REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CITY OF MAKATI AND NELIA A. BARLIS, IN HER CAPACITY AS THE MAKATI CITY TREASURER, *Petitioners,*	**CTA AC No. 208**
	Members:
-*versus*-	**DEL ROSARIO**, *P.J., Chairperson,* **FABON-VICTORINO**, *and* **MANAHAN**, *JJ.*
CASOP ATLAS CORPORATION, *Respondent.*	Promulgated: JUN 08 2020 11:38 am

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RESOLUTION

MANAHAN, *J.:*

On January 9, 2020, the Court dismissed the Petition for Review filed by petitioners Makati City and Nelia A. Barlis, in her capacity as the Makati City Treasurer. The Court found that the Verification and Certification of Non-Forum Shopping, signed by Ms. Jesusa E. Cuneta, is defective for failure to show that she is authorized to cause the preparation and filing of the subject petition, and to sign the verification and certification.[1]

On January 24, 2020, petitioners filed their *Motion for Reconsideration (of the Decision dated 09 January 2020) With Motion to Admit Amended Petition for Review.* Respondent filed its *Opposition (Re: Petitioners' Motion for Reconsideration with Motion to Admit Amended Petition for Review dated January 23, 2020)* on February 28, 2020.

In their *Motion*, petitioners state that Jesusa E. Cuneta, the incumbent Treasurer of Makati City is duly authorized to cause the preparation and filing of the herein case; and, that Nelia A. Barlis, the former City Treasurer, was inadvertently included in the title instead of Jesusa E. Cuneta. Thus, petitioners move that the title of the petition be amended to replace Nelia A. Barlis, and reflect the incumbent City Treasurer

[1] Decision dated January 9, 2020, pp. 6-11.

Jesusa E. Cuneta. In relation to this, petitioners filed an Amended Petition for Review and pray for its admission.

Petitioners further state that respondent is a holding company properly taxed under Section 3A.02(p) in relation to Section 3A.02(h) of the Revised Makati Revenue Code (RMRC). Petitioners also state that respondent did not comply with the period required by the RMRC to file judicial action for petition to annul local business tax assessment.

In its *Opposition*, respondent states that petitioner did not provide a justifiable reason to call for the liberal construction of the rule on certification against forum shopping. Thus, the Court correctly dismissed the petition due to its defective certification against forum shopping.

Respondent also states that City Resolution No. 2016-A-031, which petitioner submitted to show Ms. Cuneta's authority, does not expressly authorize Ms. Cuneta to file an action. Instead, being a department head, Ms. Cuneta must be duly authorized by the City Mayor. However, petitioners failed to provide proof of this required authorization of Ms. Cuneta from the City Mayor.

Respondent also points that petitioners did not submit a corrected certification of non-forum shopping. As to the motion to admit the amended petition for review, respondent opposes the same for being a mere afterthought.

Petitioners' *Motion* is denied.

Petitioners submitted an Amended Petition for Review reflecting the name of Ms. Jesusa E. Cuneta as incumbent Makati City Treasurer, which would thus render the Verification and Certification of Non-Forum Shopping, signed by Ms. Cuneta who is now a party to the case, as correctly executed.

However, even if the Court admits the Amended Petition for Review, petitioners still failed to adequately prove that Ms. Cuneta is properly authorized to file the instant petition and to sign the Certification of Non-Forum Shopping.

The following discussion is relevant:

Without doubt, local government units, such as petitioner City of Makati, have the power to sue, pursuant to Section 22 of the LGC of 1991, to wit:

> "SEC. 22. *Corporate Powers.* –
>
> (a) **Every local government unit, <u>as a corporation</u>, shall have the following powers:**
>
> xxx xxx xxx
>
> (2) **<u>To sue</u>** and be sued;" (*Emphases and underscoring supplied)*

However, Section 458(a)(1)(viii) of the LGC of 1991 provides as follows:

> "SEC. 458. *Powers, Duties, Functions and Compensation.* – (a) **The Sangguniang Panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions** and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code and **<u>in the proper exercise of the corporate powers of the city as provided under Section 22 of this Code</u>, and shall:**
>
> (1) **Approve ordinances and pass resolutions necessary for an efficient and effective city government, and in this connection, shall:**
>
> xxx xxx xxx
>
> (vii) **Subject to the provisions of this Code and pertinent laws, <u>determine the powers and duties of officials</u> and employees <u>of the city</u>.**" (*Emphases and underscoring supplied)*

Based on the foregoing provision, the *Sangguniang Panlungsod* is mandated, *inter alia,* to approve ordinances and pass resolutions in the proper exercise of its power to sue. And in connection thereto, the said

Sanggunian shall approve and pass resolutions, among others, determining the powers and duties of city officials, subject to the provisions of the LGC of 1991 and pertinent laws. In other words, except when the power to sue is explicitly granted or designated to a particular city official under the law, a prior ordinance or resolution from the *Sangguniang Panlungsod* is necessary for any city official to exercise such power.

While the LGC of 1991 grants certain powers and duties to the local treasurer, a careful examination of the said law would reveal that there is nothing therein, which authorizes the said official [to file] an appeal in the appropriate court on behalf of the concerned local government unit. Furthermore, it is noteworthy that Republic Act No. 7854, the charter of petitioner City of Makati, does not grant such authority to the same official, as shown under Section 26 thereof, to wit:

> "Sec. 26. *The City Treasurer.* – x x x
>
> xxx xxx xxx
>
> The city treasurer shall take charge of the city finance department and shall:
>
> (a) Advise the city mayor, the sangguniang panlungsod, and other local government and national officials concerned regarding disposition of local government funds and on such other matters relative to public finance;
>
> (b) Take custody and exercise proper management of the funds of the City;
>
> (c) Take charge of the disbursement of all funds of the City and such other funds the custody of which may be entrusted to him by law or other competent authority;
>
> (d) Inspect private commercial and industrial establishments within the jurisdiction of the City in relation to the implementation of tax ordinances, pursuant to the provisions of the Local Government Code;

> (e) Maintain and update the tax information system of the City; and
>
> (f) Perform such other duties and functions and exercise such other powers as provided for under Republic Act No. 7160, otherwise known as the Local Government Code of 1991, **and those that are prescribed by law or ordinance**." (*Emphasis supplied*)

Thus, for petitioner Makati City Treasurer to exercise the power of petitioner City of Makati to file the instant *Petition for Review* with this Court, a prior ordinance from the *Sangguniang Panlungsod* of petitioner City of Makati must be issued.[2]

In the subject *Motion*, petitioners submitted Makati City Ordinance No. 2016-A-031 as proof that Ms. Jesusa E. Cuneta, as incumbent city treasurer and head of the concerned department, is duly authorized to file the instant case.

A careful reading of Makati City Ordinance No. 2016-A-031 shows that the following are authorized to file action for the City of Makati: (1) Honorable Mayor Mar-Len Abigail S. Binay; (2) City Administrator Atty. Claro F. Certeza; or, (3) the concerned department head duly authorized by the City Mayor.[3]

Based on the foregoing, not all department heads are authorized to file or cause to file an action on behalf of the City of Makati. For such department heads to be able to file or cause to file an action on behalf of the City of Makati, they must be duly authorized by the City Mayor to do so.

Here, there is no proof that Ms. Cuneta is so authorized to file or cause to file the instant case by the City Mayor. Absent such authority, neither does she have the authority to sign the Certification of Non-Forum Shopping.

Based on the foregoing, the dismissal of the Petition for Review due to a defective Certification of Non-Forum Shopping is affirmed.

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[2] *Makati City Treasurer and City of Makati v. Mermac, Inc.*, CTA AC No. 193, March 7, 2019.

[3] City Resolution No. 2016-A-031 (Annex "A" to petitioners' Motion for Reconsideration), Section 1.

WHEREFORE, the instant *Motion for Reconsideration (of the Decision dated 09 January 2020) With Motion to Admit Amended Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice