discretion on the part of the MTCC.

In our jurisdiction, We adhere to the finality-of-acquittal doctrine, that is, a judgment of acquittal is final and unappealable. A judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[16]

[16] *People of the Philippines vs. Lino Alejandro y Pimentel*, G.R. No. 223099, January 11, 2018, citing *People v. Hon. Asis, et al.*, 643 Phil. 462, 469 (2010); *Villareal v. Aliga*, 724 Phil. 47, 62 (2014).

Section 21, Article III of the 1987 Philippine Constitution provides: "No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by law or an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

In order for double jeopardy to attach, the following elements must be present: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.[17]

Records show that all the elements for double jeopardy to attach are present in this case. There was valid Information for the crimes charged against to which the MTCC had jurisdiction and to which accused-appellants entered their pleas of not guilty. Thereafter, a judgment of acquittal was rendered and promulgated by the court.

However, there are exceptions to the rule on double jeopardy. *First* is where there has been deprivation of due process and where there is a finding of mistrial, or *second*, where there has been a grave abuse of discretion under exceptional circumstances.[18]

Thus, a judgment of acquittal may be assailed only in a Petition for Certiorari under Rule 65 of the Rules of Court, which states as follows:

> "**SECTION 1. Petition for Certiorari.** – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, nor any plain, speedy or adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46."

[17] Ibid., *Chiok v. People, et al.*, 774 Phil. 230, 247-248 (2015).
[18] Ibid., *Villareal vs. Aliga*, 724 Phil. 47, 64 (2014).

In the case of *Arlyn Almario-Templonuevo vs. Office of the Ombudsman, the Honorable Secretary, Department of Interior and Local Government and Chito M. Oyardo*,[19] the Supreme Court ruled there are exceptions to the rule that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for certiorari. One exception is when under the circumstances, a motion for reconsideration would be useless. We quote the High Court's decision as follows:

> "The settled rule is that a motion for reconsideration is a condition *sine qua non* for the filing of a petition for *certiorari*. Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case.
>
> This rule, however, admits well-defined exceptions, such as (a) where the order is a patent nullity, as where the court *a quo* has no jurisdiction; (b) where the questions raised in the *certiorari* proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court; (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable; (d) where, under the circumstances, a motion for reconsideration would be useless; (e) where petitioner was deprived of due process and there is extreme urgency for relief; (t) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable; (g) where the proceedings in the lower court are a nullity for lack of due process; (h) where the proceeding were ex parte or in which the petitioner had no opportunity to object; and (i) where the issue raised is one purely of law or where public interest is involved.
>
> Templonuevo contended that her non-filing of a motion for reconsideration of the assailed Ombudsman decision was justified because it would be useless. She claims that the assailed decision was final, executory and unappealable, hence, beyond the ambit of a motion for reconsideration following Section 7, Rule III of Administrative Order No. 07. She also argued that the Ombudsman's decision was a patent nullity considering that her election as Vice Mayor of the same municipality precluded the attachment to her of any administrative liability arising from the acts done while she was a Sangguniang Bayan Member.
>
> The Court agrees with Templonuevo on her first position.
>
> *xxx* *xxx* *xxx*

[19] G.R. No. 198583, June 28, 2017.

In this case, Templonuevo was meted with a penalty of one month suspension. Accordingly, the decision of the Ombudsman is final, unappelable and immediately executory.

xxx *xxx* *xxx*

Left without any remedy in the ordinary course of law, Templonuevo was justified in resorting directly to the CA via a Rule 65 petition. Indeed, an independent action for *certiorari* may be availed of only when there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law and *certiorari* is not a substitute for the lapsed remedy of appeal. In other words, because petitioner could not avail a motion for reconsideration or an appeal, her choice of a Rule 65 petition was proper."

In the instant case, a motion for reconsideration would be useless since a judgement of acquittal is final, unappealable and immediately executory. There is no appeal, or any plain, speedy or adequate remedy in the ordinary course of law. Thus, plaintiff-appellant is correct when it filed the petition for certiorari before the RTC even without a prior filing of motion for reconsideration before the MTCC.

WHETHER THE RTC-ERRED IN DENYING THE PETITION FOR CERTIORARI

Plaintiff-appellant begs the Court *En Banc* to examine the error of the RTC in not finding that there is grave abuse of discretion on the part of the MTCC in deciding the criminal cases against accused-appellees.

Accused-appellant Manaloto was charged with Failure to Register for Value-Added Tax (VAT) in violation of Section 275, in relation to Section 236 (G) of the NIRC of 1997, as amended, which provides:

"**SEC. 275. Violation of Other Provisions of this Code or Rules and Regulations in General.** – Any person who violates any provision of this Code or any rule or regulation promulgated by the Department of Finance, for which no specific penalty is provided by law, shall, upon conviction of each act or omission, be punished by a fine of not more than One thousand pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both."

"**SEC. 236. Registration Requirements. -**

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xxx xxx xxx

(G) Persons Required to Register for Value-Added Tax.-

(1) Any person who, in the course of trade of business, sells, barters or exchange goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if;

(a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109 (A) to (U), have exceeded One million five hundred thousand pesos (P1,500,000); or

(b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109 (A) to (U), will exceed One million five hundred thousand pesos (P1,500,000)."

On the other hand, accused-appellant Carreon was charged with violation of Section 257 (A)(2) of NIRC of 1997, as amended, which provides:

"SEC. 257. Penal Liability for Making False Entries, Records or Reports, or Using Falsified or Fake Accountable Forms.-

(A) Any financial officer or independent Certified Public Accountant engaged to examine and audit books of accounts of taxpayers under Section 232 (A) and any person under his direction who:

(1) Willfully falsifies any report or statement bearing on any examination or audit, or renders a report, including exhibits, statements, schedules or other forms of accounting of accountancy work which has not been verified by him personally or under his supervision by a member of his firm or by a member of his staff in accordance with sound auditing practices; or

(2) Certifies financial statements of a business enterprise containing an essential misstatement of facts or omission in respect of the transactions, taxable income, deduction and exemption of his client; or xxx xxx"

The case against accused-appellee Manaloto is for failure to register as a VAT Taxpayer for 2011 for accumulating income more than Php1,500,000.00 while accused-appellee Carreon is for essential misstatement of fact with respect to the transactions of accused-appellee Manaloto. Accused-appellee Manaloto allegedly bought a number of real properties sold to him by Datu Andal U. Ampatuan, Jr. on January 17, 2011. According to the BIR, since accused-appellee was able to buy the said real properties, it presupposes that he had income more than Php1,500,000.00 during the taxable year prior to the said sale transaction. Hence, accused-appellee should have registered himself as a VAT taxpayer.

MTCC dismissed the criminal cases against accused-appellees since the prosecution's evidence is insufficient to sustain a conviction. According to MTCC, based on the evidence presented, plaintiff-appellant failed to observe the procedure in using the Expenditure Method, *i.e.* the establishment, with reasonable certainty, of an opening net worth to serve as a starting point, from which to calculate future increases in the taxpayer's assets. Moreover, no report was submitted nor accused-appellant Manaloto was notified thereof. What was presented before the said Court was a mere Computation of Unreported Income Using Expenditures Method, which was not signed by the Commissioner.

The question now is whether MTCC acted with grave abuse of discretion when it acquitted both accused-appellees.

Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[20]

In the same case of *People of the Philippines vs. Lino Alejandro y Pimentel*,[21] the Supreme Court ruled that "the only instance when double jeopardy will not attach is when the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was denied the opportunity to present its case or where the trial was a sham. However, while certiorari may be availed of to correct an erroneous acquittal, the petitioner in such an ordinary proceeding must clearly demonstrate that the trial court blatantly abused its authority to appoint so grave as to deprive it of its very power to dispense justice."

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[20] *Remedios Pascual vs. Benito Burgos, et al.,* G.R. No. 171722, January 11, 2016.

[21] G.R. No. 223099, January 11, 2018, citing *People vs. Laguio, Jr.*, 547 Phil. 296 (2007).

After a judicious review of the pleadings filed and the records of the instant case, the Court *En Banc* finds that the RTC is correct when it denied the Petition for Certiorari.

We quote with approval the Order of the RTC as follows:

> "An examination of the decision of the municipal trial court, however, yields to the conclusion that there was no grave abuse of discretion on its part. Even if the trial court had incorrectly overlooked the evidence against the respondents, it only committed an error of judgment, and not one of jurisdiction, which could be rectified by a petition for certiorari because double jeopardy had already set in.
>
> *xxx* *xxx* *xxx*
>
> The right of the accused against double jeopardy is protected by no less than the Bill of Rights (Article III) contained in the 1987 Constitution, to wit:
>
> *xxx* *xxx* *xxx*
>
> The only instance when the accused can be barred from invoking the right against double jeopardy is when it can be demonstrated that the trial court acted with grave abuse of discretion amounting to lack or excess of jurisdiction, such as where the prosecution was not allowed the opportunity to make its case against the accused or where the trial was a sham.
>
> In this case, all four elements of double jeopardy are doubtless present. *xxx xxx*. Thus, the respondent's acquittal was valid, and this Court is honor bound to uphold their right against double jeopardy."[22]

Plaintiff-appellant failed to prove that there is abuse of discretion on the part of the MTCC. Whether MTCC committed error of judgment in its exercise of legitimate jurisdiction in deciding the criminal cases against both accused-appellees, is not for the RTC to determine in a petition for certiorari where only errors of jurisdiction may be raised. The abuse of discretion contemplated by law must be grave and patent. Such was not proven before the proceedings in the RTC.

Hence, the Court *En Banc* finds no cogent reason to reverse the assailed Order dated August 27, 2020.

[22] Order dated August 27, 2020, pages 7-8, citations omitted., Rollo, pp- 458-459.

WHEREFORE, premises considered, the plaintiff-appellant's Petition for Review is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

With due respect, please see CDO.

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

CERTIFICATION

Pursuant to Section 13 of Article VIII 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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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- versus -

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CTA EB CRIM. NO. 085
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Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
FEB 09 2022 2:16 p.m.

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CONCURRING AND DISSENTING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of our esteemed colleague, Justice Ma. Belen Ringpis-Liban, that the instant Petition for Review should be denied for lack of merit. However, with due respect, it is my opinion that the Court *En Banc* needs to further clarify the basis for its exercise of jurisdiction over the subject petition.

The *ponencia* cites Section 2(h), Rule 4 of the Revised Rules of the Court of Tax Appeals[1] (**RRCTA**) as the basis for this Court's exercise of jurisdiction over the present action. The pertinent provision reads:

1 A.M. No. 05-11-07-CTA dated 22 November 2005.

> ...
> **SECTION 2.** *Cases Within the Jurisdiction of the Court En Banc.* — The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> ...
> (h) Decisions, resolutions or orders of the Regional Trial Courts in the exercise of their **appellate** jurisdiction over criminal offenses mentioned in subparagraph (f).[2]
> ...

It must be pointed out, however, that the present petition seeks the nullification of the Resolution dated 08 January 2020 (**assailed Resolution**) and Order dated 27 August 2020 (**assailed Order**) of the Regional Trial Court, Branch 56, Angeles City (**RTC-Branch 56**) which denied the prior Petition for Certiorari (under Rule 65 of the Rules of Court) filed by plaintiff-appellant on the acquittal of accused-appellees before the Municipal Trial Court in Cities (**MTCC**) of Angeles City, Branch 2.

With due respect, contrary to the *ponencia*'s declaration, the RTC-Branch 56 resolved the plaintiff-appellant's prior Petition for Certiorari in the exercise of its <u>original jurisdiction</u> and *not* its appellate jurisdiction. The prior Petition for Certiorari filed before RTC-Branch 56 is an *original* action and *not* an appeal on the acquittal of accused-appellees. Obviously, no appeal can be taken from the verdict of acquittal as it will place the accused in double jeopardy.

In *Godofredo Enrile, et al. v. Hon. Danilo A. Manalastas, et al.*[3] (**Enrile**), the Supreme Court declared:

> ...
> Firstly, considering that the certiorari case in the RTC was an **original action**, the dismissal of the petition for certiorari on May 25, 2004, and the denial of the motion for reconsideration on July 9, 2004, **were in the exercise of its original jurisdiction**. As such, the orders were final by reason of their completely disposing of the case, leaving nothing more to be done by the RTC. **The proper recourse for the petitioners should be an appeal by notice of appeal**, taken within 15 days from notice of the denial of the motion for reconsideration.
> ...

Therefore, with due respect, the invocation of 2(h)[4], Rule 4 of the RRCTA in the *ponencia* is inaccurate.

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[2] Emphasis supplied.

[3] G.R. No. 166414, 22 October 2014; Citations omitted and emphasis supplied.

It is noted that there is no express conferment of authority upon this Court to review on appeal the original actions for certiorari filed with the RTC. Notwithstanding the absence of law or rule on this Court's power of review over original actions for certiorari with the RTC, I submit that this Court can so proceed.

In *Bureau of Customs v. The Honorable Agnes VST Devanadera, Acting Secretary, Department of Justice*[5] (**Devanadera**) citing *The City of Manila, et al v. Hon. Caridad H. Grecia-Cuerdo, et al.*[6], the Supreme Court declared:

...

> **If this Court were to sustain petitioners' contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter - precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.**
>
> Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of *certiorari* against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court in the same case. It is more in consonance with logic and legal soundness to conclude that

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4 Supra at p. 2.

5 G.R. No. 193253, 08 September 2015; Citations omitted, italics in the original text and emphasis supplied.

6 G.R. No. 175723, 04 February 2014.

> the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of *certiorari* in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.
>
> ...
>
> If the Court were to rule that jurisdiction over a petition for *certiorari* assailing such DOJ resolution lies with the CA, it would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter - precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative intent, especially considering that R.A. No. 9282 expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power.
>
> **Concededly, there is no clear statement under R.A. No. 1125, the amendatory R.A. No. 9282, let alone in the Constitution, that the** CTA **has original jurisdiction over a petition for *certiorari*.** By virtue of Section 1, Article VIII of the 1987 Constitution, vesting judicial power in the Supreme Court and such lower courts as may be established by law, to determine whether or not there has been a grave abuse of discretion on the part of any branch or instrumentality of the Government, in relation to Section 5(5), Article VIII thereof, vesting upon it the power to promulgate rules concerning practice and procedure in all courts, the Court thus declares that the CA's original jurisdiction over a petition for *certiorari* assailing the DOJ resolution in a preliminary investigation involving tax and tariff offenses was necessarily transferred to the CTA pursuant to Section 7 of R.A. No. 9282, and that such petition shall be governed by Rule 65 of the Rules of Court, as amended. Accordingly, it is the CTA, not the CA, which has jurisdiction over the petition for *certiorari* assailing the DOJ resolution of dismissal of the BOC's complaint-affidavit against private respondents for violation of the TCCP.
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> ...

In *Devanadera*, while it was noted that there is no clear statement under the present laws and in the Constitution conferring this Court the original jurisdiction over a petition for *certiorari*, the Supreme Court nevertheless upheld this Court's jurisdiction since it is the tribunal with the specialized competence over tax and tariff matters. The Supreme Court further concluded that to confer the same to the Court of Appeals (**CA**) would promote split-jurisdiction situation which is anathema to the orderly administration of justice.

To my mind, until such time that there is already a specific law or rule governing appeals from original actions emanating from the RTC to this Court (relating to tax and tariff matters), the pronouncement in *Devanadera* that this Court has the specialized competence over tax and tariff matters, should be the primary basis in upholding jurisdiction over the present action (or similar actions of this kind), to be governed in the meantime by Rule 41[7] of the Rules of Court[8], specifically, by filing a notice of appeal, as stated in the aforementioned *Enrile* case.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[7] Appeals from the Regional Trial Courts.

[8] See Section 3, Rule 1 of the RRCTA which provides that "[t]he Rules of Court in the Philippines shall apply suppletorily to these Rules."