REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY
EN BANC

ALARIC VIVENCIO C. DE ANDRES,
Petitioner,

-versus-

SPOUSES ATANACIO S. CRISTOBAL and ISABEL B. CRISTOBAL,
Respondents.

CTA EB No. 1701
(CTA AC No. 178)

Present:

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

Promulgated:

FEB 07 2019 10:56 a.m.

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DECISION

Fabon-Victorino, J.:

In this Petition for Review[1] filed on August 16, 2017, petitioner Alaric Vivencio C. De Andres prays for the following relief from the Court *En Banc*:

a. to reverse the Resolutions dated March 30, 2017[2] and July 17, 2017[3], both promulgated by the Court in Division in CTA AC No. 178;

b. to declare respondent Spouses Atanacio S. Cristobal and Isabel B. Cristobal in default for failure to submit Comment/Answer;

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[1] *En Banc* Docket, pp. 1-50.
[2] *En Banc* Docket, pp. 54-61.
[3] *En Banc* Docket, pp. 63-73.

c. to reverse the Decision dated June 28, 2016[4] rendered by Quezon City Regional Trial Court Branch 100, in the case of "*In Re: Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and Issuance of Writ of Possession*", docketed as R-QZN-13-05546-LR; and

d. to grant his Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and issuance of Writ of Possession.

THE FACTS AND THE PROCEEDINGS

Petitioner Alaric Vivencio C. De Andres, is a Filipino, of legal age and a resident of 61 Pelican Avenue, Saint Francis Subdivision, Meycauayan, Bulacan.

Respondent Spouses Atanacio S. Cristobal and Isabel B. Cristobal, are both Filipino, of legal age and residents of 36 Bakawan Street, San Francisco del Monte, Quezon City.

It is alleged that for sixteen (16) years, respondent spouses were delinquent in the payment of real property taxes[5] for their property covered by Transfer Certificate of Title (TCT) No. RT-121506[6] of the Registry of Deeds of Quezon City and Tax Declaration Nos. E-018-00125[7], D-018-02530[8] & D-018-02460[9]. On this account, a Warrant of Levy[10] was sent to them[11] by the Office of City Treasurer, who also sent Notices of Levy[12] to the Registry of Deeds and City Assessor of Quezon City. The Warrant of Levy and Notices of Levy were annotated on TCT No. RT-121506[13].

[4] *En Banc* Docket, pp. 128-137.
[5] AC No. 178 Docket, pp. 169-174.
[6] AC No. 178 Docket, pp. 159-163.
[7] AC No. 178 Docket, p. 164.
[8] AC No. 178 Docket, pp. 165-166.
[9] AC No. 178 Docket, pp. 167-168.
[10] AC No. 178 Docket, p. 175.
[11] AC No. 178 Docket, p. 176.
[12] AC No. 178 Docket, pp. 177-178.
[13] AC No. 178 Docket, p. 163.

After two consecutive publication of the Notice of Sale of Delinquent Real Property in a newspaper of general circulation, the City Treasurer of Quezon City conducted an auction sale on July 5, 2012 to enforce collection of unpaid real estate taxes, penalties and costs against respondent spouses. Petitioner participated in the said auction sale and was declared the winning bidder[14]. A Certificate of Sale[15] was subsequently issued which was annotated on TCT No. RT-121506.

Thereafter, the City Treasurer of Quezon City sent a Notice of Sold Property[16] and a Final Notice to Exercise the Right of Redemption[17] to respondent spouses but the said Notices were returned to sender[18].

For failure of respondent spouses to redeem the subject property within the (1) year redemption period, the City Treasurer of Quezon City executed a Final Bill of Sale[19] in favor of petitioner on November 6, 2013.

On December 4, 2013, petitioner filed a Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and Issuance of Writ of Possession with the Quezon City RTC, Branch 100, docketed as Case No. R-QZN-13-05546-LR[20]. Respondent spouses filed their Opposition to Petition with Formal Entry of Appearance[21], to which petitioner filed a Comment with Motion to Dismiss Opposition[22].

On June 28, 2016, the RTC rendered a Decision[23] dismissing the Petition on the ground that the public sale of subject property was invalid as it failed to comply with the requirements for a tax delinquency sale. The dispositive portion of the Decision reads as follows:

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[14] AC No. 178 Docket, pp. 183-236.
[15] AC No. 178 Docket, p. 237.
[16] AC No. 178 Docket, pp. 238-239.
[17] AC No. 178 Docket, p. 241.
[18] AC No. 178 Docket, p. 242.
[19] AC No. 178 Docket, pp. 243-245.
[20] AC No. 178 Docket, pp. 69-71.
[21] AC No. 178 Docket, pp. 91-99.
[22] AC No. 178 Docket, pp. 100-105.
[23] *En Banc* Docket, pp. 128-137.

> **WHEREFORE**, premises considered, the instant petition is DISMISSED.
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> The Office of the Clerk of Court of Quezon City is ordered to release to petitioner Alaric Vivencio the judicial deposits in the amount of Php170,000.00 covered by Official Receipt No. 342800 and the amount of Php122,400.00 covered by Official Receipt No. 342801, both dated 01 June 2015. For this purpose, plaintiff is hereby directed to turn over the subject official receipts to petitioner within ten (10) days from receipt of this Order.
>
> **SO ORDERED.**

On August 1, 2016, petitioner filed a Motion for Reconsideration[24] which was denied in the Order dated September 20, 2016[25].

On October 7, 2016, petitioner filed a Notice of Appeal[26] with the RTC which forwarded the record of the case to the Court of Appeals (CA) as appearing in its Order dated October 17, 2016[27].

On November 17, 2016, petitioner filed an *Ex-Parte* Manifestation and Motion[28] with the RTC for the withdrawal of the record of the case from the CA and for its subsequent transmittal to the Court of Tax Appeals (CTA).

On December 19, 2016, petitioner filed with the Court in Division a Motion to Admit[29] the attached Petition for Review[30]. The case was docketed as AC No. 178.

In its Resolution dated February 13, 2017[31], the Court in Division ordered respondent spouses to file their

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[24] AC No. 178 Docket, pp. 60-66.
[25] AC No. 178 Docket, pp. 67-68.
[26] AC No. 178 Docket, pp. 13-14.
[27] AC No. 178 Docket, p. 12.
[28] AC No. 178 Docket, pp. 15-16.
[29] AC No. 178 Docket, pp. 8-11.
[30] AC No. 178 Docket, pp. 17-48.
[31] AC No. 178 Docket, p. 281.

Comment on petitioner's Motion to Admit Petition for Review, within ten (10) days from receipt.

On March 9, 2017, respondent spouses filed a Comment (on the Motion to Admit Petition for Review dated December 15, 2016)[32].

On March 30, 2017, the Court in Division rendered the assailed Resolution[33] denying petitioner's Motion to Admit Petition for Review for lack of merit and dismissing the Petition for Review on jurisdictional ground.

On April 19, 2017, petitioner filed a Motion for Reconsideration[34] and Motion for Leave of Court to File Verification/Certificate of Non-Forum Shopping[35] which he failed to submit or include in his Petition for Review.

On June 1, 2017, respondent spouses, in compliance with the Resolution of May 9, 2017[36], filed a Consolidated Comment on the Motion for Reconsideration and Motion for Leave of Court to File Verification/Certificate of Non-Forum Shopping.

On July 17, 2017, the Court in Division rendered a Resolution[37] denying both the Motion for Reconsideration and the Motion for Leave of Court to File Verification/Certificate of Non-Forum Shopping filed by petitioner, for lack of merit.

Hence, the instant Petition for Review filed on August 16, 2017, docketed as CTA EB No. 1701.

On November 6, 2017, respondent spouses, as directed by the Court *En Banc* in its Resolution dated September 5, 2017[38], filed their Comment on the Petition for Review[39].

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[32] AC No. 178 Docket, pp. 286-290.
[33] AC No. 178 Docket, pp. 296-303.
[34] AC No. 178 Docket, pp. 304-327.
[35] AC No. 178 Docket, pp. 357-361.
[36] AC No. 178 Docket, p. 367.
[37] AC No. 178 Docket, pp. 382-392.
[38] *En Banc* Docket, pp. 284-285.
[39] *En Banc* Docket, pp. 286-303.

On November 23, 2017, the Court *En Banc* gave due course to the Petition for Review[40] and in compliance with the Court's directive, petitioner filed his Memorandum on January 9, 2018[41] and respondent spouses' on January 19, 2018[42], hence, the case was submitted for decision on February 7, 2018.[43]

THE ISSUES

Petitioner submits the following issues for the resolution of the Court *En Banc*:

1. Petition for Review is within the jurisdiction of the Court of Tax Appeals;

2. Appeal and appellate jurisdiction to resolve the case on the merits and with finality, uphold the rule of law and, ultimately, dispense substantial justice;

3. Lower Court (RTC Branch 100) committed Sea of Errors warranting reversal by this Honorable Court; and

4. RTC Decision is barred by prescription/Exhaustion of Administrative Remedies, Doctrine of Primary Jurisdiction, prior judgment/Res Judicata and lack of legal capacity of Attorney-in-Fact to sue, all of which are unwaivable grounds and as appearing clearly and distinctly on evidence and records.

RULING OF THE COURT *EN BANC*

The instant Petition for Review is devoid of merit, hence, must be denied.

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[40] *En Banc* Docket, pp. 321-322.
[41] *En Banc* Docket, pp. 323-388.
[42] *En Banc* Docket, pp. 399-412.
[43] *En Banc* Docket, pp. 431-432.

In this appeal under Rule 42 of the Rules of Court assailing the twin Resolutions dated March 30, 2017 and July 17, 2017 rendered by the Court in Division, petitioner prays that his case be resolved on the merits by Court *En Banc.* He claims that the denial of his Motion to Admit Petition for Review by the Court in Division is a mere interlocutory order, as it did not dispose his petition on the merits. That being the case, such dismissal is bereft of any legal and factual support, void and unenforceable.

Petitioner obviously failed to consider that for the CTA, or any Court for that matter, may only entertain conflict brought before it, only if it has jurisdiction or competence to pass upon the same and render judgment thereto, as provided by law.

Section 7 of Republic Act (RA) No. 9282, as amended, enumerates, with specificity, the cases over which the CTA may take cognizance of and validly render judgment therefor. The whole provision is hereby quoted for emphasis, 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 or other laws administered by the Bureau of Internal Revenue;
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> 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;

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 Laws 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 Sections 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 or charges and penalties, claimed is less than One million pesos (P1,000,000.00) 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.**

Further, Section 3 of Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides as follows:

> SEC. 3 *Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise:
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> (a) Exclusive original over or appellate jurisdiction to review by appeal of the following:
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> xxx xxx xxx
>
> (3) **Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction**;

Perusal of the record of the case reveals that the subject of the present appeal is a decision rendered by the RTC in a Land Registration Case. In fact, without need of going over the assailed RTC Decision, the case title and docket number alone will already suggest that it is a land registration case, *viz.*, **Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and Issuance of Writ of Possession, Case No. R-QZN-13-05546-LR**.

Moreover, the local government of Quezon City which imposed the alleged realty tax and conducted the auction sale is not the respondent in this case but private parties, namely, Spouses Atanacio S. Cristobal and Isabel B. Cristobal. Also significant to note is the relief prayed for by petitioner which is not for the nullification or setting aside of an assessment or refund of a local tax or other remedy under the pertinent provisions of the Local Government

Code on local taxes. Clearly, the instant case is not a local tax case, hence, not within the jurisdiction of the Court, but a land registration case, under the rules on special proceedings, the purpose of which is to establish a status, condition or fact. In land registration proceedings, such as the case filed by petitioner before the Quezon City RTC, the ownership by a person of a parcel of land is sought to be established,[44] exactly what petitioner wanted the RTC and this Court to do.

As ruled by the Court in Division in the assailed Resolution of March 30, 2017, local tax cases involve the imposition of taxes by the local government and generally concerns the assessment, collection or refund thereof. It necessarily follows that the action should be one directed against the local government as a public respondent, and not against a private party as personified by respondent spouses.

Further, the facts as narrated by petitioner himself overwhelmingly indicate that the case is a land registration case which arose from his quest to be declared the lawful owner of the property of respondent spouses sold at public auction conducted by the City Assessor of Quezon City in which he was declared the winning bidder. The auction sale was however declared invalid by the Quezon City RTC for failure to meet the requisites for such public sale. Precisely, petitioner filed the land registration case asking the Quezon City RTC to declare him the lawful owner of the auctioned property but was not granted, prompting him to seek the same remedy from this Court, which as earlier stated lacks the required authority to do so. The CTA, being a court of special and limited jurisdiction[45], can only take cognizance of such matters as are clearly within its jurisdiction as laid down in Section 7 of RA. No. 9282, amending R.A. No. 1125, otherwise known as the Law Creating the Court of Tax Appeals.[46]

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[44] *Republic of the Philippines v. Lourdes Abiera Nillas*, G.R. No. 159595, January 23, 2007.

[45] *Southern Cross Cement Corporation v. Philippine Cement Manufacturers Corporation*, G.R. No. 158540, July 8, 2004, 434 SCRA 65.

[46] *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.

Even assuming that the Court has jurisdiction to entertain the instant case, petitioner availed of an erroneous mode of appeal in bringing the instant case to the Court in Division.

Pursuant to Section 11 of RA 1125, as amended, in relation to Sections 3(a) and 4(a) and (b) of Rule 8 of the RRCTA, as amended, a party adversely affected by a decision or ruling of the RTC in local taxes may file an appeal by way of a petition for review with the CTA within thirty (30) days from receipt of the assailed decision or ruling, thus:

> Section 11 of Republic Act No. 1125, as amended, provides:
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> SEC 11. Who May Appeal; Mode of Appeal; Effect of Appeal. - **Any party adversely affected by a decision, ruling** or inaction of the Commissioner of Internal Revenue, xxxx or **the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
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> **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: xxxx.
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> Sections 3(a)(b) and 4(a)(b) of Rule 8 of RRCTA provide:
>
> SEC. 3. *Who may appeal; period to file petition –*
>
> (a) **A party adversely affected by** a decision, ruling or the inaction of the

Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or **by a decision or ruling of the** Commissioner of Customs, xxxx, or a **Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after the receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. xxxx.

(b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution**. xxxx.

SEC. 4. *Where to appeal; mode of appeal.* –

(a) **An appeal from** a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, **the decision or ruling of the** Commissioner of Customs xxxx, and the **Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal**.

(b) An appeal from the decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

Further, Section 4, Rule 43 of the Rules of Court provides:

> Section 4. *Period of appeal.* The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo.* Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

In fine, the remedy available to assail the decision or ruling of the RTC in local tax cases is an appeal which shall be made by filing a Petition for Review under a procedure analogous to that provided under Rule 42 of the Rules of Court and the appeal should be filed within thirty (30) days from receipt of the RTC's assailed decision or ruling. Thereafter, in case the party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial decides to appeal the said Decision or Resolution, the said aggrieved party may file before the Court *En Banc* a Petition for Review within fifteen (15) days from receipt of a copy of the questioned decision or resolution, as provided in Rule 43 of the Rules of Court.

In this case, instead of filing an appeal by way of a Petition for Review before the CTA within thirty (30) days from receipt of the Court *a quo's* assailed Order on September 28, 2016, petitioner filed a Notice of Appeal with the Court a *quo* indicating his intent to appeal both on questions of law and fact the Decision dated June 28, 2016 and Order dated September 20, 2016 to the Court of Tax Appeals. While petitioner clearly indicated his intention to seek review by the CTA, the fact remains that he proceeded by filing a Notice of Appeal with the Quezon City RTC and not a Petition for Review with the CTA.

It must be stressed that the right to appeal is neither a natural right nor is a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.[47] Significantly, perfection of an appeal in the manner and within the reglementary period allowed by law is not only mandatory but also jurisdictional[48].

An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated. The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, the Rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants.[49]

The Court cannot also be oblivious of the fact that petitioner filed his Petition for Review attached to a Motion to Admit Petition for Review only on December 19, 2016, which is obviously beyond the thirty (30)-day period from receipt of the assailed Order of September 20, 2016 on September 28, 2016. In view thereof, the assailed Decision and Order dated June 28, 2016 and September 20, 2016, respectively, of Quezon City RTC have become final and executory, hence, no longer appealable.

Note, that the 30-day period within which to file an appeal with the CTA is mandatory and jurisdictional and failure to comply therewith bars the appeal and deprives the CTA of its jurisdiction to entertain and determine the case. Such period is not merely directory but mandatory and it is beyond the power of the courts to extend the same.[50]

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[47] *Boardwalk Business Ventures v. Elvira A. Villareal, et al.*, G.R. No. 181182, April 10, 2013.
[48] *Tiger Construction and Development Corporation v. Reynaldo Abay, et al.*, G.R. No. 164141, February 26, 2010.
[49] *Fenequito, et al. v. Vergara, Jr.*, G.R. No. 172829, July 18, 2012.
[50] *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.

Hence, considering that the Court has no jurisdiction over the instant case, discussion on other issues raised by petitioner is unwarranted.

WHEREFORE, the Petition for Review filed by petitioner Alaric Vivencio C. De Andres on August 16, 2017, is hereby **DENIED**, for lack of merit. Accordingly, the assailed Resolutions dated March 30, 2017 and July 17, 2017 rendered by the Court in Division, are **AFFIRMED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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