

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

SECOND DIVISION

DESTINY CABLE, INC.,
Petitioner,

CTA AC NO. 182
(Civil Case No. 14-612)

- versus -

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, *and*
MANAHAN, JJ.

**THE CITY OF MAKATI AND
HON. NELIA A. BARLIS, IN
HER CAPACITY AS CITY
TREASURER,**
Respondents.

Promulgated:

JUN 22 2018

x- - - - - 4:28 pm - - - - - x

RESOLUTION

CASTAÑEDA, JR., J.:

For the Court's resolution is respondents' **Motion for Reconsideration (of the Decision dated 14 March 2018)**, filed on March 23, 2018, with petitioner's **Comment (Re: Respondents' Motion for Reconsideration)**, filed by registered mail on April 30, 2018 and received by this Court on May 9, 2018.

Respondents move for the reconsideration of the Decision dated March 14, 2018 (assailed Decision), the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition for Review filed by Destiny Cable, Inc. is **GRANTED**. The Decision dated September 21, 2016 and the Order dated January 5, 2017 are **REVERSED** and **SET ASIDE**. *jc*

SO ORDERED.

Respondents argue that petitioner kept silent when it ought to have spoken regarding Mr. Rene Garfin's supposed lack of authority. By testifying that she did not direct Mr. Garfin to refrain from further receiving any communication from respondents because of an expectation that all such communication will be forwarded to her, respondents aver that Ms. Cecilia Lo is in effect saying that Sky Cable Corp., or Mr. Garfin in particular, was bestowed with authority to receive documents for and on behalf of petitioner.

On the other hand, petitioner alleges that respondents' continued reliance on the doctrine of apparent authority is misplaced and that they could not pass on to petitioner the consequences of their imprudent actions by alleging that the petitioner should have prohibited Mr. Garfin or Sky Cable from receiving notices from the respondents.

Petitioner further submits that there is no basis for respondents' argument that petitioner clothed Sky Cable or Mr. Garfin with apparent authority when Ms. Lo did not prohibit Mr. Garfin from receiving any further communication from respondents.

The Court finds that respondents' arguments are mere reiterations and had already been passed upon by the Court. We ruled as follows:

"Contrary to respondents' position however, petitioner's failure to advise respondents of the same cannot clothe Mr. Garfin with apparent authority to receive the notices on behalf of petitioner.

The doctrine of apparent authority provides that a corporation will be estopped from denying the agent's authority if it knowingly permits one of its officers or any other agent to act within the scope of an apparent authority, and it holds him out to the public as possessing the power to do those acts. Apparent authority is derived not merely from practice. Its existence may be ascertained through (1) the general manner in which the corporation holds out an officer or agent as having the power to act or, in other words, the apparent authority to act in general, with which it clothes him; or (2) the *je*

acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, whether within or beyond the scope of his ordinary powers.

It may not be amiss to point out that Mr. Garfin and the security guard whom Mr. Flores spoke with during his service of the Final Notice of Compliance have already disabused Mr. Flores of the notion that they are authorized by petitioner to receive the notice.”¹

The evidence presented by both parties show that when the Final Notice of Compliance was served upon petitioner, respondents were already informed that Mr. Garfin was not authorized to receive the same, through a handwritten note on the said document. Moreover, petitioner’s correct address is indicated in the documents which petitioner submitted to respondents on December 10, 2014. Surely, it is incumbent upon respondents to exercise prudence in ascertaining the correct address of petitioner so they could properly serve critical notices and afford petitioner due process of law.

In addition, when respondents attempted to serve the Notice of Assessment upon petitioner, respondents’ server was informed that Mr. Garfin and the security guard were not authorized to receive the same. In the assailed Decision, the Court elucidated, *viz*:

“Similarly, when Mr. Flores served the Notice of Assessment, he was informed that they are no longer Destiny Cable, Inc. Moreover, the Global Tower office where he had previously delivered the LOA and Final Notice of Compliance was already vacant. Hence, he had to go to the office at Evangelista cor. Dallas Street to serve the same. xxx

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Clearly, Mr. Flores was repeatedly informed that they were not authorized to receive the Notice of Assessment, and yet, he still insisted to let them receive it. In fact, Mr. Flores’ testimony is in line with Mr. Garfin’s testimony. Upon cross-examination by respondents’ counsel on his refusal to accept the documents, Mr. *Je*

¹ Assailed Decision, p. 12.

Garfin said that he informed the messenger of the City of Makati of the wrong address, but the messenger insisted that the notice be received by Mr. Garfin:

XXX XXX XXX

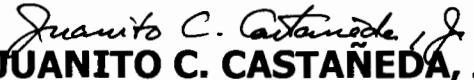
From the foregoing testimonies, it is perplexing how respondents could argue that Mr. Garfin is clothed with apparent authority to receive the notices when Mr. Garfin and the security guards with whom Mr. Flores spoke with, all deny that they have authority to do so.

Hence, the Court finds that respondents' evidence falls short of proving that Mr. Garfin has been clothed with apparent authority to receive the notices on petitioner's behalf."²

In view of the foregoing, the Court holds that there is no compelling reason to modify or amend the assailed Decision.

WHEREFORE, respondents' **Motion for Reconsideration (of the Decision dated 14 March 2018)** is **DENIED** for lack of merit.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:


CAESAR A. CASANOVA
Associate Justice

(On Leave)
CATHERINE T. MANAHAN
Associate Justice

² Assailed Decision, pp. 13, 18 & 21.