REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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PEOPLE OF THE PHILIPPINES, *Petitioner,*	**CTA EB CRIM. NO. 074** (M-QZN-18-05544-CR-R00-00) (Criminal Case No. M-QZN-18-05544-CR)
	Present:
-*versus*-	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
HON. EDITHA G. MIÑA-AGUBA, in her capacity as PRESIDING JUDGE of the REGIONAL TRIAL COURT, QUEZON CITY, BRANCH 100, and HERNANDO B. DELIZO, *Respondents.*	Promulgated: NOV 26 2020 1:52 p.m.

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RESOLUTION

On January 14, 2020, petitioner People of the Philippines filed its *Petition for Certiorari*[1] alleging grave abuse of discretion on the part of respondent Hon. Editha G. Miña-Aguba, in her capacity as Presiding Judge of the Regional Trial Court Quezon City Branch 100 (RTC-QC Branch 100), when she reversed the decision of the Metropolitan Trial Court, thereby acquitting herein private respondent, Hernando B. Delizo.

On July 30, 2020, the Court issued its Resolution denying the *Petition for Certiorari*. The Court found no grave abuse of discretion on the part of the RTC-QC 100 and reiterates that a judgment of acquittal is final, unappealable, and immediately executory upon its promulgation.[2] The Resolution also reiterated that the extraordinary writ of certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its

[1] *Rollo*, pp. 1-19.
[2] See *Villareal v. Aliga*, G.R. No. 166995, January 13, 1994.

conclusions anchored on the said findings and its conclusions of law.[3]

Petitioner filed its *Motion for Reconsideration (to the Resolution dated July 30, 2020)*[4] on September 21, 2020. Petitioner alleges that it has sufficiently discharged the burden of proving that the respondent Presiding Judge Miña-Aruba of RTC-QC Branch 100 committed grave abuse of discretion in acquitting private respondent Delizo. Petitioner alleges that respondent judge merely relied on the evidence presented by the defense and disregarded that of the prosecution.

Petitioner argues that a taxpayer is required to keep the books of accounts and other accounting records beyond the three-year period prescribed in Section 203 in light of the 10-year extraordinary period provided in Section 222, both of the 1997 National Internal Revenue Code, as amended (NIRC); that the case involved taxable years 2007 to 2010 and the subject *subpoena duces tecum* was issued in 2015, which is well within the 10-year period under Section 235, in relation to Sections 203 and 222 of the NIRC; and, that private respondent reneged on his obligation to preserve the books of accounts for a minimum of three (3) years, as evidenced by the Affidavit of Misplacement dated July 30, 2015.

Petitioner further relies on Revenue Regulations (RR) No. 17-2013, as amended by RR No. 5-2014 which allegedly reiterate that the books of accounts be preserved for at least ten (10) years because the BIR can conduct its investigation/examination "within ten (10) years after the discovery of the falsity, fraud or omission" pursuant to Section 222 of the NIRC.

Private respondent posted his *Opposition (To Petitioner's Motion for Reconsideration dated 18 September 2020)* October 5, 2020, which was received by the Court on October 16, 2020. In his *Opposition*, private respondent argues that the subject *Motion for Reconsideration* does not set out an exception to the constitutional bar against double jeopardy. To assail an acquittal under a petition for certiorari, there must have been a deprivation of due process and a finding of mistrial; or where there has been a grave abuse of discretion under exceptional circumstances. In the instant case, private respondent alleges

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[3] *People v. Court of Appeals*, G.R. No. 144332, June 10, 2004.
[4] *Rollo*, pp. 434-445.

that public respondent relied on an exhaustive recounting of the undisputed facts and the evidence bearing thereon, as well as on its independent evaluation of the law applicable to such facts. It was the lack of supporting evidence from the prosecution that resulted in public respondent's ruling that the prosecution failed to prove the presence of any of the instances for the extraordinary ten (10) year period under Section 222 of the NIRC to apply.

Private respondent further contends that the Court correctly dismissed the petition for certiorari since it calls for a review of the judgment rendered by public respondent, which is beyond the ambit of the extraordinary writ of certiorari. Furthermore, petitioner failed to point out the pieces of evidence and facts that were allegedly disregarded, as well as the misapplication of laws and doctrines committed by public respondent, rendering the instant motion for reconsideration *pro forma*. Finally, private respondent states that most of the allegations in the instant motion are just a mere rehash of the arguments in the Petition for Certiorari.

The motion for reconsideration is denied.

Petitioner does not present any argument that compels this Court to modify or reverse its conclusion to dismiss the Petition for Certiorari filed on January 14, 2020.

Thus, we reiterate the Court's reasoning, quoted below:

> Unrelenting, petitioner challenges the RTC's judgment of acquittal via the present special civil action for certiorari under Rule 65 of the Rules of Court, claiming that the RTC committed grave abuse of discretion when it acquitted private respondent when it ruled that AHCII[5] was obliged to preserve its books of account and other corporate records only for three (3) years after the last day prescribed for the filing of the return. In support of its hypothesis, petitioner cited the facts that led to the filing of the case against private respondent and evidence it presented during the trial before the MTC as well as the provisions of law upon which it anchored its stance.
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> Evidently, petitioner is questioning the RTC's appreciation and evaluation of the evidence presented by the parties during the trial before the MTC and the soundness of

[5] Ambulatory Health Care Institute Incorporated

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its finding on the basis of which a conclusion to exonerate private respondent was reached. In other words, petitioner wants this Court to review and weigh and evaluate evidence adduced during the trial in the court below. In fine, petitioner is invoking errors of judgment on the part of the RTC which is clearly beyond the scope of the extraordinary remedy of certiorari.

Certiorari is a remedy for correction of errors of jurisdiction, not errors of judgment. It will issue only to correct errors of jurisdiction and not to correct errors of procedure or mistakes in the court's findings and conclusion.

It is a fundamental aphorism in law that a review of facts and evidence is not the province of the extraordinary remedy of certiorari, which is extra ordinem -- beyond the ambit of appeal. In certiorari proceedings, judicial review does not go as far as to examine and assess the evidence of the parties and to weigh the probative value thereof. It does not include an inquiry as to the correctness of the evaluation of evidence. Any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by certiorari.

Thus, in *People vs. Court of Appeals*, the Supreme Court categorically declared that extraordinary writ of certiorari will not be issued to cure errors by the trial court in its appreciation of the evidence of the parties, and its conclusions anchored on the said findings and its conclusions of law.

The same conclusion was reached in *Madrigal Transport, Inc. vs. Lapanday Holdings Corporation*, where it was held that the issuance of a writ of certiorari cannot be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the lower court – on the basis either of the law or the facts of the case, or of the wisdom or legal soundness of the decision.

Even assuming that the RTC had indeed improperly assessed the evidence, as well as the pertinent laws on the matter, what is certain is that the RTC's verdict of acquittal was a product of the pieces of evidence it weighed and considered. *A fortiori*, any gaffe it may have committed in the evaluation thereof constitutes an error of judgment that may not be remedied by a Certiorari Petition under Rule 65 of the Rules of Court. Note that even if the findings of the court are incorrect, as long as it has jurisdiction over the case, such correction is normally beyond the province of *certiorari*.

Interestingly, the assailed RTC Decision of July 22, 2019 does not even suggest grave abuse of discretion on the part of the RTC. Grave abuse of discretion means capricious, or whimsical exercise of judgment equivalent to lack of jurisdiction. The abuse of discretion must be too patent and gross as to amount to an evasion of a positive duty or a virtual non-performance of a duty enjoined by law, which is certainly wanting in the present case.

Finally, the writ of certiorari – being a remedy narrow in scope and inflexible in character, whose purpose is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts (acts that courts have no power or authority in law to perform) – is not a general utility tool in the legal workshop, and cannot be issued to correct every error committed by a lower court.

WHEREFORE, petitioner's *Motion for Reconsideration (to the Resolution dated July 30, 2020)* filed on September 21, 2020, is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(On Leave)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice