

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

CARMEN COPPER
CORPORATION,

Petitioner,

CTA EB No. 1846
(CTA Case No. 8834)

-versus-

COMMISSIONER OF
INTERNAL REVENUE,

Respondent.

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *II*.

Promulgated:

OCT 09 2020

[Signature] 1:57 p.m.

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RESOLUTION

RINGPIS-LIBAN, *J*:

For resolution is the "Motion for Reconsideration"¹ filed by petitioner Carmen Copper Corporation (Carmen Copper) on January 23, 2020, asking that the Court *en banc* reconsider its Decision dated January 2, 2020 on the ground that Section 112(c) of the National Internal Revenue Code (NIRC) does not state that the decision denying the claim must be made within the period prescribed to decide, and if the Commissioner of Internal Revenue (CIR) acts on the decision after the prescribed period to decide, it then has thirty (30) days from the receipt of such denial to file its judicial claim. As respondent CIR issued a decision on its administrative claim beyond the 120-day period, its judicial claim that it filed within thirty (30) days from receipt of the notice was timely filed and the Court has jurisdiction to resolve the claim.

[Signature]

¹ *Rollo*, pp. 170-178.

In a Resolution dated February 10, 2020² the Court *en banc* ordered the CIR to file its Comment.

On July 9, 2020, the Judicial Records Division, in its Records Verification Report, stated that the CIR failed to file Comment, despite due notice.³

We resolve.

In the Decision sought to be reconsidered by Carmen Copper, the Court *en banc* made the following observation:

"At the outset, Carmen Copper presents no new argument to persuade Us that it has a meritorious case. It merely reiterates the arguments it raised in its Motion for Reconsideration which have been extensively addressed by the Court in Division in the Assailed Resolution. Needless to state, the issue of jurisdiction over Carmen Copper's judicial claim for input VAT refund has already been laid to rest in the Assailed Decision and Assailed Resolution. Nevertheless, we will discuss at length, once again, the demerits of Carmen Copper's arguments which may serve as a guidepost in deciding issues of similar nature in the future."

Once again, Carmen Copper replicates its arguments in its Petition for Review, in its Motion for Reconsideration. Essentially, it is **a replication twice over** since these are the very same arguments averred in its Motion for Reconsideration filed on November 22, 2017 before the Court in Division. It has failed to persuade the Court in Division then; it fails to persuade the Court *en banc* now.

Mere repetition alone does not strengthen what is inherently a groundless appeal. However, this Court deems it prudent, for the future guidance of lawyers and litigants alike, to discuss *pro forma* motions for reconsiderations.

Rule 37 of the Revised Rules of Court (RRC) provides the following:

**"RULE 37
New Trial or Reconsideration**

Section 1. Grounds of and period for filing motion for new trial or reconsideration. - Within the period for taking an appeal, the

² *Id.*, pp. 180-181.

³ *Id.*, p. 182.

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aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law. (1a)"

From the foregoing, it is apparent that there are three recognized grounds for reconsideration: 1) the damages awarded are excessive; 2) the evidence is insufficient to justify the decision or final order; or 3) the decision or final order is contrary to law.

Section 2 of Rule 37 of the RRC elaborates on the contents of a motion for reconsideration, thus:

"Section 2. Contents of motion for new trial or reconsideration and notice thereof. — The motion shall be made **in writing stating the ground or grounds therefor**, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motion. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.



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A motion for reconsideration shall point out a specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law **making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.**

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal." (*Emphasis supplied*)

In determining whether or not Petitioner's motion is *pro forma*, the Court is guided by the ruling in *Coquilla v. Commission on Elections*,⁴ to wit:

"The mere reiteration in a motion for reconsideration of the issues raised by the parties and passed upon by the court does not make a motion *pro forma*; otherwise, the movant's remedy would not be a reconsideration of the decision but a new trial or some other remedy."

In *Coquilla*, the Supreme Court reiterated that the ultimate purpose of a motion for reconsideration is to convince the court that the ruling being sought to be reconsidered is "erroneous and improper, contrary to the law or the evidence; and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court."⁵ Moreover, the necessary consequence of failing to discuss the issues passed upon by the court is that after a decision is rendered, the losing party's remedies would be relegated to filing motions for reopening and new trial, having lost the remedy of an appeal.

While *Coquilla* cautions courts in declaring motions for reconsiderations as *pro forma* due to the loss of an invaluable right in a litigant's pursuit of justice, it also enumerates instances where motions for reconsiderations were held to be *pro forma*. These include cases wherein the motion for reconsideration: 1) was a second motion for reconsideration⁶; 2) did not comply with the rule that the motion must specify the findings and conclusions alleged to be contrary to law or not supported by the evidence⁷; 3) failed to substantiate the alleged errors⁸ in the decision or order sought to be reconsidered; 4) merely alleged that the

⁴ 434 Phil. 861 (2002).

⁵ *Id.*

⁶ *Id.* citing *Manila Trading v. Enriquez*, 1 SCRA 1056 (1961); *City of Cebu v. Mendoza*, 62 SCRA 440 (1975); *Debuque v. Climaco*, 99 SCRA 353 (1980); *Garcia v. Echiverri*, 132 SCRA 631 (1984); *Commissioner of Internal Revenue v. Island Garment Manufacturing Corporation*, 153 SCRA 665 (1987); *Vda. de Espina v. Abaya*, 196 SCRA 312 (1991).

⁷ Section 2, Rule 137, Revised Rules of Court.

⁸ *Id.* at Note 5 citing *Villarica v. Court of Appeals*, 57 SCRA 24 (1974).

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decision in question was contrary to law⁹; or 5) the adverse party was not given notice thereof.¹⁰

Even prior to *Coquilla*, the Supreme Court already expounded on the subject in *Marina Properties Corporation v. Court of Appeals*,¹¹ thus:

"Under our rules of procedure, a party adversely affected by a decision of a trial court may move for reconsideration thereof on the following grounds: (a) the damages awarded are excessive; **(b) the evidence is insufficient to justify the decision; or (c) the decision is contrary to law.** A motion for reconsideration interrupts the running of the period to appeal, unless the motion is pro forma. This is now expressly set forth in the last paragraph of Section 2, Rule 37, 1997 Rules of Civil Procedure.

A motion for reconsideration based on the foregoing grounds is deemed pro forma if **the same does not specify the findings or conclusions in the judgment which are not supported by the evidence or contrary to law, making express reference to the pertinent evidence or legal provisions.** It is settled that although a motion for reconsideration may merely reiterate issues already passed upon by the court, that by itself does not make it pro forma and is immaterial because what is essential is compliance with the requisites of the Rules.

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Where the circumstances of a case do not show an intent on the part of the pleader to merely delay the proceedings, and **his motion reveals a bona fide effort to present additional matters or to reiterate his arguments in a different light,** the courts should be slow to declare the same outright as pro forma. The doctrine relating to *pro forma* motions has a direct bearing upon the movant's valuable right to appeal. It would be in the interest of justice to accord the appellate court the opportunity to review the decision of the trial court on the merits than to abort the appeal by declaring the motion *pro forma*, such that the period to appeal was not interrupted and had consequently lapsed.¹²"

⁹ *Id.*, *Jessena v. Hervas*, 83 SCRA 799 (1978); *Marikina Valley Development Corporation v. Flojo*, 251 SCRA 87 (1995); *Nieto v. De los Angeles*, 109 SCRA 229 (1981).

¹⁰ *Id.*, *Sembrano v. Ramirez*, 166 SCRA 30 (1988); *Pajas v. Gozo-Dadole*, 192 SCRA 575 (1990); *Bank of the Philippine Islands v. Far East Molasses Corporation*, 198 SCRA 689 (1991).

¹¹ 355 Phil. 705 (1998).

¹² *Id.* at 716-717.

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On the contrary, as previously observed, the Court *en banc* finds that the motion under consideration did not reveal a "bona fide effort to present additional matters". Neither did it reiterate Carmen Copper's arguments in a different light. Instead, there is nothing new that serves to persuade a reasonable judicial mind to change its decision.

Having thoroughly scrutinized and weighed the circumstances at hand against the foregoing guidelines, the Court *en banc* comes to the conclusion that, indubitably, the averments found in Carmen Copper's Motion for Reconsideration do not point out specifically the findings or conclusions in the Decision dated January 2, 2020 which are not supported by the evidence or which are contrary to law, nor does it state additional specific reasons for those grounds. Hence, Petitioner's Motion for Reconsideration is *pro forma*.

WHEREFORE, Petitioner's Motion for Reconsideration is **DISMISSED** for being *pro forma*.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN

Associate Justice

WE CONCUR:



ROMAN G. DEL ROSARIO

Presiding Justice



JUANITO C. CASTAÑEDA JR.

Associate Justice



ERLINDA P. UY

Associate Justice



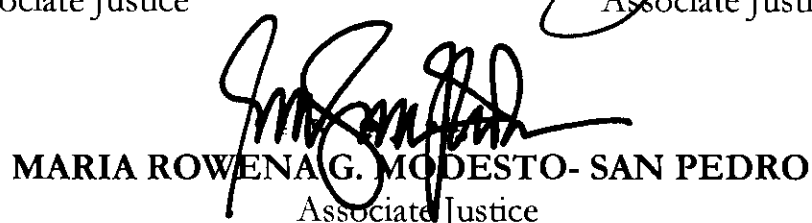
CATHERINE T. MANAHAN

Associate Justice



JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA G. MODESTO- SAN PEDRO

Associate Justice