

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 097
(CTA CRIM. CASE No. A-12)

Present:

- versus -

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

**HONORABLE SHEENA MARIE
R. ABELLA-DAVIS, as Presiding
Judge of Branch 37, Metropolitan
Trial Court of Quezon City and
ANTONIO L. SANTOS,**
Respondents.

Promulgated:

DEC 06 2024
[Signature] 10:32 a.m.

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RESOLUTION

FERRER-FLORES, J.:

For the Court's resolution is petitioner's *Motion for Reconsideration (of the Decision dated May 13, 2024)* (MR) filed on May 31, 2024,¹ with private respondent Antonio L. Santos' *Comment (to the Motion for Reconsideration dated May 31, 2024)* (Comment) filed on July 10, 2024.²

In its MR, petitioner forwards the following arguments: *first*, the Court of Tax Appeals (CTA) *En Banc* erred in ruling that petitioner availed of the wrong remedy when it filed its appellant's brief without awaiting for the

¹ *Rollo*, pp. 196-209.

² *Id.*, at 213-225.

RESOLUTION

CTA EB Crim No. 097 (CTA Case No. A-12)

*People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37,
Metropolitan Trial Court of Quezon City and Antonio L. Santos*

Page 2 of 7

Regional Trial Court (RTC) to give due course to its Notice of Appeal; *second*, the public respondent, by making pronouncements contrary to the evidence on record and provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, and its applicable rules and regulations, committed grave abuse of discretion amounting to lack or excess of jurisdiction which deprived petitioner of due process.

In support of petitioner's *first* argument, it insists that, unlike in ordinary appealed cases before the RTC or the Court of Appeals, the Revised Rules of the CTA is silent as to the further proceedings after perfection of the appeal. Considering the vagueness of the existing rules and the absence of specific guidelines, petitioner filed before the CTA in advance its appeal, which is in the nature of an appellant's brief, in anticipation of the transmittal of the case records from the RTC.

Anent its *second* argument, petitioner contends that public respondent committed grave abuse of discretion when it granted the demurrer to evidence premised on the failure of the revenue officers to execute a report in accordance with Revenue Memorandum Order (RMO) No. 35-90.³ According to petitioner, the RMO is an internal issuance of the BIR intended to guide the revenue officers in the course of their official duties. Moreover, the execution per se of the written report of *subpoena duces tecum* (SDT) is not an element of the crime of failure to obey summons under Section 266 of the NIRC of 1997, as amended.⁴ Petitioner argues an overly strict

³ *Prescribing Additional Guidelines in the Issuance and Enforcement of Subpoena Duces Tecum*, Revenue Memorandum Order No. 35-90, July 24, 1990

D. Service

xxx xxx xxx

2) How Service May Be Effected

a. The *subpoena* shall be served by handing the original copy thereof to the individual named therein in person, or, if he refuses to receive it, by tendering it to him witnessed by another revenue officer accompanying the server.

b. If personal service can not be made, service may be effected by:

1) Leaving a copy of the *subpoena* at the taxpayer's dwelling place or residence with some person of suitable age and discretion then residing therein; or

2) Leaving the copy at taxpayer's office or regular place of business with some competent person in charge thereof.

3) In both situations, the leaving of the copy of the *Subpoena* with a competent person and or person of sufficient discretion should be witnessed by another revenue officer accompanying the server.

3) Proof of Service

Aside from accomplishing the bottom portion of the *subpoena*, the server shall make a written report setting forth the manner, place and date of service, the name of the person who received the same and such other relevant information. In case of constructive service, the personal relationship and/or official capacity, if any, of the person receiving should be indicated.

⁴ **SEC. 266. Failure to Obey Summons.** - Any person who, being duly summoned to appear to testify, or to appear and produce books of accounts, records, memoranda or other papers, or to furnish information as required under the pertinent provisions of this Code, neglects to appear or to produce such books of accounts, records, memoranda or other papers, or to furnish such information, shall, upon conviction, be

RESOLUTION

CTA EB Crim No. 097 (CTA Case No. A-12)

People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37, Metropolitan Trial Court of Quezon City and Antonio L. Santos

Page 3 of 7

interpretation of the Rules is not warranted in this case as it would clearly frustrate the spirit of the law as well as to do injustice.

In refutation of the above, private respondent Santos indicated in his *Comment* that the issues raised by petitioner in his MR are a mere rehash of the basic issues raised in the *Petition for Review* which were already passed upon, duly considered and resolved in the assailed Decision dated May 13, 2024. Further, the Court is correct in concluding that there is no grave abuse of discretion, and therefore, the grant of demurrer to evidence is in order.

Private respondent avers that the element of “duly summoned to appear or to testify” in Section 266 of the NIRC of 1997, as amended, is absent in this case. He points out that from the testimony of the prosecution witness, none of the notices were received by accused himself, and that the prosecution just relied on the assumption that the persons who actually received the same were authorized.

We resolve.

The Court finds no merit in petitioner’s MR. There is, thus, no compelling reason to reverse or modify the assailed Decision dated May 13, 2024. Still, the Court will address the two contentions raised by petitioner *in seriatim*.

First argument

As can be gleaned from the records, petitioner merely rehashed his *first* argument that has already been carefully considered and passed upon by the Court in the assailed Decision.

To reiterate the discussion in the assailed Decision, petitioner should just have waited for the RTC to give due course to its Notice of Appeal and filed with the Court First Division its appellant’s brief, instead of filing the Appeal with the Court merely two days from filing of the Notice of Appeal.

In this regard, the Supreme Court ruling in *Social Justice Society (SJS) Officers, et al. v. Lim*,⁵ is instructive:

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punished by a fine of not less than Five thousand pesos (P5,000) but not more than ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.

⁵ G.R. Nos. 187836 & 187916, March 10, 2015 (Resolution).

RESOLUTION

CTA EB Crim No. 097 (CTA Case No. A-12)

People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37, Metropolitan Trial Court of Quezon City and Antonio L. Santos

Page 4 of 7

The grounds relied on being mere reiterations of the issues already passed upon by the Court, there is no need to "cut and paste" pertinent portions of the Decision or re-write the ponencia in accordance with the outline of the instant motion.

As succinctly put by then Chief Justice Andres R. Narvasa in *Ortigas and Co. Ltd. Partnership v. Judge Velasco* on the effect and disposition of a motion for reconsideration:

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

Second argument

Petitioner's *second* argument must likewise fail. The grave abuse of discretion imputed by petitioner upon public respondent is lacking in this case. The Court cannot lend credence to petitioner's assertion that the execution of the written report is not per se an element of the crime.

It must be emphasized that conviction of the accused rests on the strength of the prosecution's evidence and not on the weakness of the accused's evidence. No less than proof beyond reasonable doubt is demanded to convict the accused. Proof beyond reasonable doubt does not mean such degree of proof as to exclude the possibility of error or produce absolute certainty. Only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.⁶

In *People of the Philippines vs. Calleja*,⁷ the Supreme Court elucidated in this wise:

⁶ *XXX vs. People of the Philippines*, G.R. No. 243049, October 5, 2020.

⁷ G.R. No. 232455, December 2, 2020.

RESOLUTION

CTA EB Crim No. 097 (CTA Case No. A-12)

People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37, Metropolitan Trial Court of Quezon City and Antonio L. Santos

Page 5 of 7

Article III, Section 14 (2) of the 1987 Constitution provides that every accused is presumed innocent unless his guilt is proven beyond reasonable doubt. It is "a basic constitutional principle, fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Corollary thereto, **conviction must rest on the strength of the prosecution's evidence and not on the weakness of the defense.**"

This presumption in favor of the accused remains until the judgment of conviction becomes final and executory. Borrowing the words of the Court in *Mangubat, et al. v. Sandiganbayan, et al.*, "[u]ntil a promulgation of final conviction is made, this constitutional mandate prevails." Hence, even if a judgment of conviction exists, as long as the same remains pending appeal, the accused is still presumed to be innocent until his guilt is proved beyond reasonable doubt. Thus, in *People v. Mingming*, the Court outlined what the prosecution must do to hurdle the presumption and secure a conviction:

First, the accused enjoys the constitutional presumption of innocence until final conviction; **conviction requires no less than evidence sufficient to arrive at a moral certainty of guilt, not only with respect to the existence of a crime, but, more importantly, of the identity of the accused as the author of the crime.**

Second, the **prosecution's case must rise and fall on its own merits and cannot draw its strength from the weakness of the defense.** (Emphasis supplied)

For emphasis, the Court upholds the finality-of-acquittal doctrine in this case. While a judgment of acquittal may be assailed by the plaintiff through a petition for certiorari under Rule 65 without placing the accused in double jeopardy; however, it must be established that the court a quo acted without jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Plaintiff must show that the prosecution was denied the opportunity to present its case or where the trial was a sham, thus, rendering the assailed judgment void. It is their burden to clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.⁸

In the instant case, petitioner failed to prove that public respondent acted with grave abuse of discretion warranting the reversal of the judgment of acquittal.

All told, there is no cogent justification for the Court to modify or reverse the assailed Decision. The Court, thus, need not elaborate further on the issues already addressed in the assailed Decision.

⁸ *People of the Philippines v. Domingo Arcega Y Siguenza*, G.R. No. 237489, August 27, 2020.

RESOLUTION

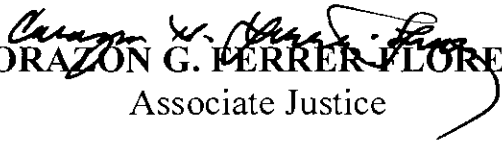
CTA EB Crim No. 097 (CTA Case No. A-12)

*People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37,
Metropolitan Trial Court of Quezon City and Antonio L. Santos*

Page 6 of 7

WHEREFORE, premises considered, the *Motion for Reconsideration* (of the Decision dated May 13, 2024) is **DENIED** for lack of merit.

SO ORDERED.

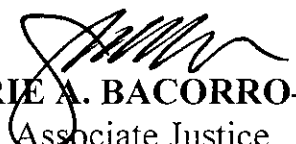

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice

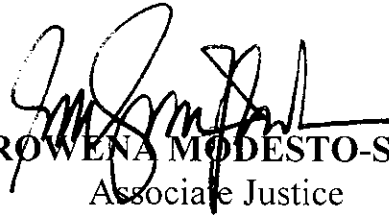

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

RESOLUTION

CTA EB Crim No. 097 (CTA Case No. A-12)

*People of the Philippines vs. Honorable Sheena Marie R. Abella-Davis, as Presiding Judge of Branch 37,
Metropolitan Trial Court of Quezon City and Antonio L. Santos*

Page 7 of 7



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE

MARIAN IVY F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice



HENRY S. ANGELES
Associate Justice