REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF TRANSPORTATION), Petitioner,	**CTA AC No. 177** (Civil Case No. MC05-2882)
	Members:
- versus -	**DEL ROSARIO,** P.J., Chairperson, **UY,** and **MINDARO-GRULLA,** JJ.
REGIONAL TRIAL COURT OF MANDALUYONG CITY – BRANCH 208 and the CITY GOVERNMENT OF MANDALUYONG, Respondents.	***Promulgated:*** SEP 18 2018 : 10:36 am

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DECISION

UY, J.:

Before this Court is the Petition for Certiorari under Rule 65 of the Rules of Court filed on November 28, 2016 by the Republic of the Philippines (Department of Transportation), petitioner, against the Regional Trial Court of Mandaluyong City (or RTC) – Branch 208 and the City Government of Mandaluyong, respondents, assailing the Orders of said respondent RTC in Civil Case No. MC05-2882 entitled *"Republic of the Philippines (Department of Transportation) vs. City Government of Mandaluyong and Registrar of Deeds of Mandaluyong City"*, and praying that judgment be rendered as follows:

1) Nullifying the Orders dated March 22, 2006[1], May 25, 2006[2], September 15, 2006[3], and March 9, 2007[4] of RTC – Branch 208 in Civil Case No. MC05-2882 entitled *"Republic of the Philippines (DOTC), Plaintiff,*

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[1] Division Docket – Vol. I, pp. 60 to 70.
[2] Division Docket – Vol. I, pp. 71 to 74.
[3] Division Docket – Vol. I, pp. 75 to 79.
[4] Division Docket – Vol. I, pp. 80 to 81.

versus City Government of Mandaluyong and The Registrar of Deeds Mandaluyong City, Defendants, Metro Rail Transit Corporation, Intervenor", for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction;

2) Nullifying any act or proceeding conducted by respondent Mandaluyong City, or any person or entity acting under its control or supervision, or for or in its behalf, to enforce real property tax assessments on the EDSA MRT III properties while the validity of said assessments is still being determined in Civil Case No. MC05-2882; and

3) Enjoining respondent Mandaluyong City, or any person or entity acting under its control or supervision, or for or in its behalf, from further implementing and enforcing its real property tax assessments on the EDSA MRT III properties by: (i) conducting further proceedings on the said properties; (ii) causing the transfer of the title to the subject properties; and (iii) exercising other acts of ownership and administration over said properties.

The dispositive portions of the said assailed Orders respectively read as follows:

<u>Order dated March 22, 2006</u>:

"WHEREFORE, upon the foregoing premises, both DOTC's and MRTC's prayer for the issuance of a Temporary Restraining Order are hereby DENIED.

Set the pre-trial of this case on 27 April 2006 at 1:30 o'clock in the afternoon.

SO ORDERED."

<u>Order dated May 25, 2006</u>:

"WHEREFORE, considering the absence of cogent reason to reverse, reconsider, much less abandon said Order, let the Order dated 22 March 2006 stand but modified with regard to the setting of the case for pre-trial. Let said portion of the Order be set aside and a new one entered setting the instant case for the hearing on the issuance of the writ of preliminary injunction/preliminary mandatory injunction.

Hearing on the application for preliminary injunction is set on 1 June 2006 at 1:30 o'clock in the afternoon, as previously scheduled.

SO ORDERED."

<u>Order dated September 15, 2006</u>:

"UPON THE PREMISES, the applications for issuance of a writ of preliminary injunction of plaintiff RP/DOTC and intervenor MRTC are DENIED.

Set the pre-trial of this case on 4 October 2006 at 8:30 o'clock in the morning.

SO ORDERED."

<u>Order dated March 9, 2007</u>:

"From the foregoing, the Motions for Reconsideration filed by DOTC and MRTC are DENIED.

The pre-trial is set on 3 April 2007 at 8:30 o'clock in the morning.

SO ORDERED."

Allegedly, the filing of this petition is in consonance with the Court of Appeals' ruling in CA-G.R. S.P. No. 98334, as upheld by the Supreme Court in G.R. No. 222636, that the *certiorari* petition against the trial court's interlocutory orders should have been filed before this Court.

THE FACTS

Petitioner Republic of the Philippines is a sovereign political entity with capacity to sue. It is represented in this action by the Department of Transportation, which is the primary policy, planning, programming, regulating and administrative entity of the executive branch of the government in the promotion, development, and regulation of dependable and coordinated networks of transportation systems as well as in the fast, safe, efficient, and reliable transportation services.[5]

Respondent City Government of Mandaluyong (Mandaluyong City) is a local government unit charged, among others, with meeting the priority needs and service requirements of its constituents in Mandaluyong City.[6]

Metro Rail Transit Corporation (MRTC) is the intervenor in Civil Case No. MC05-2882 pending before Branch 208 of the RTC of Mandaluyong City. It is a corporation duly organized and existing under the laws of the Philippines, with principal office address at 6th Floor, Belvedere Tower, San Miguel Avenue, Ortigas Center, Pasig City.[7]

On August 8, 1997, the then Department of Transportation and Communication (DOTC) entered into a Revised and Restated Agreement to Build, Lease and Transfer a Light Rail System (BLT Agreement)[8] for the Epifanio Delos Santos Avenue (EDSA) with Metro Rail Transit Corporation Limited (Metro Rail), a foreign corporation. Under the said BLT Agreement, Metro Rail shall be responsible for the design, construction, equipping, completion, testing, and commissioning of the Light Rail Transit System-LRTS Phase I (EDSA MRT III). The DOTC shall operate the same but the ownership of the EDSA MRT III shall remain with Metro Rail during the Revenue and Construction periods. Metro Rail shall transfer to DOTC its title to and all of its rights and interests therein, in exchange for US$1.00, at the end of the Revenue Period. On the same date, Metro Rail assigned all its rights and obligations under the BLT Agreement to MRTC.

In the Agreement dated July 15, 2000,[9] Metro Rail turned over the EDSA MRT III System to the DOTC for its operation.

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[5] Par. 1, *Complaint* vis-à-vis Par. 1, *Answer*, and Par. 1, *Complaint-In-Intervention* vis-a-vis Par. 1, *Answer (To Complaint In Intervention)*; RTC Records – Vol. 1 and 2 (Civil Case No. MC05-2882), pp. 1 to 2, 300, 316 to 317, and 638.

[6] Par. 2, *Complaint* vis-à-vis Par. 1, *Answer*, and Par. 1, *Complaint-In-Intervention* vis-a-vis Par. 1, *Answer (To Complaint In Intervention)*; RTC Records – Vol. 1 and 2 (Civil Case No. MC05-2882), pp. 2, 300, 317, and 638.

[7] Par. 4, *Complaint-In-Intervention* vis-a-vis Par. 1, *Answer (To Complaint In Intervention)*; RTC Records – Vol. 1 and 2 (Civil Case No. MC05-2882), pp. 317 and 638.

[8] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 24 to 95; 151 to 222; and 405 to 471.

[9] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 92 to 95.

In the Joint Resolution dated April 5, 2001,[10] the City Assessors of respondent Mandaluyong City, Quezon City, Makati City, and Pasay City, fixed the current and market value of EDSA MRT III at US$655 Million or ₱32,750,000,000.00, and which will be divided proportionately according to the distance traversed among the said cities.

On June 4, 2001, the Office of the City Assessor of respondent Mandaluyong City issued Tax Declaration No. D-013-06267 in the name of MRTC,[11] fixing the market value of the railways, train cars, three (3) stations and miscellaneous expenses at ₱5,974,365,000.00 and the assessed value at ₱4,779,492,000.00.

Subsequently, on June 18, 2001, the said Office of the City Assessor of respondent Mandaluyong City demanded payment of real property taxes due under the aforesaid tax declaration.[12] From the taxable year 2000 until August 2001, the computation of the real property tax against MRTC amounted to ₱317,250,730.23. Two (2) years later, or on August 4, 2003, another demand was made on MRTC by respondent Mandaluyong City in the amount of ₱769,784,981.52.[13]

Thereafter, the Notice of Delinquency dated June 24, 2005[14] was sent to MRTC wherein the assessed deficiency real property tax amounted to ₱12,843,928.79. However, the City Treasurer of respondent Mandaluyong City issued another Notice of Delinquency dated September 7, 2005,[15] rectifying the said earlier Notice by increasing the amount of deficiency real property tax to ₱1,306,617,522.96. The said City Treasurer also issued and served a Warrant of Levy[16] upon MRTC.

On December 5, 2005, petitioner filed a *Complaint* against respondent Mandaluyong City and the Registrar of Deeds Mandaluyong City, at the RTC, praying for the following:

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[10] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 96 to 97.
[11] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 99 to 100.
[12] RTC Records – Vol. 1 (Civil Case No. MC05-2882), p. 98.
[13] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 105 to 106.
[14] RTC Records – Vol. 1 (Civil Case No. MC05-2882), p. 107.
[15] RTC Records – Vol. 1 (Civil Case No. MC05-2882), p. 110.
[16] RTC Records – Vol. 1 (Civil Case No. MC05-2882), p. 111.

1) the declaration as null and void *ab initio*, and the cancellation, of the real property assessment on the subject Light Rail Transit (LRT) properties, as well as all subsequent proceedings resulting therefrom, such as the issuance of the Warrant of Levy, the eventual conduct of the public auction, and ultimately the issuance of the certificate of sale thereof, including the annotation of any of these proceedings on the tax declaration and/or title covering the said LRT properties;

2) the issuance of a temporary restraining order, preliminary writ of injunction, and the permanent injunction of Mandaluyong City, or any and all persons or entities acting under its control or supervision or for or in its behalf; from causing the conduct of a public auction sale and the annotation or registration of the certificate of sale thereof; from causing the transfer of the title to the aforesaid LRT properties; and/or from exercising other acts of ownership and administration over the same LRT properties; and

3) the issuance of a temporary restraining order, preliminary writ of injunction, and permanent injunction of the Registrar of Deeds from implementing the eventual annotation or registration of the certificate of sale of the subject LRT properties, and from transferring the title to the aforesaid LRT properties.

The case was docketed as Civil Case No. MC05-2882, and raffled to RTC-Branch 208.

Subsequently, on January 11, 2006, respondent Mandaluyong City filed its *Answer*, [17] praying for the dismissal of petitioner's *Complaint* for absolute lack of merit.

In the same *Answer*, respondent Mandaluyong City admitted, *inter alia*, that it has the intention to conduct an auction sale of the subject properties in the event that MRTC fails to pay the realty taxes due on the same but only after all the legal processes and procedures established by law are complied with.[18] Thus, on March 24, 2006, a public auction was conducted; and for lack of bidders, the real properties were forfeited in favor of respondent Mandaluyong

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[17] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 300 to 311.
[18] Par. 3, *Answer*, RTC Records – Vol. 1 (Civil Case No. MC05-2882), p. 302.

City for the price of ₱1,483,700,100.18.[19] As a consequence of such forfeiture, respondent City of Mandaluyong issued a new Declaration of Real Property (No. D-013-10636) under its name, thereby cancelling Declaration of Real Property No. D-013-06267 under the name of MRTC.[20] Furthermore, respondent Mandaluyong City filed an *ex parte* petition for the issuance of a writ of possession with the RTC – Branch 213,[21] which the latter granted and maintained in the Decision dated July 30, 2008 and Order dated October 6, 2008, respectively. However, the Supreme Court later vacated and set aside the said Decision and Order in the case of *Republic of the Philippines (Department of Transportation and Communications) vs. City of Mandaluyong.*[22]

As intervenor, MRTC likewise filed its *Complaint-In-Intervention* on January 24, 2006 in Civil Case No. MC05-2882, [23] with substantially the same prayer as that of petitioner. In the same case, respondent Mandaluyong City filed its *Answer (To Complaint In Intervention)* on February 24, 2006,[24] also praying for the dismissal thereof for lack of merit.

RTC-Branch 208 then issued the assailed Order dated March 22, 2006, [25] denying the prayers of petitioner and MRTC for the issuance of a temporary restraining order.

On April 5, 2006, MRTC filed its *Motion for Reconsideration* of the said Order,[26] praying of the setting aside thereof, and reiterating its prayer for the issuance of a *Writ of Preliminary Injunction/Preliminary Mandatory Injunction*. Petitioner likewise filed its *Motion for Reconsideration* on April 7, 2006,[27] praying for the reconsideration of the same Order, and reiterating its prayer for the issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction.

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[19] *Declaration of Forfeiture of Delinquent Property* and *Certificate of Sale of Delinquent Real Property to the City of Mandaluyong*, RTC Records – Plaintiff Formal Offer of Exhibit (Civil Case No. MC05-2882), pp. 2266 to 2267.
[20] RTC Records – Plaintiff Formal Offer of Exhibit (Civil Case No. MC05-2882), pp. 2268 to 2269.
[21] Docketed as LRC Case No. MC-08-460.
[22] G.R. No. 184879, February 23, 2011.
[23] RTC Records – Vol. 1 (Civil Case No. MC05-2882), pp. 316 to 342.
[24] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 638 to 647.
[25] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1057 to 1067; Division Docket – Vol. I, pp. 60 to 70.
[26] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1090 to 1106.
[27] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1107 to 1117.

Thereafter, RTC-Branch 208 effectively denied the *Motions for Reconsideration* of petitioner and MRTC in the assailed Order dated May 25, 2006.[28]

In the assailed Order dated September 15, 2006,[29] RTC-Branch 208 denied the applications for issuance of a writ of preliminary injunction of petitioner and MRTC.

Petitioner then filed a *Motion for Reconsideration* of the said Order dated September 15, 2006 on October 11, 2006.[30] MRTC likewise filed its *Motion for Reconsideration* of the same Order on October 20, 2006.[31] However, In the assailed Order dated March 9, 2007, [32] RTC-Branch 208 denied the said *Motions for Reconsideration*.

Petitioner subsequently filed a *Petition for Certiorari* before the Court of Appeals, seeking the annulment and setting aside the above-stated Orders of RTC-Branch 208.[33] The case was docketed as CA-G.R. SP No. 98334.

On January 21, 2015, the Court of Appeals promulgated its Decision in CA-G.R. SP No. 98334,[34] dismissing petitioner's *Petition* for lack of jurisdiction. The Court of Appeals invoked the case *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, et al.*,[35] wherein the Supreme Court *En Banc* ruled that this Court is the court endowed with jurisdiction to entertain special civil actions for *certiorari* assailing an interlocutory order issued by a regional trial court in a local tax case.

Petitioner then filed a *Motion for Reconsideration* on February 17, 2015 in CA-G.R. SP No. 98334,[36] refuting the said Decision of the

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[28] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1190 to 1193; Division Docket – Vol. I, pp. 71 to 74.
[29] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1269 to 1273; Division Docket – Vol. I, pp. 75 to 79.
[30] RTC Records – Vol. 2 (Civil Case No. MC05-2882), pp. 1277 to 1287.
[31] RTC Records – Vol. 3 (Civil Case No. MC05-2882), pp. 1292 to 1305.
[32] RTC Records – Vol. 3 (Civil Case No. MC05-2882), pp. 1321 to 1322; Division Docket – Vol. I, pp. 80 to 81 .
[33] Division Docket – Vol. I, pp. 104 to 140.
[34] Division Docket – Vol. I, pp. 142 to 149.
[35] G.R. No. 175723, February 4, 2014.
[36] Division Docket – Vol. I, pp. 150 to 157.

Court of Appeals. The latter Court denied the said *Motion* of petitioner in the Resolution dated January 18, 2016 for lack of merit.[37]

Unconvinced, petitioner filed a *Petition* before the Supreme Court, [38] assailing the Decision dated January 21, 2015 and Resolution dated January 18, 2016, both rendered by the Court of Appeals in CA-G.R. SP No. 98334. The case was docketed as G.R. No. 222636. Apparently, MRTC also filed a Petition with the Supreme Court docketed as G.R. No. 222483.

In an undated Notice issued by the Deputy Division Clerk of Court Teresita Aquino Tuazon of the Second Division of the High Court, the parties were notified of the Court's Resolution dated May 30, 2016, wherein the said Second Division resolved to deny petitioner's *Petition "for failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise of this Court's discretionary appellate jurisdiction."*[39]

Still unconvinced, petitioner filed, with the Supreme Court, a *Motion for Reconsideration* on August 2, 2016,[40] praying for the reconsideration of the Supreme Court's Resolution dated May 30, 2016. Consequently, the Deputy Division Clerk of Court Teresita Aquino Tuazon issued again an undated Notice,[41] wherein she quoted the Resolution dated August 22, 2016 of the Supreme Court Second Division, denying petitioner's *Motion for Reconsideration* with finality, there being *"no substantial argument having been adduced to warrant the reconsideration sought."*

The present *Petition* for *Certiorari* was filed on November 28, 2016.[42]

In the Resolution dated December 15, 2016,[43] this Court ordered respondents to file *Comment* within ten (10) days from receipt thereof. However, respondents failed to file said *Comment*, within the said period.[44]

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[37] Division Docket – Vol. I, pp. 159 to 162.
[38] Division Docket – Vol. I, pp. 167 to 194.
[39] Division Docket – Vol. I, pp. 195 to 196.
[40] Division Docket – Vol. I, pp. 197 to 218.
[41] Division Docket – Vol. I, pp. 219 to 220.
[42] Division Docket – Vol. I, pp. 8 to 58.
[43] Division Docket – Vol. I, p. 488.
[44] Records Verification dated January 18, 2017 issued by the Judicial Records Division of this Court, Division Docket – Vol. I, p. 491.

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This Court likewise ordered the Branch Clerk of Court of RTC-Branch 208 to elevate the entire original records of Civil Case No. MC05-2882 in the Resolution dated December 22, 2016.[45] Thus, on January 19, 2017, RTC-Branch 208 transmitted the records of the said Civil Case, composing of four (4) volumes.[46]

On February 17, 2017, respondent Mandaluyong City filed a *Motion for Leave of Court To Admit Attached Comment*,[47] praying for the admission of the attached *Comment*[48] thereto.

In the Resolution dated March 9, 2017,[49] this Court granted the *Motion for Leave of Court* of respondent Mandaluyong City, and admitted its *Comment*. In the same Resolution, this Court gave due course to the instant *Petition*, and gave the parties thirty (30) days from receipt thereof to submit their respective memoranda.

Respondent Mandaluyong City posted its *Memorandum* on April 17, 2017,[50] while petitioner filed its *Memorandum* on April 25, 2017.[51] MRTC likewise filed its own *Memorandum* on April 26, 2017.[52]

The instant case was submitted for decision on September 20, 2017.[53]

Hence, this Decision.

THE ISSUES

Petitioner raises the following issues for this Court's resolution, to wit:

"I. WHETHER THE EXCEPTIONAL CIRCUMSTANCES OBTAINING IN THIS CASE

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[45] Division Docket – Vol. I, p. 490.
[46] Transmittal dated January 13, 2017, Division Docket – Vol. I, pp. 493 to 513.
[47] Division Docket – Vol. I, pp. 514 to 533.
[48] Division Docket – Vol. I, pp. 518 to 532.
[49] Division Docket – Vol. I, pp. 556 to 558.
[50] Division Docket – Vol. II, pp. 616 to 641.
[51] Division Docket – Vol. II, pp. 567 to 613.
[52] Division Docket – Vol. II, pp. 644 to 705.
[53] Division Docket – Vol. II, pp. 853 to 855.

NECESSITATE THE LIBERAL APPLICATION OF THE PERIOD FOR THE FILING OF CERTIORARI PETITIONS UNDER RULE 65, IN THE INTEREST OF SUBSTANTIAL JUSTICE

II. WHETHER THE TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ISSUED ITS ORDERS DENYING THE PETITIONER'S PRAYER FOR PRELIMINARY INJUNCTIVE RELIEF TO STOP THE RESPONDENT CITY FROM FURTHER IMPLEMENTING AND ENFORCING ITS REAL PROPERTY TAX ASSESSMENTS ON THE EDSA MRT III PROPERTIES BY CONDUCTING AN AUCTION SALE OF SAID PROPERTIES AND OTHER RELATED PROCEEDINGS".[54]

Petitioner's arguments:

Anent the first issue, petitioner argues that it acted in good faith when, in 2007, it filed the *certiorari* petition before the Court of Appeals and not before this Court; that it also acted in good faith when it sought reconsideration of the Court of Appeals' Decision dated January 21, 2015 and pursued the *Petition for Review* that it filed before the Supreme Court to its appropriate conclusion; that it could not have instituted any *certiorari* petition before this Court while the *Petitions* it filed before the Court were still pending; and that the merits of the *Petition*, the importance of the issues involved, and the grave injustice which will be caused by the outright dismissal of the *Petition* justify the liberal application of procedural rules.

With regard to the second issue, petitioner contends that the trial court's refusal to enjoin respondent City from conducting an auction sale of the EDSA MRT III properties and other related proceedings is contrary to public policy and prejudicial to public interest; and that the trial court's denial of petitioner's prayer for preliminary injunctive relief effectively allows respondent City to pre-empt the resolution of Civil Case No. MC05-2882 and render nugatory whatever judgment that will be rendered in said case.

In addition, petitioner posits that the trial court denied its application for a temporary restraining order and writ of preliminary

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[54] Petitioner's MEMORANDUM, Division Docket – Vol. II, p. 578.

injunction although the requisites for their issuance are present; that petitioner has a right *in esse* to be protected by an injunctive writ; and that grave and irreparable injury will result if the respondent City is not enjoined from further implementing and enforcing its real property tax assessments and from levying, auctioning, forfeiting, and taking over the subject EDSA MRT III properties and conducting other related proceedings.

Respondent City's counter-arguments:

As for the first issue, respondent City counter-argues that the instant *Petition for Certiorari* under Rule 65 of the Rules of Court was clearly filed out of time; that the instant petition was filed ten (10) years too late; that no amount of petitioner's self-serving and gratuitous explanations can place its ill-fated petition within the realm of exceptional circumstances to justify its delay of about ten (10) years; that petitioner has only itself to blame if it availed of the wrong remedy back in 2007, for negligence of counsel binds the client; and that the instant *Petition for Certiorari* having been filed out of time, immutability of the Orders of respondent Court has already set in.

Anent the second issue, respondent City claims that respondent Court did not commit grave abuse of discretion amounting to lack or in excess of jurisdiction in denying the application of petitioner for temporary restraining order and injunction; and that there is no grave abuse of discretion on the part of respondent Court for issuing the subject Orders denying the requests for temporary restraining order and injunction.

MRTC's arguments:

As for the first issue, MRTC contends that petitioner's instant *Petition* is proper and should be granted by this Court; that the Court of Appeals and Supreme Court never ruled that the respondent Court did not commit grave abuse of discretion in issuing the respondent Court's denial orders; and that the exceptional and unique circumstances of this case calls for the suspension of the strict application of the Rules of Court.

With regard to the second issue, MRTC avers that respondent Court committed grave abuse of discretion in issuing the subject denial orders; that respondent City's assessment of RPT on the

EDSA MRT III is an assessment of taxes on petitioner, and local government units, such as respondent City, are prohibited from assessing taxes on petitioner; that respondent City is prohibited from levying, and taking possession and ownership of the EDSA MRT III because it is a property devoted for public use; that allowing respondent City to obtain possession and ownership of the EDSA MRT III will disrupt petitioner's ability to render services to the millions of Filipinos dependent on the EDSA MRT III; and that this would be damaging not only to petitioner and to MRTC, but more importantly, to the general commuting public as well.

THE COURT'S RULING

We rule in favor of petitioner.

This Court has jurisdiction over special civil actions for* certiorari *assailing interlocutory orders of regional trial courts.

Indeed, in *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, et al.* (*"The City of Manila* case"),[55] the Supreme Court *En Banc* declared that this Court has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by a regional trial court in a local tax case. Thus:

> "xxx. The basic question posed before this Court is whether or not the CTA has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local tax case.
>
> This Court rules in the affirmative.
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> On June 16, 1954, Congress enacted Republic Act No. 1125[56] (RA 1125) creating the CTA and giving to the said court jurisdiction over the following:
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>> (1) Decisions of the Collector of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters

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[55] G.R. No. 175723, February 4, 2014.
[56] AN ACT CREATING THE COURT OF TAX APPEALS.

arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;

(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and

(3) Decisions of provincial or City Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

On March 30, 2004, the Legislature passed into law Republic Act No. 9282[57] (RA 9282) amending RA 1125 by expanding the jurisdiction of the CTA, enlarging its membership and elevating its rank to the level of a collegiate court with special jurisdiction. Pertinent portions of the amendatory act provides thus:

Sec. 7. Jurisdiction. – The CTA shall exercise:

a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:

1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue [Code] or other laws administrative by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising

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[57] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

3. **Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction**;

4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs;

5. Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;

6. Decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code;

7. Decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Section 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.

b. Jurisdiction over cases involving criminal offenses as herein provided:

1. Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (₱1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized.

2. Exclusive appellate jurisdiction in criminal offenses:

a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax cases originally decided by them, in their respected territorial jurisdiction.

b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction.

c. Jurisdiction over tax collection cases as herein provided:

1. Exclusive original jurisdiction in tax collection cases involving final and executory assessments for taxes, fees, charges and penalties: Provides, however,

> that collection cases where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (₱1,000,000.00) shall be tried by the proper Municipal Trial Court, Metropolitan Trial Court and Regional Trial Court.
>
> 2. Exclusive appellate jurisdiction in tax collection cases:
>
>> a. Over appeals from the judgments, resolutions or orders of the Regional Trial Courts in tax collection cases originally decided by them, in their respective territorial jurisdiction.
>>
>> b. Over petitions for review of the judgments, resolutions or orders of the Regional Trial Courts in the exercise of their appellate jurisdiction over tax collection cases originally decided by the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in their respective jurisdiction.

A perusal of the above provisions would show that, while it is clearly stated that the CTA has exclusive appellate jurisdiction over decisions, orders or resolutions of the RTCs in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction, there is no categorical statement under RA 1125 as well as the amendatory RA 9282, which provides that the CTA has jurisdiction over petitions of *certiorari* assailing interlocutory orders issued by the RTC in local tax cases filed before it.

The prevailing doctrine is that the authority to issue writs of *certiorari* involves the exercise of original jurisdiction which must be expressly conferred by the Constitution or by law and cannot be implied from the mere existence of appellate jurisdiction. Thus, in the cases of *Pimentel v. COMELEC*,[58] *Garcia v. De Jesus*,[59] *Veloria v. COMELEC*,[60] *Department of Agrarian Reform*

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[58] 189 Phil. 581 (1980).
[59] G.R. Nos. 88158 and 97108-09, March 4, 1992, 206 SCRA 779.
[60] G.R. No. 94771, July 29, 1992, 211 SCRA 907, 915.

Adjudication Board v. Lubrica, [61] and *Garcia v. Sandiganbayan,* [62] this Court has ruled against the jurisdiction of courts or tribunals over petitions for *certiorari* on the ground that there is no law which expressly gives these tribunals such power. It must be observed, however, that with the exception of *Garcia v. Sandiganbayan,* [63] these rulings pertain not to regular courts but to tribunals exercising quasi-judicial powers. With respect to the Sandiganbayan, Republic Act No. 8249 now provides that the special criminal court has exclusive original jurisdiction over petitions for the issuance of the *writs* of *mandamus*, prohibition, *certiorari, habeas corpus*, injunctions, and other ancillary *writs* and processes in aid of its appellate jurisdiction.

In the same manner, Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and **to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.**

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[61] 497 Phil. 313, 322 (2005).
[62] G.R. No. 114135, October 7, 1994, 237 SCRA 552.
[63] Supra.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.*[64] that 'if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction.' This principle was affirmed in *De Jesus v. Court of Appeals*,[65] where the Court stated that 'a court may issue a writ of certiorari in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.' The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo*[66] and *Bulilis v. Nuez.*[67]

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.

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[64] 118 Phil. 1022 (1963).
[65] G.R. No. 101630, August 24, 1992, 212 SCRA 823.
[66] G.R. No. 192793, February 22, 2011, 643 SCRA 631, 635-636.
[67] G.R. No. 195953, August 9, 2011, 655 SCRA 241, 246-247.

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If this Court were to sustain petitioner's contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter – precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.

Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of *certiorari* against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court in the same case. It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of *certiorari* in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.

In this regard, Section 1 of RA 9282 states that the CTA shall be of the same level as the CA and shall possess all the inherent powers of a court of justice.

Indeed, courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or are essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.

Thus, this Court has held that 'while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has power to do all things that are reasonably necessary for the

> administration of justice within the scope of its jurisdiction and for the enforcement of its judgments and mandates.' Hence, demands, matters or questions ancillary or incident to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance.
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> Based on the foregoing disquisitions, it can be reasonably concluded that the authority of the CTA to take cognizance of petitions for *certiorari* questioning interlocutory orders issued by the RTC in a local tax case is included in the powers granted by the Constitution as well as inherent in the exercise of its appellate jurisdiction."

Based on the foregoing jurisprudential pronouncements, notwithstanding that there is no categorical statement under this Court's original charter, *i.e.*, RA No. 1125, and the amendatory law thereto, *i.e.*, RA No. 9282, this Court is endowed with jurisdiction to entertain petitions for *certiorari* questioning interlocutory orders issued by regional trial courts in local tax cases.

Consequently, the rules of procedure laid down by the Rules of Court pertaining to the filing of the special civil action of *certiorari* before this Court govern. Specifically, Sections 1 and 4 of the Rule 65 thereof, as amended by A.M. No. 07-7-12-SC, provide as follows:

> "Section 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46."

"Sec. 4. *When and where to file petition.* — **The petition shall be filed <u>not later than sixty (60) days from notice of the judgment, order or resolution</u>. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, <u>the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion</u>.**

If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.

In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction." *(Emphases and underscoring supplied)*

In the same vein, jurisprudence interpreting the foregoing provisions also finds application on all petitions for *certiorari* filed with this Court. In *Adtel, Inc., et al. vs. Valdez*,[68] the Supreme Court held:

"A.M. No. 07-7-12-SC which amended Section 4, Rule 65 of the Rules of Court states:

Sec. 4. *When and where to file the petition.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely

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[68] G.R. No. 189942, August 9, 2017.

> filed, whether such motion is required or not, the petition shall be filed not later than sixty (60) days counted from the notice of the denial of the motion.
>
> If the petition relates to an act or an omission of a municipal trial court or of a corporation, a board, an officer or a person, it shall be filed with the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed with the Court of Appeals or with the Sandiganbayan, whether or not the same is in aid of the court's appellate jurisdiction. If the petition involves an act or an omission of a quasi-judicial agency, unless otherwise provided by law or these rules, the petition shall be filed with and be cognizable only by the Court of Appeals.
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> In election cases involving an act or an omission of a municipal or a regional trial court, the petition shall be filed exclusively with the Commission on Elections, in aid of its appellate jurisdiction.

A.M. No. 07-7-12-SC states that in cases where a motion for reconsideration was timely filed, the filing of a petition for certiorari questioning the resolution denying the motion for reconsideration must be made not later than sixty (60) days from the notice of the denial of the motion. In *Laguna Metts Corporation v. Court of Appeals*,[69] this Court held that following A.M. No. 07-7-12-SC, petitions for certiorari must be filed strictly within 60 days from the notice of judgment or from the order denying a motion for reconsideration. In *Laguna Metts Corporation*, this Court stated the rationale for the strict observance of the 60-day period to file a petition for certiorari, to wit:

> The 60-day period is deemed reasonable and sufficient time for a party to mull over and to prepare a petition asserting grave abuse of discretion by a lower court. The period was specifically set to avoid any unreasonable delay that would violate the constitutional rights of the parties to a speedy disposition of their case.

In *Laguna Metts Corporation*, this Court ruled that the 60-day period was non-extendible and the CA no longer had the authority to grant the motion for extension in view of

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[69] 611 Phil. 530 (2009).

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A.M. No. 07-7-12-SC which amended Section 4 of Rule 65.

However, in *Domdom v. Third and Fifth Divisions of the Sandiganbayan,* [70] this Court held that the strict observance of the 60-day period to file a petition for certiorari is not absolute. This Court ruled that absent any express prohibition under Rule 65, a motion for extension is still permitted, subject to the Court's sound discretion. Similarly, in *Labao v. Flores,*[71] this Court recognized that the extension of the 60-day period may be granted by the Court in the presence of special or compelling circumstances provided that there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his or her failure to comply with the rules. Likewise, in *Mid-Islands Power Generation v. Court of Appeals,*[72] this Court held that a motion for extension was allowed in petitions for certiorari under Rule 65 subject to the Court's sound discretion **and only** under exceptional or meritorious cases.

The exception to the 60-day rule to file a petition for certiorari under Rule 65 was also applied by this Court in a more recent case in *Republic of the Philippines v. St. Vincent de Paul Colleges, Inc.*, [73] to wit: '[u]nder exceptional circumstances, however, and subject to the sound discretion of the Court, [the] said period may be extended pursuant to [the] *Domdom, Labao and Mid-Islands Power* cases.'" *(Underscoring supplied)*

Based on the foregoing jurisprudential pronouncements, as a strict rule, petitions for *certiorari* must be filed within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration. As exception thereto, the extension of the said 60-day period may be granted by the Court in the presence of special or compelling circumstances, provided that there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his or her failure to comply with the rules.

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[70] 627 Phil. 341 (2010).
[71] 649 Phil. 213 (2010).
[72] 683 Phil. 325 (2012).
[73] 693 Phil. 145 (2012).

In this case, it is undeniable that the instant *Petition* for *certiorari* was filed beyond the above-prescribed 60-day period for filing the same. Petitioner, however, advances the following arguments:

1) Petitioner acted in good faith when, in 2007, it filed the *certiorari* petition before the Court of Appeals and not before this Court;

2) Petitioner also acted in good faith when it sought consideration of the Court of Appeals' Decision dated January 21, 2015, and pursued the petition for review that it filed before the Supreme Court to its appropriate conclusion;

3) Petitioner could not have instituted any *certiorari* petition before this Court while the petitions it filed before the Court of Appeals and the Supreme Court were still pending; and

4) The merits of the petition, the importance of the issues involved, and the grave injustice which will be caused by the outright dismissal of the petition necessitate the liberal application of procedural rules.

In view of the foregoing and in the interest of substantial justice, We will overlook the procedural lapse in this case. Procedural rules may be relaxed for persuasive reasons to relieve a litigant of an injustice not commensurate with his failure to comply with the prescribed procedure.[74] We find that such is the situation in the instant case.

There is grave abuse of discretion.

To reiterate, in the instant case, petitioner is assailing the Orders dated March 22, 2006, May 25, 2006, September 15, 2006, and March 9, 2007 of RTC – Branch 208 in Civil Case No. MC05-2882 for having been issued with grave abuse of discretion amounting to lack or excess of jurisdiction. The said Orders denied petitioner's prayer for the issuance of a temporary restraining order

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[74] *TFS, Incorporated vs. Commissioner of Internal Revenue*, G.R. No. 166829, April 19, 2010.

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and a writ of preliminary injunction against: (1) respondent Mandaluyong City from causing the conduct of a public auction sale of the subject properties and the eventual annotation or registration of the certificate of sale thereof; from causing the transfer of the title to the subject real properties; and from exercising other acts of ownership and administration over the same properties; and (2) the Registrar of Deeds of Mandaluyong City, from implementing the annotation or registration of the certificate of sale, if one will issue, of the said properties, and from transferring the title of the same.

We find that there is grave abuse of discretion in this case.

It must be emphasized that the exercise of judicial discretion by a court in injunctive matters must not be interfered with, **except when there is grave abuse of discretion**.[75] Grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be grave abuse of discretion, as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[76]

A writ of preliminary injunction and a temporary restraining order are injunctive reliefs and preservative remedies for the protection of substantive rights and interests.[77] Essential for granting the injunctive relief is the existence of an urgent necessity for the writ in order to prevent serious damage. A temporary restraining order issues only if the matter is of such extreme urgency that grave injustice and irreparable injury will arise unless it is issued immediately.[78]

As will be shown momentarily and in conjunction with the discussions of the presence of the requisites for the issuance of a writ of preliminary injunction, RTC – Branch 208 should have issued the temporary restraining order prayed for by petitioner because of the

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[75] *Australian Professional Realty, Inc., et al. vs. Municipality of Padre Garcia Batangas Province*, G.R. No. 183367, March 14, 2012.
[76] *Barbieto vs. The Honorable Court of Appeals, et al.*, G.R. No. 184645, October 30, 2009.
[77] *Brizuela vs. Dingle, et al.*, G.R. No. 175371, April 30, 2008.
[78] *Supra.*

extreme urgency posed by the grave injustice and irreparable injury resulting in the acts of respondent Mandaluyong City.

In *Ermita vs. Aldecoa-Delorino, et al.*,[79] the Supreme Court has this to say about the issuance of a writ of preliminary injunction, to wit:

> "Indeed, a writ of preliminary injunction is issued precisely to prevent threatened or continuous irremediable injury to some of the parties before their claims can be thoroughly studied or adjudicated to preserve the *status quo* until the merits of the case can be heard fully. Still, even if it is a temporary and ancillary remedy, its issuance should not be trifled with, and an applicant must convincingly show its entitlement to relief. *St. James College of Paranaque v. Equitable PCI Bank*,[80] explains:
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>> Under Section 3, Rule 58 of the Rules of Court, an application for a writ of preliminary injunction may be granted if the following grounds are established, thus:
>>
>> (a) **That the applicant is entitled to the relief demanded, and the whole or part of such relief** consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts, either for a limited period or perpetually;
>>
>> (b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or
>>
>> (c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done, some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgmental ineffectual.
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>> And following jurisprudence, these requisites must be proved before a writ of preliminary injunction, be it mandatory or prohibitory, will issue:

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[79] G.R. No. 177130, June 7, 2011.
[80] G.R. No. 179441, August 9, 2010.

> (1) **The applicant must have a clear and unmistakable right to be protected, that is a right in *esse***;
>
> (2) **There is a material and substantial invasion of such right**;
>
> (3) **There is an urgent need for the writ to prevent irreparable injury** to the applicant; and
>
> (4) **No other ordinary, speedy, and adequate remedy exists** to prevent the infliction of irreparable injury. (emphasis supplied)

It is thus ineluctable that for it to be entitled to the writ, the APMP must show that it has a **clear and unmistakable right that is violated and that there is an urgent necessity for its issuance.** xxx.

Transfield Philippines, Inc. v. Luzon Hydro Corporation, [81] illuminates on the right of a party to injunctive relief:

> Before a writ of preliminary injunction may be issued, there must be a clear showing by the complaint that **there exists a right to be protected and that the acts against which the writ is to be directed are violative of the said right. It must be shown that the invasion of the right sought to be protected is material and substantial, that the right of complainant is clear and unmistakable and that there is an urgent and paramount necessity for the writ to prevent serious damage. Moreover, an injunctive remedy may only be resorted to when there is a pressing necessity to avoid injurious consequences which cannot be remedied under any standard compensation**. (emphasis supplied)
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Respecting the element of 'irreparable injury,' the landmark case of *Social Security Commission v. Bayona*[82] teaches:

> **Damages are irreparable within the meaning of the rule relative to the issuance of injunction**

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[81] G.R. No. 146717, 485 Phil. 699 (2004).
[82] G.R. No. L-13555, May 30, 1962.

> **where there is no standard by which their amount can be measured with reasonable accuracy** (Crouc v. Central Labor Council, 83 ALR, 193). '**An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing kind which produce hurt, inconvenience, or damage that can be estimated only be conjecture, and not by any accurate standard of measurement**' (Phipps v. Rogue River Valley Canal Co., 7 ALR, 741). An irreparable injury to authorize an injunction consists of 'a serious charge of, or is destructive to, the property it affects, either physically or in the character in which it has been held and enjoined, or when the property has some peculiar quality or use, so that its pecuniary value will not fairly recompense the owner of the loss thereof' (Dunker v. Field and Tub Club, 92 P., 502). (emphasis supplied)

As does the more recent case of *Philippine Air Lines v. National Labor Relations Commission*:[83]

> **An injury is considered irreparable if it is of such constant and frequent recurrence that no fair and reasonable redress can be had therefor in a court of law, or where there is no standard by which their amount can be measured with reasonable accuracy**, that is, it is not susceptible of mathematical computation. It is considered irreparable injury when it cannot be adequately compensated in damages due to the nature of the injury itself or the nature of the right or property injured or when there exists no certain pecuniary standard for the measurement of damages. (emphasis supplied)
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> xxx xxx xxx."

As regards the first requisite before a writ of preliminary injunction may issue, *i.e.*, the applicant must have a clear and unmistakable right to be protected, it was shown that petitioner possesses such right.

A clear legal right means one clearly founded in or granted by law or is enforceable as a matter of law.[84]

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[83] G.R. No. 120567, March 20, 1998.
[84] *Australian Professional Realty, Inc., et al. vs. Municipality of Padre Garcia Batangas Province*, supra.

Section 420 of the Civil Code provides as follows:

> "Art. 420. The following things are **property of public dominion**:
>
> (1) **Those intended for public use**, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
>
> (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth." *(Emphases supplied)*

The foregoing provision defines property of public dominion as one intended for public use. Relative thereto, it has been held that **properties of public dominion are owned by the State or the Republic.**[85] Such being the case, the subject real properties under the EDSA MRT III System, being intended and devoted for public use, are owned by the State or the petitioner. As a corollary, even when the title to the said real properties are under the name of MRTC, the same is of no consequence.

Thus, since the subject properties, which are being subjected to real property taxes and are the subjects of the auction sale made by the respondent Mandaluyong City, are intended and devoted for public use, and thus, falls under the purview of properties of public dominion, owned by petitioner, the latter may invoke the limitation set forth by, and the exemption given under, Sections 133(o) and 234(a), respectively, of the LGC of 1991, which read:

> "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**:
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[85] *Manila International Airport Authority vs. Court of Appeals, et al.*, G.R. No. 155650, July 20, 2006.

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(o) **Taxes, fees or charges of any kind on the National Government,** its agencies and instrumentalities, and local government units." *(Emphases supplied)*

"SEC. 234. *Exemptions from Real Property Tax.* – **The following are exempted from payment of the real property tax**:

(a) **Real property owned by the Republic of the Philippines** or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;

xxx xxx xxx." *(Emphases supplied)*

In addition, as held in *Manila International Airport Authority vs. Court of Appeals, et al.*,[86] the Supreme Court ruled:

"The Court has also ruled that **property of public dominion, being outside the commerce of man, <u>cannot be the subject of an auction sale</u>**.[87]

Properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures and auction sale. xxx." *(Emphases and underscoring supplied)*

Such being the case, properties of public dominion are not only owned by the State or the Republic, they are also outside the commerce of man. Thus, the subject real properties, being outside the commerce of man, cannot be the subject of an auction sale.

In view the foregoing, petitioner has a clear and unmistakable right to protect its properties of public dominion from being taxed and

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[86] G.R. No. 155650, July 20, 2006.
[87] *PNB vs. Puruganan*, 130 Phil. 498 (1968); See also *Martinez vs. CA*, 155 Phil. 591 (1974).

from being the subjects of an auction sale by respondent Mandaluyong City for non-payment of realty tax by MRTC.

By virtue of petitioner's ownership over the said real properties and considering that the same properties have already been the subject of an auction sale, the circumstances call for the protection of petitioner's right. Furthermore, to allow respondent Mandaluyong City to illegally appropriate the subject real properties owned by petitioner results to a grave injustice on the part of the latter.

As for the second requisite before a writ of preliminary injunction may issue, *i.e.*, that there is a material and substantial invasion of such right, the same is not denied by respondent Mandaluyong City.

As already stated, respondent Mandaluyong City has already conducted an auction sale over the subject real properties. However, respondent Mandaluyong City even forfeited, for lack of bidders, in its favor the same real properties.[88] Furthermore, respondent City of Mandaluyong even issued a new Declaration of Real Property (No. D-013-10636) under its name, thereby cancelling Declaration of Real Property No. D-013-06267 under the name of MRTC.[89] These events, to the mind of the Court, are already constitutive of a material and substantial invasion of petitioner's right over the said real properties.

With regard to the third requisite for the issuance of a writ of preliminary injunction, *i.e.*, there is an urgent need for the writ to prevent irreparable injury to the applicant, the same is likewise present in the instant case.

By way of reiteration, injury is considered irreparable if there is no standard by which its amount can be measured with reasonable accuracy. The injury must be of such that its pecuniary value cannot be estimated, and thus, cannot fairly compensate for the loss.[90] We have such an irreparable injury here.

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[88] *Declaration of Forfeiture of Delinquent Property* and *Certificate of Sale of Delinquent Real Property to the City of Mandaluyong*, RTC Records – Plaintiff Formal Offer of Exhibit (Civil Case No. MC05-2882), pp. 2266 to 2267.
[89] RTC Records – Plaintiff Formal Offer of Exhibit (Civil Case No. MC05-2882), pp. 2268 to 2269.
[90] *Evy Construction and Development Corporation vs. Valiant Roll Forming Sales Corporation*, G.R. No. 207938, October 11, 2017.

To let respondent Mandaluyong City claim ownership over a portion of the EDSA MRT III System, such as railways, train cars, and stations, would cause an irreparable injury to petitioner. Aside from an absurd situation being created whereby the said portion of the EDSA MRT III System will be possessed by respondent Mandaluyong City, hundreds of thousands of commuters who rely thereon will be gravely prejudiced by the disruption in the railway's operations that is sure to take place,[91] thereby hampering petitioner's provision of public transport services and the collection of transportation fees, which cannot be reasonably estimated.

Finally, as to the last requisite for the issuance of a writ of preliminary injunction, *i.e.*, no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury, this is apparently present here. To the Court's mind, there are no other ordinary, speedy and adequate remedy under the law or the Rules of Court to prevent the above-described irreparable injury to be inflicted on petitioner than the issuance of a writ of preliminary injunction.

In sum, We find that in view of the presence of the requisites for the granting of injunctive reliefs prayed for by petitioner vis-à-vis the denial thereof by the Court *a quo*, the latter committed grave abuse of discretion amounting lack or excess of jurisdiction, when it issued the assailed Orders dated March 22, 2006, May 25, 2006, September 15, 2006, and March 9, 2007 in Civil Case No. MC05-2882.

WHEREFORE, in light of the foregoing considerations, the instant *Petition* is **GRANTED**. Accordingly, the Orders dated March 22, 2006, May 25, 2006, September 15, 2006, and March 9, 2007 of RTC – Branch 208 in Civil Case No. MC05-2882 are hereby **VACATED** and **SET ASIDE**.

Respondent Mandaluyong City, or any person or entity acting under its control or supervision, or for or in its behalf, is **ENJOINED** from enforcing the real property tax assessments on the subject EDSA MRT III System properties while the validity of said assessments is still being determined in Civil Case No. MC05-2882.

Let the entire docket of Civil Case No. MC05-2882 be immediately returned to RTC – Branch 208 of Mandaluyong City for the continuation of proceedings in said case.

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[91] Par. 89, Petitioner's *Memorandum*, Division Docket – Vol. II, p. 609.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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
Chairperson, 1st Division

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF TRANSPORTATION),
Petitioner,

- versus -

REGIONAL TRIAL COURT OF MANDALUYONG CITY – BRANCH 208 AND THE CITY GOVERNMENT OF MANDALUYONG,
Respondents.

CTA AC No. 177

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, and
MINDARO-GRULLA, *JJ.*

Promulgated:

SEP 18 2018, 10:36 A.m.

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CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur with the *ponencia* in granting the Petition for Review filed by the Republic of the Philippines (Department of Transportation) thereby vacating and setting aside the Orders dated March 22, 2006, May 25, 2006, September 15, 2006, and March 9, 2007 of the Regional Trial Court (RTC) of Mandaluyong City, Branch 208 in Civil Case No. MC05-2882 and enjoining respondent City Government of Mandaluyong City, or any person or entity acting under its control and supervision, or for or in its behalf, from enforcing the real property tax assessments on the subject EDSA MRT II System properties while the validity of the real property tax assessments is still being determined in Civil Case No. MC05-2882.

I wish to expound on the timeliness of the filing of the present Petition for Certiorari before this Court. Records reveal the following:

(i) In a Petition for Certiorari (under Rule 65 of the Rules of Court) dated March 21, 2007 filed before the Court of Appeals, docketed as CA-G.R. No. SP No. 98334, petitioner assailed the aforementioned Orders of the RTC;

(ii) On February 4, 2014, the Supreme Court rendered its Decision in *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, et al., G.R. No. 175723*, declaring that the Court of Tax Appeals (CTA) has jurisdiction over a special civil action for certiorari assailing an interlocutory order issued by the RTC in a local tax case;

(iii) On January 21, 2015, the Court of Appeals promulgated its Decision in CA-G.R. SP No. 98334 dismissing petitioner's Petition for Certiorari for lack of jurisdiction, citing *The City of Manila*;

(iv) In a Resolution dated January 18, 2016, the Court of Appeals denied petitioner's Motion for Reconsideration in CA-G.R. SP No. 98334;

(v) In a Resolution dated May 30, 2016, the Supreme Court denied the Petition filed by petitioner in *Republic of the Philippines (Department of Transportation) vs. City Government of Mandaluyong, G.R. No. 222636*, which assailed the January 21, 2015 and January 18, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 98334;

(vi) On September 29, 2016, petitioner received the Supreme Court's Resolution dated August 22, 2016 in G.R. No. 222636 which denied petitioner's Motion for Reconsideration and upheld the Court of Appeals' ruling in CA-G.R. S.P. No. 98334 that petitioner's Petition for Certiorari should have been filed before the CTA.

(vii) On November 28, 2018, petitioner filed the present Petition (for certiorari under Rule 65 of the Rules of Court) assailing the aforestated Orders of the RTC.

Notably, at the time that petitioner filed its Petition for Certiorari before the Court of Appeals in 2007, there was yet no categorical pronouncement from the Supreme Court that the CTA has jurisdiction over petitions for certiorari assailing interlocutory orders issued by the RTC in local tax cases, albeit the provisions of Republic Act (RA) No. 1125, as amended by Republic Act No. 9282, were silent on the matter. It was only on February 4, 2014 when the Supreme Court finally declared in *The City of Manila* that the CTA has certiorari jurisdiction over interlocutory orders of the RTC in local tax cases. As aptly pointed out by petitioner, it could not have filed another Petition for Certiorari before the CTA after the rendition of the Supreme Court's Decision in *The City of Manila* on February 4, 2014 as its Petition for Certiorari was pending with the Court of Appeals.

Based on the foregoing factual antecendents, I submit that the sixty (60)-day period within which to file the Petition for Certiorari before the CTA was properly reckoned by petitioner from the date of receipt of the Supreme Court's Resolution dated August 22, 2016 in G.R. No. 222636 which denied petitioner's Motion for Reconsideration and upheld the Court of Appeals' ruling in CA-G.R. S.P. No. 98334 that petitioner's Petition for Certiorari should have been filed before the CTA.

Considering that petitioner received on September 29, 2016 the Resolution dated August 22, 2016 of the Supreme Court in G.R. No. 222636, petitioner had sixty (60) days from September 29, 2016 or until November 28, 2016 within which to file its Petition for Certiorari before the CTA. Thus, the present Petition for Certiorari which was filed on November 28, 2016 was timely filed.

All told, I *CONCUR* with the *ponencia*.

ROMAN G. DEL ROSARIO
Presiding Justice