REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

BELLE CORPORATION,
Respondent.

CTA EB No. 1684
(CTA Case No. 8939)

Present:

DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, JJ.

Promulgated:

FEB 07 2019
3:25 p.m.

x - x

RESOLUTION

UY, J.:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (of the Decision dated 10 October 2018)"** filed on October 30, 2018, with respondent's **"COMMENT [To Petitioner's *Motion for Reconsideration (of the Decision dated 10 October 2018)* dated 30 October 2018]"** filed on January 3, 2019, praying for the reconsideration and setting aside of this Court *En Banc*'s Decision dated October 10, 2018, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DISMISSED**. Accordingly, the Decision dated April 20, 2017 and the Resolution dated June 21, 2017, both rendered by the Court in Division in CTA Case No. 8939 are **AFFIRMED**.
>
> **SO ORDERED**."

In the *Motion*, petitioner argues that Section 27(D)(5) of the Tax Code implies that in order to be liable for capital gains tax (CGT), there has to be a sale, exchange or other disposition of real property; that in the case at bench, when Belle Bay City Corporation (BBCC) transferred several of its remaining properties to respondent[1] as liquidating dividends, a transaction called exchange occurred between BBCC and respondent; that this is because the reclaimed lots being held by BBCC were transferred or exchanged to respondent with the latter's surrender of shares of stock to BBCC; that by reason of this exchange, it qualifies as one which falls under Section 27(D)(5) of the Tax Code; that Section 27(D)(5) also implies that in order to be liable for CGT, there must be also a gain from the sale, exchange or other disposition of real property; that in this case, respondent clearly realized a gain from its receipt of liquidating dividend from BBCC; and that considering a gain was realized, the instant case is one that is subject to CGT at the rate of 6% final withholding CGT under Section 27(D)(5) of the Tax Code.

On the other hand, in its *Comment*, respondent contends that petitioner failed to present any new and convincing argument to warrant the reversal of the Court *En Banc*'s Decision dated October 10, 2018; and that petitioner's *Motion* is merely *pro forma*, aimed only at delaying the instant proceedings, and should be denied by the Court.

THE COURT *EN BANC*'S RULING

The instant *Motion for Reconsideration* lacks merit.

A perusal of the instant *Motion for Reconsideration* shows that the arguments raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Decision. Moreover, petitioner failed to present new matters or arguments which may compel Us to reconsider and reverse the same.

Finding no compelling reason to reconsider, modify or reverse Our Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

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[1] Erroneously referred to in the instant Motion for Reconsideration as *"petitioner"*.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice