REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

****

THE LOCAL BOARD OF ASSESSMENT APPEALS OF THE PROVINCE OF BULACAN, and HON. AIMEE T. BORBE, Provincial Assessor of Bulacan, HON. GLORIA P. STA. MARIA, Municipal Assessor of Norzagaray, Bulacan and HON. MATILDA A. LEGASPI, Municipal Mayor of Norzagaray, Bulacan, Petitioners,	**CTA EB No. 1505** (CBAA Case Nos. L-82 & L-83; LBAA Case Nos. 2005-02 [Province of Bulacan])
- versus -	
CENTRAL BOARD OF ASSESSMENT APPEALS, Composed of HONORABLE MANUEL DE JESUS SIAYNGCO (Chairperson), HONORABLE ROBERTO D. GEOTINA (Member) and HONORABLE THELMA A. MARIANO (Member), Public Respondent,	***Present:*** **DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
MANILA WATER CO., INC., and MAYNILAD WATER SERVICES, INC., Private Respondents.	***Promulgated:*** MAY 10 2018 4:30pm
METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM, Respondent/Appellee-in-Intervention.	

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DECISION

UY, *J.*:

Before the Court *En Banc* is a *Petition for Certiorari*[1] filed by petitioners, The Local Board of Assessment Appeals of the Province

[1] EB Docket, pp. 1 to 15.

of Bulacan and Hon. Aimee T. Borbe, Provincial Assessor of Bulacan, Hon. Gloria P. Sta. Maria, Municipal Assessor of Norzagaray, Bulacan and Hon. Matilda A. Legaspi, Municipal Mayor of Norzagaray, Bulacan, seeking to reverse the Order dated June 20, 2016[2] of the Central Board of Assessment Appeals (CBAA) in CBAA Case Nos. L-82 and L-83 (LBAA Case No. 2005-02) entitled "*Manila Water Co. Inc. and Maynilad Water Services, Inc., Petitioners-Appellants versus The Local Board of Assessment Appeals of the Province of Bulacan, Appellee, and Hon. Aimee T. Borbe, Provincial Assessor of Bulacan, Hon. Gloria P. Sta. Maria, Municipal Assessor of Norzagaray, Bulacan, and Hon. Matilda A. Legaspi, Municipal Mayor of Norzagaray, Bulacan, Respondents-Appellees, and Metropolitan Waterworks and Sewerage System, Petitioner-Appellant-in-Intervention*". The dispositive portion of said Order reads as follows:

<u>Order dated June 20, 2016</u>:

> "In view of the foregoing premises, Respondents-Appellees' Motion for Reconsideration dated 19 March 2016 is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**."

THE FACTS

Petitioners in the instant case are the following: (1) the Local Board of Assessment Appeals (LBAA); (2) Matilda A. Legaspi, the former Mayor of the Municipality of Norzagaray, Bulacan, who is now being represented by the incumbent Mayor, Geronimo G. Cristobal; (3) Aimee T. Borbe, the Provincial Assessor of Bulacan; and (4) Gloria P. Sta. Maria, the Municipal Assessor of Norzagaray, Bulacan.[3]

On the other hand, the respondents are the following: (1) CBAA, with office address at the 7th Floor, EDPC Building, BSP Complex, Roxas Boulevard, Manila, composed of Hon. Manuel De Jesus Siayngco, as Chairperson, Hon. Roberto D. Geotina and Hon. Thelma A. Mariano, as Members, who are impleaded in their official capacities[4]; (2) Manila Water Co. Inc. (MWCI) is a private corporation, duly organized under Philippine laws, with principal office address at MWSS Compound, Katipunan Road,

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[2] EB Docket, pp. 85 to 104.
[3] Par. 9, *Petition for Certiorari*, EB Docket, p. 4.
[4] Par. 10, *Petition for Certiorari*, EB Docket, p. 4.

Balara, Quezon City[5]; (3) Maynilad Water Services Inc. (Maynilad) is a private corporation, duly organized under Philippine laws, with principal office address at MWSS Compound, Katipunan Road, Balara, Quezon City[6] ; (4) Metropolitan Waterworks and Sewerage System (MWSS) is organized under Philippine laws, with office address at MWSS Compound, Katipunan Road, Balara, Quezon City.[7]

Records show that on August 21, 2007, respondent MWCI filed with the CBAA, a *Notice of Appeal*,[8] with an attached *Appeal Petition*,[9] praying, as follows: (1) for the setting aside of the Orders dated May 2, 2006 and July 9, 2007 of the LBAA in LBAA Case No. 2005-02; (2) for the Provincial Assessor of Bulacan and the Municipal Assessor of Norzagaray, Bulacan, to cancel Tax Declaration Nos. 04840, 04841, 04842, 04843, 04852, 04853, 04854,01668 and 01669 in the joint names of respondents MWCI and Maynilad; and (3) for the cancellation and withdrawal of the Notice of Assessment dated September 28, 2005 and the Notice of Demand of Payment of Real Property Tax dated October 13, 2005 issued against respondents MWCI and Maynilad. The case was docketed as **CBAA Case No. L-82**.

Likewise, respondent Maynilad filed with the CBAA, a *Notice of Appeal*,[10] with an attached *Appeal*,[11] with a similar prayer as that of respondent MWCI, but with additional prayers: (1) for the removal from the Assessment Roll, the subject structures and improvement, forming part of the Common Purpose Facilities, and (2) for the cancellation and declaration of nullity of the Updated Realty Tax Account dated February 2, 2007. The case was docketed as **CBAA Case No. L-83**.

In the Order dated September 28, 2007 in CBAA Case No. L-82,[12] the CBAA granted the *Motion To Intervene and To Admit Attached Appeal-In-Intervention* filed by respondent MWSS on August 24, 2007.[13]

Thereafter, CBAA Case Nos. L-82 and L-83 were tried jointly by the CBAA.

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[5] Par. 11, *Petition for Certiorari*, EB Docket, p. 4.
[6] Par. 12, *Petition for Certiorari*, EB Docket, p. 4; Par. 1, Maynilad's *Memorandum*, EB Docket, p. 413.
[7] Par. 11, *Petition for Certiorari*, EB Docket, p. 4.
[8] CBAA Docket (CBAA Case No. L-82) – Folder No. 1, pp. 1 to 4.
[9] CBAA Docket (CBAA Case No. L-82) – Folder No. 1, pp. 5 to 48.
[10] CBAA Docket (CBAA Case No. L-83) – Folder No. 8, pp. 1 to 3.
[11] CBAA Docket (CBAA Case No. L-83) – Folder No. 8, pp. 4 to 35.
[12] CBAA Docket (CBAA Case No. L-82) – Folder No. 1, pp. 113 to 114.
[13] CBAA Docket (CBAA Case No. L-82) – Folder No. 1, pp. 79 to 103.

In the course of the proceedings in the CBAA, Matilda A. Legaspi, Aimee T. Borbe, and Gloria P. Sta. Maria, filed a *"Motion To Allow Respondents To Present Additional Witness"* on November 27, 2015,[14] praying that movants (who were the respondents in the CBAA case), be allowed to present an additional witness in the person of Marty Marcelo. Attached to the said *Motion To Allow* was the Judicial Affidavit of the latter.[15]

Consequently, respondent Maynilad filed an *Opposition*,[16] arguing as follows:

1. Mr. Marcelo's testimony, which is based on his consultancy services to Norzagaray, Bulacan, is immaterial, redundant and irrelevant to the case, as it only forms part of the considerations of petitioner Sta. Maria, as former assessor, in assessing the subject matter of the case;
2. Mr. Marcelo's testimony mainly comprises of legal arguments, which he has no competence to testify on and is properly a subject of the parties' memoranda;
3. Mr. Marcelo's testimony does not present newly discovered material evidence; and
4. Respondents MWCI, Maynilad and MWSS were deprived of their right to have Mr. Marcelo excluded from the hearings or separated from the other witnesses.

For its part, respondent MWCI manifested that it is adopting the said Opposition filed by Maynilad; while in the case of respondent MWSS, the latter manifested that it will not file any *Comment/ Opposition* on the said *Motion To Allow*, but should the same be granted, the intended witness be subject to cross-examination.[17]

In the Order dated February 12, 2016,[18] the CBAA denied petitioner's *Motion To Allow*, and ruled as follows:

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[14] CBAA Docket (CBAA Case No. L-82) – Folder No. 6, pp. 1549 to 1552; and EB Docket, pp. 17 to 20.
[15] CBAA Docket (CBAA Case No. L-82) – Folder No. 6, pp. 1553 to 1565; and EB Docket, pp. 21 to 32.
[16] CBAA Docket (CBAA Case No. L-82) – Folder No. 6, pp. 1581 to 1587; and EB Docket, pp. 43 to 49.
[17] CBAA Order dated January 28, 2016, CBAA Docket (CBAA Case No. L-82) – Folder No. 6, pp. 1588 to 1590.
[18] CBAA Docket (CBAA Case No. L-82) – Folder No. 6, pp. 1591 to 1597.

"A perusal of the records of the case shows that in an Order issued on 15 November 2011 by the Board, it was stated therein that the parties would present two or three or more witnesses, to wit:

'xxx

Serving notice that each of them would present two (2) or three or more witnesses, the parties will understandably avail of all the time needed to proceed with the case. xxx'

However, during the Hearing on 04 March 2014, Atty. Jennifer Santos, counsel for the Provincial Government of Bulacan, manifested that Respondents-Appellees will just have two (2) witnesses. Atty. Fajardo was present during the hearing and he did not manifest his intention to present an additional witness for Respondents-Appellees aside from Architect Rodello C. Robles (Provincial Assessor) and Gloria P. Sta. Maria (Municipal Assessor).

Furthermore, when Atty. Dumlao queried Counsel for Bulacan if Ms. Sta. Maria is their last witness, Atty. Santos answered in the affirmative. There was no opposition on the part of Atty. Fajardo.

The intended witness Marcelo has attended several meetings of the instant case including hearings wherein Respondents-Appellees' witnesses testified. Marcelo heard the questions and answers propounded during cross examinations. The testimony of previous witnesses will influence his testimony and it will result to undue influence among witnesses. Hence, his testimony will no longer be credible. Moreover, failure on the part of the Respondents-Appellees to immediately include Marcelo as one of their witnesses, deprived the Petitioners-Appellants of their right to question his inclusion during the hearing. Hence, they did not file any Motion for Exclusion.

From the time of the manifestation of Atty. Santos as regards the number of witnesses for Respondents-Appellees, two hearings had been conducted i.e. 06 August 2015 and 17 September 2015 Hearings, but Atty. Fajardo did not move for the inclusion of an additional witness for Respondents-Appellees. Hence, the presentation of Marcelo as an additional witness is a mere afterthought on the part of Respondents-Appellees.

It is worthy to note that this case has been pending since 2007, hence, there is a need to expedite the proceedings herein. Article III, Section 16 of the 1987 Philippine Constitution is clear on the speedy disposition of cases, to wit:

'Article III
Bill of Rights

Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.'

In view of the foregoing premises, Respondents-Appellees' Motion to Allow Respondents to Present Additional Witness dated 24 November 2015 is hereby DENIED.

SO ORDERED."

Undaunted, movants- herein petitioners Legaspi, Borbe, and Sta. Maria filed a *Motion for Reconsideration* on March 22, 2016,[19] praying for the reconsideration of the CBAA's Order dated February 12, 2016. Respondents Maynilad and MWCI filed their *Comment/Opposition* to the said *Motion*, respectively, on May 2, 2016,[20] and May 13, 2016.[21]

The CBAA issued the assailed Order dated June 20, 2016,[22] ruling as follows:

"After thorough evaluation of the arguments of the parties, this Board finds no cogent reason that would warrant a consideration of the Order sought to be reconsidered.

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[19] CBAA Docket (CBAA Case No. L-82) – Folder No. 7, pp. 1598 to 1604; and EB Docket, pp. 55 to 61.
[20] CBAA Docket (CBAA Case No. L-82) – Folder No. 7, pp. 1622 to 1632 and EB Docket, pp. 74 to 84.
[21] CBAA Docket (CBAA Case No. L-82) – Folder No. 7, pp. 1634 to 1645 and EB Docket, pp. 62 to 73.
[22] CBAA Docket (CBAA Case No. L-82) – Folder No. 7, pp. 1648 to 1677 and EB Docket, pp. 85 to 104.

Relative to the allegation of denial of due process of Respondents-Appellees, this allegation holds no water. Respondents-Appellees are given all the opportunities to be heard and present evidence. Respondent-Appellees themselves failed to identify their intended witnesses during the previous hearings of this case. They were given the chance to identify their witnesses, however, during said hearings their counsels never mentioned the name of Mr. Marty Marcelo, who was most of the time present during the hearings.

The denial to allow Respondents-Appellees to present Mr. Marcelo as an additional witness is not a deprivation of due process of law enshrined under our Constitution. Respondents-Appellees were given their right to be heard in this case, in fact, they are the one currently presenting their evidence.

It is worthy to note that aside from the fact that Respondents-Appellees were given all the opportunities to identify their witnesses and present them, their intended witness Mr. Marcelo has attended several hearings of the instant case including hearings wherein Respondents-Appellees' witnesses testified.

To reiterate, Mr. Marcelo heard the questions and answers propounded during cross examinations. The testimony of previous witnesses will influence his testimony and it will result to undue influence among witnesses. Furthermore, the presence of the intended witness during the hearing deprived the Petitioners-Appellants to exercise their right to question his inclusion during the hearing.

As correctly pointed out by Petitioner-Appellant MWCI the Rules of Court provide for the exclusion and separation of witnesses to guard against the risk of fabrication, inaccuracy and collusion. This find supports in the ruling of the Supreme Court in the case of *Design Sources International, Inc. vs. Eristingcol*[23].

As regards Respondents-Appellees' allegation that if ever there was a delay in the speedy disposition of the case it was not their fault since there was vacuum in the

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[23] G.R. No. 193966, February 19, 2014.

composition of the Board for so many years that the case was suspended for trials for about 5-6 years, the said allegation is flawed.

Based on the case records, particularly the Order dated 06 May 2014, the hearing of this case was postponed due to the pending appointment of a Hearing Officer for Luzon Field Office. However, with the appointment of a new Hearing Officer, an Order was issued by this Board on 13 July 2015 setting the case immediately for Hearing on 06 August 2015. Thus, the case was never suspended for trial for about five to six years and the suspension was not due to a vacuum in the composition of the Board.

This case has been pending since 2007 because there were several case events that transpired, hence, the case was not immediately set for the presentation of the parties' evidence. Among the case events are the following:

1. The parties were given time to settle the case amicably, however, it took the parties more than one year to finally manifest that they are closed to a compromise agreement;

2. Necessity to resolve the issue of whether or not the Appeal before the Local Board of Assessment Appeals of the Province of Bulacan (LBAA of Bulacan) was indeed filed under Section 226 of Republic act No. 7160, not under Section 252 thereof;

3. Motion for Partial Reconsideration was filed by Respondents-Appellees on the Order of the Board resolving the abovementioned issue. It was resolved in 2010;

4. Several pleadings were filed by either Petitioner-Appellant MWCI or MWSI such as Request for Admission, Motion for Relief and Motion for Summary Judgement, and Motion for Reconsideration and /or Clarification. Respondents-Appellees filed Comment/ Opposition thereto. All these pleadings were

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> resolved by the Board before conducting the pre-trial and finally the trial of the case.
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> The foregoing circumstances are some of the reasons why the case was pending for a long time not included therein are the postponement of hearings due to failure of counsels or their witnesses to appear.
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> Respondents-Appellees started the presentation of their first witness on 03 October 2013 and the presentation of their second witness, Ms. Sta. Maria commenced on 10 December 2013. The continuance of the proceeding of the case was set on 06 August 2015. This is for the cross-examination of Ms. Sta. Maria. However, from 06 August 2015 to date the cross-examination of Ms. Sta. Maria has not yet been terminated.
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> Albeit the suspension of trial for a year and three months, the presentation of evidence for Respondents-Appellees consumed already a considerable length of time. Both parties were already given ample time to present their respective pieces of evidence. Hence, there is really a need to expedite the proceedings of the instant case.
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> In view of the foregoing premises, Respondents-Appellees' Motion to Reconsideration dated 19 March 2016 is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

On August 30, 2016, petitioners filed the instant *Petition for Certiorari* before the Court *En Banc.*[24]

Subsequently, the Court *En Banc* ordered the CBAA to elevate the complete records of CBAA Case Nos. L-82 and L-83 (LBAA Case No. 2005-02).[25] Thus, on September 29, 2016, the CBAA elevated the records pertaining the said CBAA Case.[26]

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[24] EB Docket, pp. 1 to 14.
[25] Minute Resolution dated September 6, 2016, EB Docket, pp. 105.
[26] EB Docket, pp. 106 to 108.

In the Resolution dated November 15, 2016,[27] the Court *En Banc* required respondents to file a comment to the instant *Petition for Certiorari* within ten (10) days from receipt thereof.

Respondent MWSS filed on December 2, 2016 a *Motion for Extension*, [28] praying that it be given an additional period of ten (10) days from December 4, 2016 or until December 14, 2016 within which to file its *Comment*, which the Court *En Banc* granted, but qualified the extension as "final and non-extendible".[29]

On December 15, 2016, respondent Maynilad filed its *Comment (To the Petition for Certiorari filed by Petitioners the Local Board of Assessment Appeals of the Province of Bulacan, et. al., dated 24 August 2016).*[30]

Meanwhile, respondent MWCI filed a *Motion for Extension (To File Comment on the Petition)* on December 19, 2016,[31] which the Court *En Banc* granted on December 22, 2016,[32] giving respondent MWCI a final and non-extendible period of ten (10) days from December 17, 2016 or until December 27, 2016, within which to file its *Comment*. Correspondingly, respondents MWSS and MWCI filed their *Comments* on December 14, 2017[33] and January 3, 2017[34], respectively.

In the Resolution dated January 30, 2017,[35] the Court *En Banc*, gave due course to the instant *Petition for Certiorari*, and required the parties to file their respective memorandum.

Respondents Maynilad, MWCI and MWSS filed their Memoranda[36] on March 16, 2017[37], March 27, 2017[38] and March 31,

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[27] EB Docket, pp. 110 to 111.
[28] EB Docket, pp. 112 to 114.
[29] Minute Resolution dated December 12, 2016, EB Docket, p. 117.
[30] EB Docket, pp. 117 to 137.
[31] EB Docket, pp. 160 to 162.
[32] Minute Resolution dated December 22, 2016, EB Docket, p. 165.
[33] EB Docket, pp. 171 to 187.
[34] EB Docket, pp. 190 to 226.
[35] EB Docket, pp. 405 to 406.
[36] EB Docket, pp. 96 to 146.
[37] EB Docket, pp. 412 to 451.
[38] EB Docket, pp. 463 to 501.

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2017[39], respectively. Petitioners failed to file their *Memorandum* despite due notice.[40]

In the Resolution dated May 15, 2017,[41] the Court *En Banc* deemed the instant case submitted for decision.

Hence, this Decision.

ASSIGNMENT OF ERROR

Petitioners assign the following error supposedly committed by the CBAA, to wit:

> "THE HONORABLE CENTRAL BOARD OF ASSESSMENT APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT ISSUED THE QUESTIONED ORDER DATED 20 JUNE 2016, SINCE IT PREVENTED THE PETITIONERS TO PRESENT ADDITIONAL WITNESS AND/OR EVIDENCE ON JUST MERE TECHNICALITY AND THE SAME ORDER VIOLATES THE CONSTITUTIONAL PROVISION OF DUE PROCESS CLAUSE."

Petitioners' arguments:

Petitioners state that the compelling reasons under the circumstances in the instant petition is the fact that the assailed Order is based on mere technicality; and it would not practically serve substantial justice, especially considering that the respondents herein are not exempt from payment of real property tax, and they have not shown any evidence and/or law that indeed they are exempt from payment of such tax to the Province of Bulacan, to which the Municipality of Norzagaray has a share thereto.

Anent the argument that Mr. Marcelo should have been excluded from the court room to avoid collusion or fabrication, petitioners aver, in effect, that such exclusion from the court room would not serve the

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[39] EB Docket, pp. 507 to 522.
[40] Records Verification dated April 27, 2017 issued by the Judicial Records Division of this Court, EB Docket, p. 525.
[41] EB Docket, pp. 527 to 528.

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purpose, since petitioner Sta. Maria's Judicial Affidavit and the transcript of her testimony can be made available to, and thus, can be read by, Mr. Marcelo.

Furthermore, according to petitioners, as can be readily read in the Judicial Affidavit of Mr. Marcelo, the latter's testimonies are actually different from the testimony of petitioner Sta. Maria, albeit they are not newly discovered evidence; and after all, there is no rule that requires an additional witness shall testify only on newly discovered evidence, contrary to the arguments of respondents.

Since petitioner Sta. Maria is already seventy-four (74) years old, retired from the service, sickly, and upon the advice by her doctor, should have rest and medication, she may not be able to testify anymore in court or hearing body, and accordingly, her testimony, anent respondent MWSS, may be allegedly expunged from the records; and thus, an additional witness for petitioners is a compelling reason, so that substantial justice shall not be sacrificed on mere technicality.

Petitioners emphasize that they may stand to lose ₱1,400,000,000.00 against respondents MWCI and Maynilad on real property tax, should the Order of the CBAA be not reversed and/or amended, since the testimony of Mr. Marcelo is very material to the instant case, as it can clarify the issues surrounding the case, contrary to the arguments raised by the respondents.

Lastly, petitioners express their firm belief that to deny Mr. Marcelo from testifying in the case, the due process clause enshrined in our constitution, which is a basic right of every person, is violated; and that the due process clause should be paramount over a mere technicality that Mr. Marcelo was present when the testimony of petitioner Sta. Maria was taken.

Respondent Maynilad's counter-arguments:

Respondent Maynilad counter-argues that the *Petition for Certiorari* must be dismissed as the subject matter is outside the jurisdiction of this Court. According to respondent Maynilad, the subject matter of the instant *Petition for Certiorari* is the denial of petitioners' *Motion for Reconsideration* to the Order of the CBAA dated February 12, 2016 and said assailed Order is merely interlocutory and is clearly outside the jurisdiction of this Court.

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Furthermore, respondent claims that the *Petition for Certiorari* is fatally defective and must be dismissed outright due to petitioners' failure to attach the correct certified true copy of the assailed February 12, 2016 Order of the CBAA in violation of Rule 65, Section 1 of the 1997 Rules of Civil Procedure.

Lastly, respondent further states that the CBAA acted within the bounds of its jurisdiction and is perfectly justified in denying petitioners' *Motion to Present* Mr. Marty Marcelo as an additional witness, and consequently denying petitioners' *Motion for Reconsideration*.

Respondent MWCI's counter-arguments:

Respondent MWCI argues that this Court does not have jurisdiction over the instant petition, considering that: (i) this Court does not have jurisdiction over an original special civil action for certiorari, directed against a mere Order of the CBAA; and (ii) this Court's power to issue writ of *certiorari* is limited only to cases clearly falling within this Court's exclusive appellate jurisdiction. An original special civil action for *certiorari* directed against an Order of the CBAA is not within this Court's exclusive appellate jurisdiction.

According to respondent MWCI, assuming without conceding that this Court has jurisdiction over the instant *Petition*, the same should still be dismissed for lack of merit, because the CBAA did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing its 20 June 2016 Order.

Respondent MWCI likewise contends that assuming *arguendo* that the CBAA's 12 February 2016 Order may still be reviewed, such Order should not be annulled and set aside because it was not issued with grave abuse of discretion amounting to lack or excess of jurisdiction, considering that: (i) Mr. Marcelo had heard the testimonies of other witnesses; (ii) to allow Mr. Marcelo to testify would be to allow petitioners to impeach the testimony of their own witness, petitioner Sta. Maria, and this is expressly proscribed by the Rules of Court; and (iii) Mr. Marcelo's intended testimony is immaterial, redundant and irrelevant, and does not constitute newly discovered evidence, and thus, his presentation as an additional witness will unduly delay the proceedings.

Lastly, according to respondent MWCI, petitioners would not be deprived of due process even if they were barred from presenting Mr. Marcelo as a witness.

Respondent MWSS's counter-arguments:

Respondent MWSS asserts that the petition should be denied outright for failure to comply with the requirements under Section 1, Rule 65 of the 1997 Rules of Civil Procedure.

It is also the contention of respondent MWSS that the CBAA did not act without or in excess of its jurisdiction; and neither did it act with grave abuse of discretion amounting to lack or excess of jurisdiction.

THE COURT *EN BANC*'S RULING

The instant *Petition for Certiorari* must be denied for lack of merit.

As the issue of jurisdiction is raised by respondents Maynilad and MWCI, the same shall be primarily dealt with.

***This Court has jurisdiction over petitions for* certiorari.**

Jurisdiction over the subject matter is required for a court to act on any controversy. It is conferred by law and not by the consent or waiver upon a court. As such, if a court lacks jurisdiction over an action, it cannot decide the case on the merits and must dismiss it.[42]

In this case, however, contrary to the stance of respondents Maynilad and MWCI, this Court has jurisdiction over the instant *Petition for Certiorari*.

In *The City of Manila, et al. vs. Hon. Caridad H. Grecia-Cuerdo, et al.* ("*The City of Manila* case"),[43] the Supreme Court *En Banc* declared that this Court has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local

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[42] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.
[43] G.R. No. 175723, February 4, 2014.

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tax case, despite the fact that there is no categorical statement to that effect under Republic Act (RA) No. 1125[44], as well as the amendatory RA No. 9282[45]. 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 (RA 1125) creating the CTA and giving to the said court jurisdiction over the following:
>
> > (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 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.
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> On March 30, 2004, the Legislature passed into law Republic Act No. (RA 9282) amending RA 1125 by expanding the jurisdiction of the CTA, enlarging its membership and elevating its rank to the level of a

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[44] AN ACT CREATING THE COURT OF TAX APPEALS.
[45] 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.

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 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;
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> 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**;
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> 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;
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> 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;
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> 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*,[46] *Garcia v. De Jesus*,[47] *Veloria v. COMELEC*,[48] *Department of Agrarian Reform Adjudication Board v. Lubrica*,[49] and *Garcia v. Sandiganbayan*,[50] 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*,[51] 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 process 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,

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[46] 189 Phil. 581 (1980).
[47] G.R. Nos. 88158 and 91108-09, March 4, 1992, 206 SCRA 779.
[48] G.R. No. 94771, July 29, 1992, 211 SCRA 907, 915.
[49] 497 Phil. 313, 322 (2005).
[50] G.R. No. 114135, October 7, 1994, 237 SCRA 552.
[51] Supra.

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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.**

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 with 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.*[52] 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*,[53] 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

[52] 118 Phil. 1022 (1963).
[53] G.R. No. 101630, August 24, 1992, 212 SCRA 823.

reiterated in the more recent cases of *Galang, Jr. v. Geronimo*[54] and *Bulilis v. Nuez.*[55]

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.

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

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[54] G.R. No. 192793, February 22, 2011, 643 SCRA 631, 635-636.
[55] G.R. No. 195953, August 9, 2011, 655 SCRA 241, 246-247.

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.

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."

Clearly from 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, on the matter, this Court is endowed with jurisdiction to entertain petitions for *certiorari* questioning interlocutory orders issued by regional trial courts in local tax cases.

And while it may be true that *The City of Manila* case referred only to, and merely tackled, the jurisdiction of this Court over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local tax case, it can also be reasonably concluded that based on the premise of the said *The City of Manila* case, this Court is likewise endowed with jurisdiction to entertain the instant case, which is a special civil action for *certiorari* assailing an interlocutory order issued by public respondent CBAA.

Parenthetically, taking its cue from, and upon the same reasoning in, *The City of Manila* case, the Supreme Court *En Banc*, in *Bureau of Customs vs. The Honorable Agnes VST Devanadera, et* *al.*,[56] subsequently declared that this Court *"has original jurisdiction over a petition for* certiorari *assailing the DOJ resolution in a preliminary investigation involving tax and tariff offenses."* Likewise, the High Court (Third Division) declared, in *The Philippine American Life and General Insurance Company vs. The Secretary of Finance, et al.*,[57] *"that it is now within the power of the CTA, through its power of certiorari, to rule on the validity of a particular administrative rule or regulation so long as it is within its appellate jurisdiction."*

According to *The City of Manila* case, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, *inter alia*, a writ of *certiorari*. Relative thereto, it is clear that this Court *En Banc* has appellate jurisdiction to review decisions of the CBAA, pursuant to Section 7(a)(5), in relation to Section 11, both of RA No. 1125, as amended by RA No. 9282, to wit:

> "Sec. 7. *Jurisdiction.* – The CTA shall exercise:
>
> a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> xxx xxx xxx
>
> 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**;" *(Emphases supplied)*
>
> "Sec. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – xxx
>
> xxx xxx xxx
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: *Provided, however*, **That with respect to decisions or rulings of**

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[56] G.R. No. 193253, September 8, 2015.
[57] G.R. No. 210987, November 24, 2014.

> **the <u>Central Board of Assessment Appeals</u>** and the Regional Trial Court **in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.**" *(Emphasis and underscoring supplied)*

Thus, considering the foregoing appellate jurisdiction of this Court *En Banc*, it must perforce have the same power to issue a writ of *certiorari* over the interlocutory orders of public respondent CBAA. *Apropos*, as in *The City of Manila* case, in transferring exclusive jurisdiction over appealed tax cases to this Court, 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.

In the same vein, the following principle, as enunciated in *The City of Manila* case, is likewise applicable to the case at bar: "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."

Correspondingly, there can be no doubt that the Court *En Banc* has jurisdiction to entertain the present *Petition for Certiorari*.

Nevertheless, the jurisdiction of the Court *En Banc* over petitions for *certiorari* is one thing; the question of whether the CBAA committed grave abuse of discretion is quite another. A petition for *certiorari* will prosper only if grave abuse of discretion is alleged and proved to exist.[58]

Thus, in this case, petitioners must still establish such grave abuse of discretion on the part of the CBAA. We, however, find that there was no grave abuse of discretion on the part of the CBAA.

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[58] *Spouses David Bergonia and Luzviminda Castillo vs. Court of Appeals, et al.*, G.R. No. 189151, January 25, 2012.

The CBAA did not commit grave abuse of discretion.

To be clear, the burden is on the part of the petitioners to prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the public respondent issuing the impugned order. **Mere abuse of discretion is not enough; it must be grave.** The term grave abuse of discretion is defined as a capricious and whimsical exercise of judgment so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, as where the power is exercised in an arbitrary and despotic manner because of passion or hostility.[59]

In this case, there is no showing that the CBAA committed grave abuse of discretion in not allowing the intended witness of petitioners, Mr. Marcelo, to testify.

It is well-settled that the admission of additional evidence is addressed to the sound discretion of the trial court.[60] Discretion is a faculty of a court or an official by which he may decide a question either way, and still be right.[61] Thus, the ruling in the assailed Order dated June 20, 2016, being in the exercise of discretion on the part of the CBAA, cannot be reviewed by *certiorari*, save in instances where such discretion has been so exercised in an arbitrary or capricious manner.

Thus, the question that must be answered is whether or not the said exercise of discretion on the part of the CBAA was done in an arbitrary or capricious manner. Put in another way: Was there "grave" abuse of discretion by the CBAA in this case?

We answer in the negative.

An examination of the assailed Order dated June 20, 2016, and the earlier Order dated February 12, 2016 would reveal the following reasons for the denial of petitioners' *Motion To Allow* [Petitioners] *To Present Additional Witness*, to wit:

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[59] *Tan vs. Spouses Antazo*, G.R. No. 187208, February 23, 2011.
[60] *Valencia vs. The Sandiganbayan*, G.R. No. 165996, October 17, 2005.
[61] *Office of the Ombudsman vs. Miedes, Sr.*, G.R. No. 176409, February 27, 2008.

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1. Petitioners earlier manifested that they will just have two (2) witnesses, who does not include Mr. Marcelo;
2. Upon this premise, private respondents never bothered to move for the exclusion of Mr. Marcelo when the said two (2) witness testified, as the latter was not named a witness in the proceedings;
3. To expedite the proceedings; and
4. There was no violation of due process.

The foregoing reasons fail to qualify as tantamount to grave abuse of discretion on the part of the CBAA.

Indeed, there was no violation of petitioners' right to due process in this case.

The essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied.[62]

As aptly pointed out by the CBAA in the assailed Order, petitioners were being given their right to be heard in this case, before the instant *Petition* was filed with this Court *En Banc*. Furthermore, it is apparent that administrative due process was observed by the CBAA when petitioners were given the opportunity to seek reconsideration of the earlier Order dated February 12, 2016.[63]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Certiorari* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[62] *Vivo vs. Philippine Amusement and Game Corporation (PAGCOR)*, G.R. No. 187854, November 12, 2013.
[63] Petitioners' *Motion for Reconsideration*, CBAA Docket (CBAA Case No. L-82) – Folder No. 7, pp. 1622 to 1632 and EB Docket, pp. 74 to 84.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(On Official Business)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
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.

ROMAN G. DEL ROSARIO
Presiding Justice