REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CITY OF MANILA and RIZAL DEL ROSARIO in his capacity as OIC-City Treasurer of Manila,
Petitioners,

- versus -

SMART COMMUNICATIONS, INC.,
Respondent.

CTA AC No. 171

Members:

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

Promulgated:

MAY 17 2018 7:20 p.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

Not convinced with the ruling of the Court in the Decision[1] promulgated on December 18, 2017, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

petitioners filed the instant *Motion for Reconsideration*[2] on January 18, 2018, claiming that the assailed Decision is contrary to law and jurisprudence.

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[1] Docket, pp. 133-147.
[2] Docket, pp. 149-157.

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Petitioners fault the Court for dismissing their Petition for Review on jurisdictional ground insisting that under Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA), this Court has jurisdiction over the subject matter of their case and should therefore "act on the appeal".

Petitioners aver that in dismissing their petition, the Court even cited two (2) **conflicting but related** procedural rules - one under Section 3(a) of Rule 8 of the RRCTA and the other under Section 1 of Rule 42 of the Rules of Court – both of which provide the modality by which an appeal may be elevated to this Court. For petitioner, these modes are mere "procedural precepts that can fairly and harmlessly give way to a solemn and sustained plea for substantive justice".

Petitioners also claim that the Court gave undue significance on its Motion for Reconsideration which was expunged from the record of the case by the Regional Trial Court (RTC) resulting in the assailed ruling that the 30-day period to appeal should be reckoned from the date of receipt of the decision sought to be overturned. Petitioners claim that they invoke not only the *special* but also the *equity* jurisdiction of this Court saying that "it will be the height of legal impossibility and presumptuousness" for it to guess the resolution of the court *a quo* on their *Motion for Reconsideration*. Allegedly it was "placed at an unenviable if not judicially precarious situation of having to await for the resolution of the RTC and therefore cannot just do away with a mandatory procedural recourse." Petitioners claim that it reckoned the period for judicial review from their receipt of the adverse Resolution for it was only then that actual cause of action revealed itself laying ground for the filing of the present appeal.

Anent their failure to furnish the court *a quo* with a copy of their Petition for Review mandated under Section 1[3], Rule

[3] Sec. 1. *How appeal taken; time for filing.* — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and **furnishing the Regional Trial Court and the adverse party with a copy of the petition**. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or

42 of the Rules of Court, petitioners argue that no party was prejudiced or placed at a severe peril for its inability to comply with the rules. If at all, petitioners say, such omission may be considered as an excusable if not innocuous negligence which should not result in the dismissal of their case.

In rejecting petitioners bid for reconsideration, respondent points out that the failure on the part of petitioners to file a proper motion for reconsideration with the RTC did not toll the running of the prescriptive period to appeal. This flaw is fatal which cannot be cured by mere invocation of the *special* and *equity* jurisdiction of the Court.

As to petitioner's failure to comply with the requirement of providing the RTC with a copy of their *Petition for Review*, respondent retorts that rules were put in place to serve a purpose and that the right to appeal is a statutory right and the party who seeks to avail of the same must comply with the requirements.

Petitioners Motion for Reconsideration must fail.

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy.[4] Jurisdiction is conferred only by law and not by the consent of the parties or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.[5] If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. Thus, petitioners' impression that the Court did not act on their Petition for Review is absolutely fallacious for under

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reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen days. (*Emphasis supplied*)

[4] *Commissioner of Internal Revenue v. Villa*, et al., 130 Phil. 3, 4 (1968).

[5] *Laresma v. Abellana*, 484 Phil. 766, 778 (2004).

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the obtaining circumstances, the Court only has the power to dismiss the case for lack of jurisdiction.

Anent petitioners' claim that Section 3 (a), Rule 8 of RRCTA and Section 1, Rule 42 of the Rules of Court are mere procedural precepts that can be made light and ignored to give way to its "plea for substantive justice", suffice it to say that the invocation of substantial justice is not a magic wand that would readily dispel the application of procedural rules which are promulgated precisely to facilitate orderly adjudication of cases, as ruled by the Supreme Court in *Anderson v. Ho*,[6] thus:

> . . . procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules. **While in certain instances, we allow a relaxation in the application of the rules, we never intend to forge a weapon for erring litigants to violate the rules with impunity. The liberal interpretation and application of rules apply only in proper cases of demonstrable merit and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice**. Party litigants and their counsels are well advised to abide by rather than flaunt, procedural rules for these rules illumine the path of the law and rationalize the pursuit of justice. (*Emphasis supplied*)

Besides, there is no conflict between two provisions as envisioned by petitioners. Rule 8 of the RRCTA lays down the procedure in filing of civil cases before this Court. Section 3(a) thereof specifies the parties who may seek judicial relief via a petition for review filed before this Court within thirty

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[6] G.R. No. 172590, January 7, 2013, 688 SCRA 8.

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(30) days from receipt of the adverse decision or ruling of Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a **Regional Trial Court** in the exercise of its original jurisdiction, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of the latter's inaction on administrative claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer is allowed two (2) years from payment or collection of the taxes to seek judicial intervention.

On the other hand, Section 1 of Rule 42 of the Rules of Court provides the manner and prescribes a period of fifteen (15) days for filing an appeal with the Court of Appeals to assail the adverse decision of the RTC, rendered in the exercise of its appellate jurisdiction. Note that Section 3 of Rule 1 of the RRCTA, as amended, specifically provides that "[t]he Rules of Court in the Philippines shall apply suppletorily" to the RRCTA, as amended. Suppletory is defined as "supplying deficiencies". It means that the <u>provisions in the Rules of Court will only apply in case of absence of the necessary provision or deficiency in the RRCTA.</u>[7]

Finally, after considering petitioners' allegations in the subject *Motion for Reconsideration* and the counter argumentations proffered by respondent, the Court finds no cogent reason to depart from its finding and ruling in the assailed Decision of December 18, 2017. The *motion* has not raised any new or substantial ground that would justify a change let alone modification in the conclusion of the Court. All the arguments raised by petitioner had already been passed upon, amply discussed, and considered by the Court in the Decision sought to be reconsidered. In fact, much had been devoted on the computation of the period to appeal and the reason for the same, as shown in pages 11 and 12 of the assailed Decision. Petitioners cannot cry foul for they only have themselves to blame for their admitted flaws in the filing

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[7] *Government Service Insurance System, et al. vs. Villaviza, et al.*, G.R. No. 180291, July 27, 2010.

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of their appeal thereby depriving this Court of competence to entertain the same.

WHEREFORE, petitioners' *Motion for Reconsideration* filed on January 18, 2018, is hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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