REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

TRAVELLERS INTERNATIONAL HOTEL GROUP, INC.,
Respondent.

CTA *EB* NO. 2385
(CTA Case No. 9769)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
OCT 16 2023 4:25 pm

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RESOLUTION

Before the Court *En Banc* is the *Motion for Reconsideration (Re: Resolution dated 18 May 2023)*[1] filed by petitioner on June 6, 2023, assailing the Resolution[2] promulgated on May 18, 2023 (assailed Resolution), the dispositive portion of which reads:

> **WHEREFORE**, in view of the foregoing considerations, the *Petition for Relief from Judgment* filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.

The assailed Resolution denied petitioner's *Petition for Relief from Judgment* for having been filed out of time and for lack of merit.

[1] *En Banc* Docket, pp. 144-156.
[2] *Id.*, pp. 136-143.

In his bid for reconsideration, petitioner avers that 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. Petitioner anchors his prayer for relief from judgment on the ground of *excusable negligence.*

Petitioner claims that he only received the *Notice for Entry of Judgment* on January 13, 2023. Before, he did not know that a decision had been rendered in this case.

According to petitioner, the previous handling lawyer, Atty. Niki Beryl Dela Cruz (Atty. Dela Cruz) was on maternity leave, and the personnel having custody of the receiving files failed to notify the new handling lawyer of the Decision dated April 20, 2022. Thus, upon discovery that an *Entry of Judgment* has been made due to the failure to file a *Motion for Reconsideration* on the Decision dated April 20, 2022, the new handling lawyer immediately prepared the *Petition for Relief of Judgment.* For petitioner, the delay in discovering the failure to file a *Motion for Reconsideration* is justified by the abovementioned circumstances. Hence, petitioner submits that his failure to file the appropriate *Motion for Reconsideration* was due to *excusable negligence,* as ordinary prudence could not have guarded against the negligence exhibited by the previous handling lawyer. Further, petitioner stresses that the rule, which states that the mistakes of counsel bind the client, may not be strictly followed where observance of it would result in outright deprivation of the client's liberty or property or where the interest of justice so requires.

In closing, petitioner submits that the Rules of Court should be liberally construed so as not to defeat substantial justice. As such, petitioner implores the indulgence of the Court that he be relieved from the effects of the *Entry of Judgment* and be permitted to file his *Motion for Reconsideration* of the Decision dated April 20, 2022.

By way of *Comment (Re: Petitioner's Motion for Reconsideration dated June 6, 2023)*,[3] respondent submits that the grounds relied upon by petitioner for the reversal of the assailed Resolution are devoid of any legal or factual merit. According to respondent, the *Petition for Relief from Judgment* was clearly filed out of time under the twin period mandated in

[3] *Id.*, pp. 161-168.

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Section 3,[4] Rule 38 of the Rules of Court, rendering the Court devoid of jurisdiction to take cognizance of the *Petition*.

Respondent also rejects petitioner's position that ordinary prudence could not have guarded against the alleged negligence of Atty. Dela Paz. For respondent, petitioner failed to exercise the ordinary diligence and prudence warranted in handling cases. The Litigation Division is aware of the importance of properly handling the notice of receipt of a decision, which may result in losing a remedy allowed under the laws and rules. The failure of petitioner to file the *Motion for Reconsideration* within the reglementary period was not due to excusable negligence. Hence, the Court *En Banc* did not err in denying petitioner's *Petition for Relief from Judgment.*

Petitioner's *Motion* is bereft of merit.

A careful examination of petitioner's arguments raised in the present *Motion* reveals that they were the same flawed arguments raised in his previous *Petition for Relief from Judgment,* which had been thoroughly discussed and passed upon by the Court *En Banc* in the assailed Resolution of May 18, 2023.

Nonetheless, at the risk of being repetitive, it must be stressed that petitioner's *Petition for Relief from Judgment* was denied for having been filed out of time and for lack of merit. As the Court *En Banc* found, to wit:

> ***The instant Petition for Relief from Judgment was filed out of time.***
>
> xxx xxx xxx
>
> Based on the foregoing provision, a petition for 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.

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[4] Section 3. *Time for filing petition; contents and verification.* – A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

xxx xxx xxx

To avail of this remedy, the petition must comply with two reglementary periods, that is, it must be filed within sixty (60) days after the party learns of the judgment, final order, or other proceeding to be set aside, and not more six (6) months after such judgment or final order was entered, or such proceeding was taken. The twin-period is mandatory, jurisdictional, and must be strictly complied with, otherwise, the petition may be dismissed outright.

Moreover, in determining whether the petition was filed on time, "*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, Rule 38.*" In other words, notice sent to a counsel of record is equivalent to notice to the client-litigant.

A perusal of the records shows that on April 22, 2022, petitioner CIR already received a copy of the Decision dated April 20, 2022. This was in fact admitted by petitioner's counsel in the Affidavit of Merit dated March 13, 2023, executed by Atty. Marveen B. Dela Paz. Thus, for purposes of computing the reglementary period under Rule 38, the same is reckoned from the time that petitioner CIR received a copy thereof on April 22, 2022.

Applying the foregoing to the case at bar, petitioner CIR had sixty (60) days from April 22, 2022, or until June 21, 2022, within which to avail of the remedy provided for under Rule 38 of the Rules of Court. In this case, however, petitioner CIR's Petition for Relief from Judgment was filed out of time, as it was only filed on March 14, 2023, way beyond the sixty-day reglementary period (or until June 21, 2022) provided for under the Rules of Court.

Moreover, records show that CIR's Petition for Relief from Judgment was also filed beyond the second reglementary period, i.e., it should be filed not more than six (6) months after such judgment or final order was entered, or such proceeding was taken. In this case, the Entry of Judgment of the Decision was recorded on May 12, 2022. Thus, the CIR had until November 9, 2022 to file a Petition for Relief from Judgment. However, the CIR's Petition for Relief from Judgment was filed on March 14, 2023 which is more than six (6) months after the entry judgment.

A client is bound by his counsel's conduct, negligence, and mistake in handling the case.

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It bears stressing that while the failure of a party's counsel to notify him of an adverse judgment to enable him to appeal therefrom constitutes *inexcusable negligence*, it is not a ground for relief from judgment. Furthermore, under Section 1, Rule 38, the negligence must be excusable and generally *imputable to the party* because if it is imputable to the counsel, it is binding on the client. What the aggrieved litigant should do is seek administrative sanctions against the erring counsel and not ask for the reversal of the court's ruling.

The facts of this case, however, do not show that there was excusable negligence imputable to the petitioner. What is evident, rather, is that petitioner's counsel did not review the cases transferred/reassigned to him, failed to notify the petitioner of an adverse judgment, preventing him from making a timely motion for reconsideration. Hence, the negligence of petitioner's counsel is binding on him.

As stated in the Affidavit of Merit dated March 13, 2023, Atty. Niki Beryl Dela Cruz went on maternity leave as early as February 2022. Due to Atty. Dela Cruz' maternity leave, the cases assigned to her were transferred to the other lawyers of the Litigation Division, and the case was assigned to Atty. Marveen B. Dela Paz. The Court notes that Atty. Dela Paz did not indicate the exact date when the case was transferred to him. However, it is noted that petitioner already received a copy of this Court's Decision dated April 20, 2022, as early as April 22, 2022. Relative thereto, Atty. Marveen B. Dela Paz had ample time to review the cases transferred to him and avail of procedural remedies to prevent the Decision from becoming final and executory. Instead, Atty. Dela Paz merely argues that he was only informed by their office that an Entry of Judgment was issued on January 13, 2023. (*Citations omitted*)

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Resolution dated 18 May 2023)* filed on June 6, 2023, is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ON LEAVE
HENRY SUMAWAY ANGELES
Associate Justice