

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

VENTIS
CORPORATION

MARITIME

CTA CASE NO. 8737

Petitioner,

Members:

-versus-

FABON-VICTORINO, *and*
RINGPIS-LIBAN, JJ.

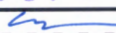
COMMISSIONER
INTERNAL REVENUE,

OF

Promulgated:

Respondent.

OCT 01 2018

x- - - - -  7:08 a.m. - - - - - x

RESOLUTION

Fabon-Victorino, J:

This resolves respondent's Motion for Reconsideration (Re: Resolution promulgated May 22, 2018) posted on June 11, 2018 with petitioner's Comment/Opposition thereto filed on July 24, 2018.

Respondent moves to reverse and set aside the Court's Resolution dated May 22, 2018, which denied his Petition for Relief from Judgment, and another one issued granting the same.

Respondent insists that his Petition for Relief from Judgment was seasonably filed on February 12, 2018, in accordance with Section 3 of Rule 38 of the Rules of Court and the said Petition has sufficient basis as his right to appeal has been lost due to mistake and excusable negligence.

On the other hand, petitioner claims that respondent's Petition for Relief from Judgment was filed out of time on



February 12, 2018. Petitioner points out that respondent was already aware of the Court's Resolution of August 3, 2017 upon its receipt thereof on August 7, 2017 which was followed by his receipt of a copy of its *Ex-parte* Motion for Issuance of Entry of Judgment on November 22, 2017. Thus, respondent's Petition for Relief was filed way beyond the sixty (60)-day period mandated under Section 3, Rule 38 of the Rules of Court. Besides, there is no excusable negligence in the present case to justify the remedy prayed for. It is also plain that his present counsel was already the handling lawyer when respondent received petitioner's *Ex-parte* Motion for Issuance of Entry of Judgment but still failed to seek remedy from the Court until an Entry of Judgment was already issued and received by him. Thus, respondent cannot conveniently claim lack of knowledge of the Court's Resolution of August 3, 2017 invoking as ground excusable negligence due to the belated routing or turn-over of case docket or the lack of disclosure of the status report.

Respondent's Motion for Reconsideration lacks merit, hence, should be denied.

Evidently, respondent merely mimics his previous arguments in his Petition for Relief from Judgement. He did not even try to inflate his previous arguments to engender inquisitiveness on the part of the Court. No new matters or issues have been advanced by respondent in plea for reconsideration that will justify the reversal or even modification of the assailed Resolution of May 22, 2018.

Through his own fault and inattention to his case, respondent lost the opportunity to avail of the adequate remedy under the rules.

Respondent cannot insist that he timely filed his Petition on February 12, 2018, reckoned from the time the Entry of Judgment was issued. The record is clear, the Resolution dated August 3, 2017 was stamped "received" by the Legal Division of BIR Revenue Region No. 6-Manila, which is representing him in this case, on **August 14, 2017**. He is therefore deemed to have knowledge of the said Resolution as of August 14, 2017.

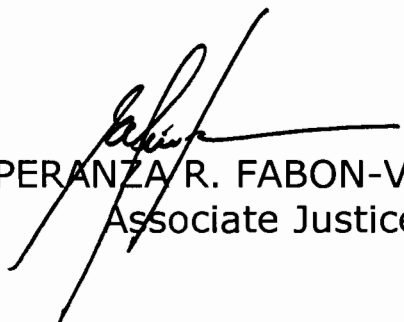


To repeat, Relief from Judgment under Rule 38 of the Rules of Court is a remedy provided by law to any person against whom a decision or order is entered into through fraud, accident, mistake or excusable negligence. The relief provided for is of equitable character, allowed only in exceptional cases as where there is no other available or adequate remedy. A Petition for Relief from Judgment must be filed within 60 days from knowledge of judgment, order or other proceedings to be set aside and within six (6) months from entry of such judgment, order or other proceeding and the reglementary period is reckoned from the time the party's counsel receives notice of the decision for notice to counsel of the decision is notice to the party for purposes of Section 3 of Rule 38.¹

Well-settled is the rule that once a decision becomes final and executory, execution follows lest there can be no end to a litigation negating the role of Courts of Justice, which is to assist in the enforcement of the rule of law and the maintenance of peace and order, by settling justiciable controversies with finality.²

WHEREFORE, respondent's Motion for Reconsideration (Re: Resolution promulgated May 22, 2018) posted on June 11, 2018, is hereby **DENIED**, for lack of merit.

SO ORDERED.



ESPERANZA R. FABON-VICTORINO
Associate Justice

I Concur:



MA. BELEN M. RINGPIS-LIBAN
Associate Justice

¹ *Mercury Drug Corporation v. Court of Appeals and Spouses Eduardo and Carmen Yee*, G.R. No. 138571, July 13, 2000.

² *Farescal Vda. de Emnas v. Emnas*, 95 SCRA 470 [1980]; *Heirs of Patriaca v. Court of Appeals*, 124 SCRA 410 [1983].