REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

MAKATI CITY AND THE OFFICE OF THE CITY TREASURER,
Petitioners,

- versus -

ALLONS HOLDINGS, INC.,
Respondent.

CTA AC No. 195

Members:

FABON-VICTORINO, Acting *Chairperson*
RINGPIS-LIBAN, *JJ.*

Promulgated:

MAY 15 2019
11:38 a.m.

x- x

DECISION

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

In this Petition for Review[1] filed on January 20, 2018, petitioners' Makati City and the Office of the City Treasurer seek to reverse and set aside the Decision[2] dated September 14, 2017, as well as, the Order[3] dated December 29, 2017, issued by the Regional Trial Court (RTC) Branch 142 of Makati City in Civil Case No. 14-1183, the dispositive portions of which read:

Decision dated September 14, 2017:

> **WHEREFORE**, the petition for review under Section 195 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, is granted. The Tax Assessment issued by the Treasurer's Office, Makati City, assessing Allons Holdings, Inc. one million one hundred ninety-four

[1] Docket, pp. 8-25.
[2] Docket, pp. 26-32.
[3] Docket, p. 33.

> thousand eight hundred seventy pesos 62/100 (Php1,194,870.62) representing local business taxes for 2011 to 2013 on the passive income derived from dividends in a domestic company and interests from deposits in local bank accounts, is **SET ASIDE** and **CANCELLED** for lack of factual and legal bases.
>
> **SO ORDERED.**

Order dated December 29, 2017:

> **IN VIEW THEREOF**, the Motion for Reconsideration of the Decision dated September 14, 2017 is **DENIED** for want of merit.
>
> **SO ORDERED.**

The Facts and the Proceedings

Petitioner Makati City is a local government unit empowered under the Local Government Code (LGC) to assess and collect local business tax through co-petitioner City Treasurer. Both petitioners may be served with summons, notices and other court processes at Makati City Hall, J.P. Rizal Street, Makati City.

Respondent Allons Holdings, Inc., on the other hand, is a domestic corporation, with principal place of business at 5th Floor, ENZO Building, 399 Sen. Gil Puyat Avenue, Makati City. Per its Articles of Incorporation, its principal activity is to own, hold, purchase, subscribe for, or otherwise acquire and own, assign, transfer, mortgage, pledge, exchange, or otherwise dispose of real and personal property of every kind and description, including shares of stock.

On September 17, 2014, respondent received from petitioner City Treasurer of Makati a Notice of Assessment dated September 16, 2014, for deficiency business taxes, fees and charges in the aggregate amount of ₱1,194,870.62, covering the taxable years (TYs) 2011, 2012, and 2013.

Respondent protested the said assessment in a letter dated September 23, 2014 on the grounds that it could not be taxed as a holding company, neither could it be taxed similar to banks and other financial institutions; that it was not engaged in business activity liable to Local Business Tax (LBT); and it had no taxable gross sales/receipts.

In her Letter dated October 7, 2014 received on October 9, 2014, petitioner City Treasurer denied respondent's protest holding that she deemed the latter a holding company, not a bank or a financial institution, which activity is taxed under the Revised Makati Revenue Code (RMRC).

Respondent moved for reconsideration but it was denied in a Letter dated October 15, 2014, it received on even date.

Respondent seek judicial relief with the RTC of Makati on November 10, 2014 *via* a Petition for Review, docketed as Civil Case No. 14-1183.

On September 14, 2017, the RTC rendered the assailed Decision granting respondent's Petition for Review and declaring the assessment issued by the City Treasurer of Makati cancelled and set aside. In finding for respondent, the court *a quo* ratiocinated that respondent could not be considered as a bank or a financial institution, neither a non-bank financial intermediary. Respondent did not hold itself out as a non-banking financial intermediary, hence, local business tax could not be imposed against the interest and dividends it received.

Petitioners assailed the said ruling and moved for reconsideration which was denied in the equally assailed Order dated December 29, 2017.

Hence, the instant *Petition for Review* raising the following issues for the determination of the Court, to wit:

A. WHETHER RESPONDENT ITSELF APPLIED AS, AND DECLARED UNDER OATH THAT IT IS, A HOLDING COMPANY IN MAKATI CITY

B. WHETHER AS A HOLDING COMPANY, RESPONDENT WAS TAXED UNDER SECTION 3A.02(p) IN RELATION TO SECTION 3A.02(h) OF THE REVISED MAKATI REVENUE CODE

C. WHETHER SECTION 3A.02(g) AND 3A.02(h), WAS NEVER QUESTIONED IN ACCORDANCE WITH SECTION 7B.14 (Taxpayers' Remedies) paragraph (d) of the Revised Makati Revenue Code, AND THEREFORE, REMAINS TO BE VALID

D. THE COURT OF TAX APPEALS ("CTA") CASE OF *ORLEYTE COMPANY (PHILIPPINE BRANCH) VS. THE CITY OF MAKATI* (CTA Case No. 80, November 14, 2012) IS NOT APPLICABLE IN THE CASE AT BAR.

   D.1 THE TAXABLE YEARS INVOLVED IN THAT *ORLEYTE* CASE WHERE 2001-2002, 2002-2003 AND 2003-2004, AND THEREFORE, ARE COVERED UNDER THE OLD MAKATI REVENUE CODE

E. THE SUPREME COURT HAS CONSISTENTLY RULED THAT TAX ASSESSMENTS MADE BY TAX EXAMINERS ARE PRESUMED CORRECT AND MADE IN GOOD FAITH. THE TAXPAYER HAS THE DUTY TO PROVE OTHERWISE.

Petitioners claim that respondent's classification as a holding company was based on its own declaration as such. Thus, it was taxed under Section 3A.02(p) in relation to Section 3A.02(h) of the RMRC. As a holding company, respondent need not be a service contractor nor an owner or operator of banks and other financial institutions for Section 3A.02(h) to apply. Once an entity is classified as a holding company, the tax rate prescribed in Section 3A.02(h) shall apply on its gross receipts.

Further, Section 3A.02(p) of the RMRC, in relation to subsections (g) and (h), was never assailed by respondent before the Secretary of Justice in accordance with Section 7B.14(d) of the same Code, hence, it remains and continues to be valid.

Petitioners likewise asserts that the *Orleyte* case is not applicable in the case at bar given that the taxable years involved therein were 2001-2002, 2002-2003, and 2003-2004, hence, covered by the Old Makati Revenue Code, while the instant case is covered by the RMRC. Petitioner states that the Old Makati Revenue Code did not have a similar provision as that of the Revised Makati Revenue Code on holding companies, *i.e.*, Section 3A.02(p).

Finally, petitioners invoke the presumption that tax assessments made by tax examiners are correct and made in good faith and that the taxpayer has the duty to prove the contrary, a burden which respondent failed to discharge.

By way of Comment,[4] respondent maintains that it is not a taxable holding company. The declaration in its applications for business licenses and permits that it is a holding company **does not make it *ipso facto* a taxable** holding company within the definition of Section 3A.01(dd) of the RMRC.

To be a taxable holding company under the RMRC, the following conditions must concur, to wit: (1) it is a controlling company; (2) it has one or more subsidies; and (3) its activities are confined primarily to the management of the subsidiary/ies. According to respondent, it did not meet the third element since its principal activity is not to manage but merely to own, hold subscribe for, or acquire, use, sell, assign, transfer, mortgage, pledge, or otherwise dispose of real and personal property. For failure to establish that respondent is a taxable "holding company" as defined in

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[4] Docket, pp. 42-59.

Section 3A.02(dd) of the RMRC, any doubt in the construction and application of the provision should be resolved against petitioners and liberally in respondent's favor.

Further, respondent could not be taxed under Section 143(f) of the LGC, as implemented by Section 3A.02(h) of the RMRC, since it is not a bank or a financial institution, neither is it engaged in any trade or business and that it has no taxable gross sales or receipt.

Moreover, there is nothing in Section 195[5] of the LGC that requires a taxpayer to first assail the validity of an ordinance or any provision thereof upon which the assessment is based before seeking relief from the Court.

Lastly, the presumption that tax assessments made by tax examiners are correct and made in good faith is NOT absolute. The prima facie correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation, meaning, it is arbitrary and capricious.

On May 18, 2018, the instant *petition* was deemed submitted for decision considering that both parties have already filed their respective memoranda.[6]

THE COURT'S RULING

The Court must first determine if petitioners were able to perfect their appeal in the manner and within the period

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[5] SECTION 195. *Protest of Assessment.* — When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60)-day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

[6] Resolution, CTA docket, p. 177.

permitted by law, which is not only mandatory, but also jurisdictional.[7]

Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals provides, thus:

> SEC. 3. *Who may appeal; period to file petition*. — (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the 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 may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. (*Underscoring supplied*)

Thus, an appeal from a decision or order of the RTC in local tax cases decided or resolved by it in the exercise of its original jurisdiction may be made by filing a Petition for Review before the Court of Tax Appeals (CTA) within thirty (30) days from receipt of a copy of the decision or ruling.

Evidence show that petitioners received the assailed Order of the RTC on January 12, 2018. Counting thirty (30) days from the said date, petitioners had until February 11, 2018 within which to file their appeal with the CTA. In fine, petitioners timely filed their appeal before the Court on January 26, 2018.

We now proceed on the merits of the Petition.

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[7] *Wilson T. Go vs. BPI Finance Corporation*, G.R. No. 199354, June 26, 2013.

Respondent should not be taxed similar to banks or other financial institution under Section 3A.02(h) of the RMRC.

Respondent was assessed for LBT as a holding company at the rate of twenty percent (20%) of one percent (1%) of its dividend and interest income following Section 3A.02(p) in relation to subsection (h) of the RMRC, to wit:

> SEC. 3A.02. *Imposition of Tax.* – There is hereby levied an annual tax on the following businesses at rates prescribed therefore:
>
> xxx xxx xxx
>
> (h) **On owners or operators of banks and other financial institutions** which include offshore banking, non-bank, financial intermediaries, lending investors, finance and investment companies, investment house, pawnshops, money shops, insurance companies, stock markets, stock brokers, dealers in securities including pre-need companies, foreign exchange shall be taxed at the rate of twenty percent (20%) of one percent (1%) of the gross receipts of the preceding calendar year derived from interest, commissions, and discounts from lending activities, income from financial leasing, investments, dividends, insurance premium and profit from exchange or sale of property, provided, however, on gross sales/receipts derived from rental of property during the preceding calendar year shall be subject to the business tax at the rate prescribed under subsection (I) 1, as provided in this code.
>
> xxx xxx xxx
>
> (p) On **Holding Company** shall be **taxed at the rate prescribed either**

w/

> **under subsection (g) or (h), of the gross sales and/or receipts during the preceding calendar year.**" *(Emphasis supplied)*

Respondent, however, asserts that it is not a holding company as defined under Section 3A.01(dd) of the RMRC, to wit:

> (dd) *Holding Company* – as controlling company that has one or more subsidiaries and confines its activities to their management.

Respondent also argues that it cannot be taxed under Section 143(f) of the LGC, as implemented by Section 3A.02(h) of the RMRC, claiming that: (a) it is not a bank or a financial institution; (b) it is not engaged in any trade or business; and (c) it has no taxable gross sales/receipts.

The Court finds for respondent.

Undeniably, LGUs have the power to create their own sources of revenues and to levy taxes, fees and charges.[8] This power is however not absolute. Section 133(a) of the LGC of 1991 delimits such power as follows:

> SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* – Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:
>
> (a) <u>Income tax, except when levied on banks and other financial institutions</u>; xxx

[8] Section 5, Article X of the 1987 Constitution; Section 129, Local Government Code of 1991. ✓

Clearly, a city such as petitioner Makati City is **prohibited from levying income tax** on any person, **<u>except for banks and other financial institutions</u>**.

Corollarily, Sections 143 and 151 of the LGC provide that municipalities and cities may impose LBT on banks and other financial institutions on their income from dividends and interest, based on gross receipts of the preceding year, *viz*:

> Article II
> MUNICIPALITIES
>
> xxx xxx xxx
>
> SEC. 143. *Tax on Business.* – The municipality may impose taxes on the following businesses:
>
> xxx xxx xxx
>
> (f) On banks and other financial institutions, at a rate not exceeding fifty percent (50%) of one percent (1%) on the gross receipts of the preceding calendar year derived from interest, commissions and discounts from lending activities, income from financial leasing, dividends, rentals on property and profit from exchange or sale of property, insurance premium.
>
> xxx xxx xxx
>
> Article III
> CITIES
>
> SEC. 151. *Scope of Taxing Powers.* – Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however,* That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and

> distributed in accordance with the provisions of this Code.
>
> The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%) except the rates of professional and amusement taxes.

To put flesh into the forgoing provisions, petitioner Makati City enacted the RMRC which, among others, provides for the imposition of business taxes, as follows:

> Chapter III. City Taxes
> Article A. Business Tax
>
> SEC. 3A.02. *Imposition of Tax.* – There is hereby levied an annual tax on the following businesses at rates prescribed therefore:
>
> xxx xxx xxx
>
> (g) **On Contractors and other independent contractors** defined in SEC. 3A-01 (t) of chapter III of this Code; **and on owners or operators of business establishments rendering or offering services** such as; advertising agencies; rental of space of signs, signboards, billboard or advertisements; animal hospitals; assaying laboratories; belt and buckle shops; blacksmith shops; bookbinders; booking offices for film exchange; booking offices for transportation on commission basis; breeding of game cocks and other sporting animals belonging to others; business management services; collecting agencies; escort services; feasibility studies, consultancy services; garages; garbage disposal contractors; gold and silversmith shops; inspection services for incoming and outgoing cargoes; interior decorating services; janitorial services; job placements

or recruitment agencies; landscaping contractors; lathe machine shops; management consultants not subject to professionals tax; medical and dental laboratories; mercantile agencies; messengerial services; operators of shoe shine stands; painting shops; perma press establishments; rent-a-plant services; polo players; school for and/or horse-back riding academy; real estate appraisers; real estate brokerages; photostatic; white/blue printing, photocopying, typing and mimeographing services; car rental, rental of heavy equipment, rental of bicycles and/or tricycles; furniture, shoes, watches, household appliances, boats, typewriters, etc; roasting of pigs, fowls, etc; shipping agencies; shipyard for repairing ships for others; shops for hearing animals; silkscreen or T-shirt printing shops; stables; travel agencies; vaciador shops; veterinary clinics; video rentals and/or coverage services; dancing school/speed reading/EDP; nursery, vocational and other schools not regulated by the Department of Education (DepEd), day care centers; etc.

xxx xxx xxx

(h) **On owners or operators of banks and other financial institutions** which include offshore banking, non-bank, financial intermediaries, lending investors, finance and investment companies, investment house, pawnshops, money shops, insurance companies, stock markets, stock brokers, dealers in securities including pre-need companies, foreign exchange shall be taxed at the rate of twenty percent (20%) of one percent (1%) of the gross receipts of the preceding calendar year derived from interest, commissions, and discounts from lending activities, income from financial leasing, investments, dividends, insurance premium and profit from exchange or sale of

> property, provided, however, on gross sales/receipts derived from rental of property during the preceding calendar year shall be subject to the business tax at the rate prescribed under subsection (I) 1, as provided in this code.
>
> xxx xxx xxx
>
> (p) On **Holding Company** shall be **taxed at the rate prescribed either under subsection (g) or (h), of the gross sales and/or receipts during the preceding calendar year**. *(Emphasis supplied)*

A scrutiny of Section 3A.02 reveals that **holding companies are classified separately from banks and other financial institutions**. In fact, the RMRC defined "banks and other financial institutions", as follows:

> SEC. 3A.01. *Definitions.* – When used in this Article:
>
> xxx xxx xxx
>
> (e) *Banks and other financial institutions* – include banks, offshore banking, non-bank financial intermediaries, lending investors, finance and investment companies, investment houses, pawnshops, money shops, insurance companies, stock markets, stock brokers and dealers in securities and foreign exchange including pre-need companies, as defined under applicable law, or rules and regulations.

The disquisition on the matter of the Court *En Banc* in *Michigan Holdings, Inc. vs. The City Treasurer of Makati City, Nelia A. Barlis,*[9] is enlightening, to wit:

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[9] CTA EB No. 1093 (CTA AC No. 99), June 17, 2015.

> Indeed, if the business of a holding company is in the same class as that of a bank or other financial institutions, the Makati City tax ordinance could simply have included holding companies in its Section 3A.02 (h), instead of placing them all by themselves in Section 3A.02 (p) and then making the tax rates in either Section 3A.02 (h) or (g) applicable to them. **That holding companies, exclusively, were placed in a separate section, shows that they comprise a category distinct from the class of 'banks and other financial institutions'** as defined by Section 131 (e) of the LGC. **That holding companies were subjected to a tax on dividend income which the LGU is not authorized and is in fact prohibited from levying on businesses other than banks and financial institutions, shows a deliberate intent to circumvent the prohibition laid down by Section 133 (a) that the taxing powers of LGUs** shall not extend to the levy of income tax, except on banks and other financial institutions. *(Emphasis supplied)*

In the present case, there is nothing in respondent's Articles of Incorporation that even suggests that it may perform the functions of a bank or a financial institution as defined under Section 3A.01(e) of the RMRC. Per its Articles of Incorporation, respondent was organized for the following primary purpose, to wit:

> *PRIMARY*
>
> To own, hold, purchase, subscribe for, or otherwise acquire, use, sell, assign, transfer, mortgage, pledge, exchange, or otherwise dispose of real and personal property of every description, including shares of stock, franchises, bonds, debentures, notes, evidences of indebtedness, and other securities, contracts, or obligations of any

> corporation/s, association/s, domestic or foreign, **without being a broker of securities or investment corporation**, and to pay therefore in whole or in part in cash or by exchanging therefore stocks, bonds, or other evidences of indebtedness or securities of this or any other corporation, and while the owner or holder of any such real or personal property, stocks, bonds, debentures, notes, evidences of indebtedness or other securities, contracts, or obligations, to receive, collect and dispose of the interest, dividends and income arising from such property, and to possess and exercise in respect thereof, all rights, powers and privileges of ownership, ***except broker and dealer of securities***. (*Boldfacing supplied*)

Although the purpose clause is broad and allows for the acquisition of shares of stock of other corporations, receipt, collection and disposition of the interest, dividends and income arising therefrom, it is clear that respondent was not organized primarily to engage in business as a non-bank financial intermediary, and that the receipt of dividend and interest income from such shares of stocks is merely incidental.

Significantly, respondent's classification as a holding company is consistent with the definition of a holding company in the Office of the General Counsel (SEC-OGC) Opinion No. 11-15, dated February 10, 2011,[10] of the SEC, to wit:

> A holding company has been defined by the Commission in several opinions. A holding company has been aptly defined as 'a corporation organized to hold the stock of another or other corporations. **Its essential feature is that it holds stock**. The term 'holding company' is equivalent to a parent

[10] SEC-OGC Opinion No. 11-15, Applicability of Foreign Ownership Restriction; Holding Companies.

> corporation, having such an interest in another corporation, or power of control, that it may elect its directors and influence its management. A parent or holding company is one that controls another as a subsidiary or affiliate by the power to elect its management. Affiliates are those concerns that are subject to common control and operated as part of a system. *(Citations omitted; emphases supplied)*

To be sure, respondent cannot be considered an investment company, nor a bank or other financial institution. Other than respondent's declaration in its application for business permit, there is nothing in the record that even suggests that respondent is a holding company. Petitioners failed to establish their claim that respondent is a holding company and its business is akin to that of an investment company, or a bank or other financial institution.

The legality or constitutionality of Section 3A.02(p), in relation to subsections (g) and (h), is not an issue in this case.

As the court *a quo* correctly ruled, the instant case can be resolved without delving into the constitutionality of Section 3A.02(p), in relation to subsections (h) and (g) of the RMRC.

And as ruled by the Court *En Banc* in the *Michigan* case, Section 195 of the LGC "*does not bar an aggrieved taxpayer from challenging the validity of a tax ordinance or a provision thereof which the assessment is based. And there is nothing in Section 195 that requires the taxpayer who relies on this ground to first assail the validity of the ordinance xxx.*"

Respondent is not liable for LBT on its dividend and interest income.

The taxability of dividend and interest income for purposes of determining the total LBT liability of a holding company has long been settled in this jurisdiction. As ruled in the *Michigan case* and reiterated in the case of *The City of Makati and The City Treasurer of Makati v. CEMCO Holdings, Inc.*,[11] Section 3A.02(p) in relation to Section 3A.02(h), both of the RMRC, imposing LBT on dividend income of holding companies violates the limit set by Section 133(a) of the 1991 LGC.

Section 3A.02(p) in relation to Section 3A.02(h), of the RMRC also violates Section 27(D)(4) of the National Internal Revenue Code of 1997, as explained by the Court *En Banc* in the *Michigan case*, as follows:

> Section 27 (D) of the National Internal Revenue Code deals with rates of tax on certain passive incomes. Subsection (4) thereof, covering intercorporate dividends, states that
>
> 'Dividends received by a domestic corporation from another domestic corporation shall not be subject to tax' — meaning corporate income tax. Dividends are instead subject, under Section 27(D)(1), to "a final tax at the rate of twenty percent (20%)."
>
>> 'Under Section 27(D)(4) of the Tax Code, dividends received by a domestic corporation from another corporation are not subject to the corporate income tax. Such intracorporate dividends are some of the passive incomes that are subject to the 20% final tax, just like interest on bank deposits. Intracorporate dividends, being already subject to the final tax on income, no longer form part of the bank's gross

[11] CTA AC No. 166, January 6, 2017.

> income under Section 32 of the Tax Code for purposes of the corporate income tax.'
>
> Thus, Section 3A.02(p) in relation to Section 3A.02(h), both of the Revised Makati Revenue Code, likewise violates Section 27(D)(4) of the National Internal Revenue Code.
>
> Section 3A.02(p) of the Revised Makati Revenue Code is thus an ultra vires exercise of local taxing power, and cannot be given effect without violating the principle that an ordinance can neither amend nor repeal but must conform to a statute.

Clearly, it was erroneous on the part of petitioners to impose LBT on respondent's dividend and interest income, considering that the basis for the imposition thereof is Section 3A.02(p) in relation to subsection (h) of the RMRC, which violates the limit set by Section 133(a) of the 1991 LGC. Note that an ordinance, or any part thereof, which contravenes any statute is ultra vires, hence, void.

WHEREFORE, the instant *Petition for Review* is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision dated September 14, 2017 and the Order dated December 29, 2017, rendered by the Regional Trial Court Branch 142, Makati City, in Civil Case No. 14-1183 entitled *"Allons Holdings, Inc. vs. City of Makati and the Office of the City Treasurer"*, are hereby **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ESPERANZA R. FABON-VICTORINO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice