**REPUBLIC OF THE PHILIPPINES**
***Court of Tax Appeals***
**QUEZON CITY**

## *En Banc*

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| **DANILO MENDEZ, in his capacity as the Provincial Treasurer of Negros Oriental and ROLANDO OBANIANA, in his capacity as the Municipal Treasurer of the Municipality of Valencia, Negros Oriental,** *Petitioner,* | **CTA *EB* NO. 2265** *(CBAA Case No. V-37)* *(LBAA Case No. 2013-001)* |
| | Present: **DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** *and* **CUI-DAVID,** *JJ.* |
| *-versus-* | |
| **CENTRAL BOARD OF ASSESSMENT APPEALS and GREEN CORE GEOTHERMAL, INC.,** *Respondent.* | Promulgated: FEB 09 2022 2:52 p.m. |

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## RESOLUTION

For resolution by this Court *En Banc* are respondent **GREEN CORE GEOTHERMAL, INC.'s** ("Green Core") Motion to Dismiss, filed by registered mail on 11 August 2021;[1] and petitioners' failure to comply with the Resolution, dated 26 August 2020, and Resolution, dated 10 February 2021.

In the Resolution, dated 26 August 2020, this Court *En Banc* required petitioners to submit a compliant Amended Verification and Certification within ten (10) days from receipt thereof,[2] which should provide the following, in accordance with ***Sections 4 and 5 of Rule 7 of the 1997 Rules of Civil Procedure***, as amended by ***A.M. No. 19-10-20-SC***:

> (a) Proof that petitioners' Treasurers are authorized to file the instant Petition for Review ("Petition");

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[1] Records, pp. 68-82.

[2] *Id.*, pp. 57-59.

(b) An attestation that the Petition "is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;"

(c) An attestation that "[t]he factual allegations [in the Petition] have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;" and

(d) A certification that, should petitioners "learn that the same or similar action or claim has been filed or is pending, [they] shall report the fact within five (5) calendar days therefrom" to this Court.

Petitioners, however, failed to comply with this order.[3] Accordingly, this Court issued the Resolution, dated 10 February 2021, which reiterated this Court *En Banc's* directive to petitioners to comply with the requirements as set forth in the Resolution, dated 26 August 2020.[4] Despite this, petitioners still did not comply with this Court *En Banc's* command to submit a compliant Amended Verification and Certification.[5]

Petitioners' failure to comply with the Resolution, dated 26 August 2020, and Resolution, dated 10 February 2021, finds no excuse as this Court *En Banc* had properly delivered and served these Resolutions to petitioners.[6]

In the Motion to Dismiss, respondent Green Core alleges that petitioners lack the authority to represent the Province of Negros Oriental and Municipality of Valencia, Negros Oriental in filing the instant Petition and to execute the Certification against Non-Forum Shopping. According to respondent Green Core, this lack of authority is apparent from petitioners' continuous failure to abide with this Court *En Banc's* Resolution, dated 26 August 2020, and Resolution, dated 10 February 2021.

*We dismiss the instant Petition.*

In ***Makati City Treasurer and City of Makati v. Mermac, Inc.***,[7] this Court *En Banc* had the occasion to rule that absent any proof of authority of the person who initiated a Petition for Review on behalf of a Local Government Unit, the said Petition for Review shall be dismissed outright:

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[3] Records Verification Report, dated 21 January 2021, *id.*, p. 60.
[4] Records, pp. 61-63.
[5] Records Verification Report, dated 4 June 2021, Records.
[6] Certification from the Postmaster of Dumaguete City, dated 24 August 2021, Records.
[7] CTA EB No. 2131, CTA AC No. 193, 2 September 2020.

"In the instant case, the Verification/Certification of Non-Forum Shopping was executed and signed by then City Treasurer of Makati, Jesusa E. Cuneta, but no alleged authority was submitted to support her authority to represent petitioners. As clearly enunciated by the Court in Division in the assailed Decision, the Makati City Treasurer must be authorized by an ordinance to file the Petition for Review. We quote portions of the said assailed Decision:

> 'Without doubt, local government units, such as petitioner City of Makati, have the power to sue, pursuant to Section 22 of the LGC of 1991, to wit:
>
> > 'Sec. 22. Corporate Powers.
> >
> > (a) Every local government unit, as a corporation, shall have the following powers:
> >
> > XXX XXX XXX
> >
> > (2) To sue and be sued.'
>
> However, Section 458 (a) (1) (viii) of the LGC of 1991 provides as follows:
>
> > 'Section 458. *Powers, Duties, Functions and Compensation.* - (a) The Sangguniang Panlungsod, as the legislative body of the city, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the city and its inhabitants pursuant to Section 16 of this Code, and in the proper exercise of the corporate powers of the city as provided under Section 22 of this Code, and shall:
> >
> > (1) Approve ordinances and pass resolutions necessary for the efficient and effective city government, and in this connection, shall:
> >
> > XXX XXX XXX
> >
> > (vii) Subject to the provisions of this Code and pertinent laws, determine the powers and duties of officials and employees of the city.'
>
> Based on the foregoing provision, the Sangguniang Panlungsod is mandated *inter alia,* to approve ordinance and pass resolutions in the proper exercise of tis power to sue. And in connection thereto, the said Sanggunian shall approve and pass resolutions, among others, determining the

powers and duties of city officials, subject to the provisions of the LGC of 1991 and pertinent laws. In other words, except when the power to sue is explicitly granted or designated to a particular city official under the law, a prior ordinance or resolution from the Sangguniang Panlungsod is necessary for any city official to exercise such power.

While the LGC of 1991 grants certain powers and duties to the local treasurer, a careful examination of the said law would reveal that there is nothing therein which authorizes the said official from filing an appeal in the appropriate court on behalf of the concerned local government unit. Furthermore, it is noteworthy that Republic Act 7854, the charter of petitioner City of Makati, does not grant such authority to the same official as shown under Section 26 thereof, to wit:

> Sec. 26. The City Treasurer. – xxx
>
> XXX XXX XXX
>
> The city treasurer shall take charge of the city finance department and shall:
>
> (a) Advise the city mayor, the *Sangguniang Panlungsod* and other local government and national officials concerned regarding disposition of local government funds and on such other matters relative to public finance;
>
> (b) Take custody and exercise proper management of the funds of the City;
>
> (c) Take charge of the disbursement of all funds the custody of which may be entrusted to him by law or other competent authority;
>
> (d) Inspect private commercial and industrial establishments within the jurisdiction of the City in relation to the implementation of tax ordinances, pursuant to the provisions of the Local Government Code;
>
> (e) Maintain and update the tax information system of the City; and
>
> (f) Perform such other duties and functions and exercise such other powers as provided for under Republic Act No. 7160, otherwise known as the Local Government Code of

> 1991, and those that are prescribed by law or ordinance.
>
> Thus, for petitioner Makati City Treasurer to exercise the power of petitioner City of Makati to file the instant Petition for Review with the Court, a prior ordinance from the Sangguniang Panlungsod of petitioner City of Makati must be issued.
>
> **Considering that there is no showing that the *Sangguniang Panlungsod* of petitioner City of Makati issued an ordinance giving authority to petitioner Makati City Treasurer to initiate the filing of the instant Petition for Review, the same must be dismissed.'** (emphasis supplied)
>
> **<u>As observed by the Court in Division, petitioners did not submit proof of the authority of City Treasurer, Ms. Jesusa E. Cuneta, thus, the Petition for Review was rightfully dismissed."</u>**
> (Emphasis and underscoring, Ours)

Considering that in the instant case, petitioners have continuously failed to submit any proof that the persons (*i.e.,* Mr. Rolando Obaniana for the Municipality of Valencia, Negros Oriental, and Mr. Jessie G. Dagdayan for the Province of Negros Oriental) who initiated the instant Petition and signed the Verification and Certification against Non-Forum Shopping were duly authorized to do so, the instant Petition should be dismissed outright.

**WHEREFORE**, the Petition for Review is hereby **DISMISSED** for failure to comply with ***Sections 4 and 5 of Rule 7 of the 1997 Rules of Civil Procedure,*** as amended by ***A.M. No. 19-10-20-SC.***

**SO ORDERED.**

**ROMAN G. DEL ROSARIO**
Presiding Justice

J. C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice