REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

SHENILYN ABALOS, ET AL., Petitioners,	**CTA CASE NO. 9089**
	Members:
-versus-	**Castañeda, Jr.,** *Chairperson,* **Manahan,** and **Fabon-Victorino,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JUL 2 9 2019 9:21 am

x---x

RESOLUTION

CASTAÑEDA, JR., *J.*:

For the Court's resolution is petitioners' June 14, 2019 Motion for Reconsideration with the notarized Affidavit of Ms. Kristine Gale Peteros, Docket Officer of the counsel,[1] without any comment from the respondent despite notice,[2] praying that the May 27, 2019 Resolution be reconsidered and set aside in the interest of substantial justice.

The May 27, 2019 Resolution reads:

> "Records show that no appeal has been taken by any of the parties in this case within the prescribed period, thus rendering our Decision dated August 10, 2018 final and executory. It therefore, becomes the ministerial duty of this Court to issue the corresponding Entry of Judgment in this case.

---

[1] Docket, Vol. II, pp. 896-901.

[2] July 11, 2019 Records Verification Report, Docket, Vol. II, p. 904.

ACCORDINGLY, let Entry of Judgment be issued in this case, and the Clerk of Court shall forthwith enter the Decision dated August 10, 2018 in the Book of Entries of Judgments (Section 6, Rule 14, Revised Rules of the CTA).

SO ORDERED."

In their motion, petitioners plead excusable negligence and ask the Court for leniency in the application of the rules of procedure on the grounds of equity. Allegedly, through inadvertence, the docket officer of the petitioners' counsel misfiled the copy of the January 11, 2019 Resolution, which denied the Motion for Reconsideration.[3] As a consequence, the handling lawyer was unable to appeal the case within the reglementary period. It was only on June 8, 2019,[4] or almost (5) five months from receipt of the January 11, 2019 Resolution on January 16, 2019,[5] that the counsel realized the alleged error. Hence, this motion filed on June 14, 2019.

We resolve to deny the motion for lack of merit.

The facts are undisputed. On January 16, 2019, when the counsel for petitioners received the January 11, 2019 Resolution which denied their Motion for Reconsideration of the August 10, 2018 Decision, petitioners only had fifteen (15) days or until January 31, 2019 to elevate the case to the Court of Tax Appeals (CTA) *En Banc*.[6] But it was only on June 8, 2019, upon receipt of the resolution decreeing the August 10, 2018 Decision as final and executory, when the counsel was finally alerted to the inadvertence. By then, the period to appeal had long lapsed.

Time and again, it has been held that the right to appeal is not a natural right or a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.[7]

Furthermore, the requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless

[3] Affidavit of Ms. Kristine Gale Peteros, Division Docket, Vol. II, p. 900.
[4] Notice of Resolution, Division Docket, Vol. II, p. 894.
[5] Notice of Resolution, Division Docket, Vol. II, p. 888.
[6] Rule 8, Section 4(b) of the Revised Rules of the CTA in relation to Rule 43 of the Rules of Court.
[7] *Grace R. Aluag v. BIR Multi-purpose Cooperative, et al.*, G.R. No. 228449, December 6, 2017.

delays. The perfection of appeal in the manner and within the period set by law is not only mandatory but *jurisdictional* as well. The failure to perfect the appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to preclude the appellate court from acquiring the jurisdiction to review the judgment.[8]

Petitioners cite the case of *Ernesto L. Natividad v. Fernando Mariano, et al.*[9] to persuade the Court to lift the rules for the sake of substantial justice.[10] Aside from being an *agrarian* case, the facts of the case cited are also essentially different from those of the case at bench. As such, it cannot be applied in order to sustain petitioners' motion.

In *Natividad*, the Supreme Court *sanctioned* the appeal to DARAB despite the lapse of ten (10) months from notice of PARAD's decision because of grave abuse of discretion. The high court held that PARAD committed grave abuse of discretion when it ruled that the petition for relief from judgment lacked valid grounds and was filed out of time, thus:

> "On the issue of the DARAB's grant of the respondents' appeal;
>
> Doctrine of immutability of judgments
>
> We cannot blame Ernesto for insisting that the PARAD decision can no longer be altered. The doctrine of immutability of final judgments, grounded on the fundamental principle of public policy and sound practice, is well settled. Indeed, once a decision has attained finality, it becomes immutable and unalterable and may no longer be modified in any respect, whether the modification is to be made by the court that rendered it or by the highest court of the land. The doctrine holds true even if the modification is meant to correct erroneous conclusions of fact and law. The judgment of courts and the award of quasi-judicial agencies must, on some definite date fixed by law, become final even at the risk of occasional errors. The only accepted exceptions to this general rule are the correction of clerical errors, the so-called *nunc pro tunc* entries which cause no prejudice to any party, void judgments, and whenever circumstances transpire after the finality of the decision which render its execution unjust and inequitable.
>
> <u>This doctrine of immutability of judgments notwithstanding, we are not persuaded that the DARAB and the CA erred in reopening,</u>

---

[8] *Gregorio de Leon v. Hercules Agro Industrial Corporation, et al.*, G.R. No. 183239, June 2, 2014.
[9] G.R. No. 179643, June 3, 2013.
[10] Motion for Reconsideration, Division Docket, Vol. II, p. 897.

> and ruling on the merits of the case. The broader interests of justice and equity demand that we set aside procedural rules as they are, after all, intended to promote rather than defeat substantial justice. If the rigid and pedantic application of procedural norms would frustrate rather than promote justice, the Court always has the power to suspend the rules or except a particular case from its operation, particularly if defects of jurisdiction appear to be present. This is the precise situation that we presently find before this Court.
>
> In the present petition, the DARAB granted the respondents' appeal, despite the lapse of ten months from the respondents' notice of the PARAD's decision, because the PARAD denied the respondents' petition for relief from judgment simply on a sweeping declaration that none of the grounds for the grant of the petition exists and that the petition had been filed out of time. The records, however, sufficiently contradict the PARAD's reasons for denying the respondents' petition for relief; not only do we find justifiable grounds for its grant, we also find that the respondents filed their petition well within the prescriptive period. Thus, the PARAD effectively and gravely abused its discretion and acted without jurisdiction in denying the petition for relief from judgment.
>
> xxx xxx xxx
>
> Based on these considerations, we are convinced that the DARAB did not err in granting the respondents' appeal despite the procedural lapses. Under Section 3, Rule I of the 1994 DARAB Rules of Procedure, the DARAB and its adjudicators 'shall not be bound by technical rules of procedure and evidence as prescribed in the Rules of Court, but shall proceed to hear and decide all agrarian cases, disputes or controversies in a most expeditious manner, employing all reasonable means to ascertain the facts of every case in accordance with justice and equity.' The same provision is essentially embodied in R.A. No. 3844 upon which Ernesto heavily relied. In our view, considerations of equity, justice and jurisdiction surround this case, justifying the relaxation of the rules and the DARAB's grant of the respondents' appeal.
>
> In sum, we rule that the DARAB correctly allowed the respondents' appeal despite the lapse of the reglementary period. Accordingly, we cannot impute error on the CA in not reversing the DARAB's decision simply under the doctrine of immutability of judgments." (*Citations omitted; underscoring supplied*)

More importantly, in *Natividad*, the Supreme Court clarified that the petition for relief from judgment was, contrary to the finding of PARAD, actually *filed well within the prescriptive period*. Accordingly, as an exception to the immutability of judgments, it had to suspend the rules *to allow* the appeal to DARAB and prevent injustice.

Such pivotal fact is absent in this case.

WHEREFORE, premises considered, the petitioners' Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice