

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

THIRD DIVISION

**STA. ELENA
CONSTRUCTION &
DEVELOPMENT
CORPORATION,**

Petitioner,

CTA SCA CASE NO. 0045

Members:

**MODESTO-SAN PEDRO, Chairperson, and
FERRER-FLORES, JJ.**

- versus -

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

APR 28 2026

4:16 p.m.

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RESOLUTION

Before the Court is the **Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)** filed by petitioner **Sta. Elena Construction & Development Corporation** on February 5, 2026 against respondent **Commissioner of Internal Revenue (CIR)**. The *Petition* prays for the Court to:

- 1) Give due course to the present *Petition for Certiorari*;
- 2) Declare that respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in failing and refusing to resolve petitioner's timely Motion for Reconsideration for calendar year (CY) 2016, despite the jurisdictional defects therein raised, including prescription and lack of authority to assess;
- 3) Annul and set aside for having been issued and enforced with grave abuse of discretion, the assailed acts, issuances, and proceedings of respondent insofar as they pertain to CY 2016, including the continued enforcement of the assessment notwithstanding the unresolved Motion for Reconsideration;
- 4) Declare the assessment for CY 2016 is (sic) unenforceable for lack of authority, having been issued beyond the prescriptive period and anchored on a defective Waiver of the Statute of Limitations, subject to the proper and lawful resolution of Petitioner's Motion for Reconsideration;

- 5) Enjoin respondent, its officers, agents and representatives from enforcing the CY 2016 assessment, including the implementation of levy, garnishment, annotation, auction, or any other collection measures arising therefrom;
- 6) Order the lifting and cancellation of the levy annotations affecting petitioner's 188 transfer certificates of title, insofar as these levies arise from and are consequences of CY 2016 assessment, for having been enforced with grave abuse of discretion and in the absence of a lawful authority;
- 7) Direct respondent to properly resolve Petitioner's Motion for Reconsideration for CY 2016 with due regard to law, jurisprudence, and due process; and
- 8) Grant such other reliefs as are just, equitable, and proper under the premises.

After an assiduous review of the present *Petition* together with the attachments, the Court finds that a dismissal is in order.

Sections 1 and 4 of Rule 65 of the Revised Rules of Court, as amended, provides 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, or any plain, speedy, and 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 be rendered 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.

xxx xxx xxx

Section 4. *When and where to file the petition.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion. (*Emphasis and underscoring supplied*)

From the foregoing, a petition for *Certiorari* may be filed when a 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, or any plain, speedy, and adequate remedy in the ordinary course of law. Such petition should be filed not later than 60 days from notice of the judgment, order or resolution. Furthermore,

the petition must be accompanied by a certified true copy of the judgment, order or resolution subject thereof.

In relation thereto, Section 3, Rule 46 of the Revised Rules of Court provides for the consequence of non-compliance with the requirements in relation to the filing of a petition for *certiorari*, to wit:

RULE 46
Original Cases

xxx xxx xxx

Section 2. *To what actions applicable.* — This Rule shall apply to **original actions for certiorari**, prohibition, mandamus and quo warranto.

xxx xxx xxx

Section 3. *Contents and filing of petition; effect of noncompliance with requirements.* — The petition shall contain the full names and actual addresses of all the petitioners and respondents, a concise statement of the matters involved, the factual background of the case, and the grounds relied upon for the relief prayed for.

In actions filed under Rule 65, the petition shall further indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received.

It shall be filed in seven (7) clearly legible copies together with proof of service thereof on the respondent with the original copy intended for the court indicated as such by the petitioner, and shall be accompanied by a **clearly legible duplicate original or certified true copy of the judgment, order, resolution, or ruling subject thereof**, such material portions of the record as are referred to therein, and other documents relevant or pertinent thereto. The certification shall be accomplished by the proper clerk of court or by his duly authorized representative, or by the proper officer of the court, tribunal, agency or office involved or by his duly authorized representative. The other requisite number of copies of the petition shall be accompanied by clearly legible plain copies of all documents attached to the original.

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The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.
(*Emphasis supplied*)

In the present *Petition for Certiorari*, petitioner claims that respondent committed grave abuse of discretion amounting to lack or excess of jurisdiction in continuously failing and refusing to act on its timely Motion for Reconsideration assailing a prima facie void and prescribed assessment for CY

2016, while allowing and maintaining coercive collection measures during the pendency of the said motion.

As to the timeliness of the *Petition*, petitioner avers that the same was timely filed, reckoned from its actual receipt of the Resolution denying its Motion for Reconsideration.

There is a glaring inconsistency in petitioner's contentions. Petitioner harps on respondent's persistent and unjustified refusal to act on its Motion for Reconsideration, while also claiming that the *Petition* was timely filed, counted from its actual receipt of the Resolution denying its Motion for Reconsideration.

Moreover, the *Petition* plainly alleged that the *Petition* was timely filed, without stating the material dates as required under Section 3 of Rule 46 quoted above. Neither did it attach a copy of the said Resolution.

It is, thus, impossible for the Court to ascertain the date of receipt of the Resolution from which the 60 days would be reckoned, assuming there is, considering the contradictory statements by petitioner.

At any rate, a petition for *certiorari* presupposes that there exists a judgment, order or resolution from a tribunal or board or officer exercising a judicial or quasi-judicial function. There must also be an act that was exercised without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of jurisdiction. Respondent's alleged persistent refusal to act on petitioner's Motion for Reconsideration is not a proper subject of a petition for *certiorari* under Rule 65 of the Rules of Court.

All told, the dismissal of the present *Petition for Certiorari* is in order.

WHEREFORE, premises considered, the instant the **Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)** filed on February 5, 2026 is **DISMISSED**.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice