REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

MANDALUYONG CITY GOVERNMENT, *Petitioner,*	**CTA *EB* NO. 2078** *(CTA AC No. 177)*
	Present:
-versus-	**DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
REPUBLIC OF THE PHILIPPINES (DEPARTMENT OF TRANSPORTATION) AND METRO RAIL TRANSIT CORPORATION, *Respondents.*	Promulgated: DEC 04 2020 10.56 a.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

This is a Petition for Review[1] under ***Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals ("RRCTA")***,[2] asking the Court *En Banc* to nullify the Decision, promulgated on 18 September 2018, and Resolution, dated 22 April 2019, rendered respectively by the Court of Tax Appeals ("CTA") First Division and Special First Division (hereinafter referred to collectively as "Court in Division").

The assailed Decision and Resolution granted the original Petition for Review and vacated and set aside the Orders dated 22 March 2006, 25 May 2006, 15 September 2006, and 9 March 2007 of the Regional Trial Court of Mandaluyong City ("RTC") Branch 208 in Civil Case No. MC05-2882 (hereinafter referred to as "Pending RTC Case"). Likewise, the Court in Division enjoined petitioner from enforcing the real property tax ("RPT")

[1] Petition for Review, *Rollo* Vol. 1, pp. 9-84, with annexes.
[2] A.M. No. 05-11-07-CTA, 22 November 2005.

assessments on the Light Rail Transit System-LRTS Phase I (hereinafter referred to as "EDSA MRT III") real properties while the validity of the assessments is still being determined in the Pending RTC Case.

The Parties

Petitioner City Government of Mandaluyong is a local government unit existing under and by virtue of Republic Act ("RA") No. 7160, otherwise known as the Local Government Code of 1991 ("LGC") and RA No. 7675 or the Charter of the City of Mandaluyong. It may be served with legal processes through its counsel, the City Legal Department, with office address at 4th Floor, Executive Building, City Government Complex, Maysilo Circle, Brgy. Plainview, Mandaluyong City.

Respondent Republic of the Philippines ("Republic") is a sovereign political entity with capacity to sue and be sued. It is represented by the Department of Transportation ("DOTr"), which is the primary policy, planning, programming, regulating, and administrative entity of the executive branch of the government in the promotion, development, and regulation of dependable and coordinated networks of transportation systems as well as in the fast, safe, efficient, and reliable transportation services. It is represented by the Office of the Solicitor General, with office address at 134 Amorsolo Street, Legaspi Village, Makati City.

Respondent Metro Rail Transit Corporation ("MRTC") is the intervenor in the Pending RTC Case. It is a corporation duly organized and existing under the laws of the Philippines. It may be served with legal processes through its counsel, with office address at 30/F, 88 Corporate Center, Sedeño corner Valero Street, Salcedo Village, Makati City 1227.

The Facts

On 8 August 1997, the Republic through the Department of Transportation and Communication, now DOTr, entered into a Revised and Restated Agreement to Build, Lease and Transfer a Light Rail System ("BLT Agreement") with Metro Rail Transit Corporation Limited ("Metro Rail"), a foreign corporation.[3]

Under the BLT Agreement, Metro Rail shall be responsible for the design, construction, equipping, completion, testing, and commissioning of the EDSA MRT III. The DOTr shall operate the same while its ownership will remain with Metro Rail during the Revenue and Construction Periods. Thereafter, Metro Rail shall transfer to DOTr its title to and all of its rights

[3] Decision, *Rollo* Vol.1, pp. 38-72.

and interests therein, in exchange for US$1.00 at the end of the Revenue Period.[4]

On the same date, Metro Rail assigned all its rights and obligations under the BLT Agreement to MRTC.[5]

On 15 July 2000, Metro Rail turned over the EDSA MRT III to the DOTr for its operations.[6]

Meanwhile, the City Assessors of petitioner, Quezon City, Makati City, and Pasay City entered into a Joint Resolution, dated 5 April 2001, fixing the current market value of the EDSA MRT III at US$655 Million or ₱32,750,000,000.00. The said amount was divided proportionately according to the distance traversed by the EDSA MRT III in each of the said cities.[7]

On 4 June 2001, the Office of the City Assessor of Mandaluyong ("City Assessor") issued Tax Declaration No. D-013-06267 in the name of MRTC, fixing the market value of the railways, train cars, three (3) stations and miscellaneous expenses ("EDSA MRT III real properties") at ₱5,974,365,000.00, and the assessed value at ₱4,779,492,000.00.[8]

On account of the issued tax declaration, the petitioner, on 18 June 2001 and 4 August 2003 demanded payment of RPT from MRTC amounting to ₱317,250,730.23 for taxable years 2000 until August 2001 and ₱769,784,981.52 for taxable years 2000 until 2003, respectively.[9]

Thereafter, a Notice of Delinquency, dated 24 June 2005, was issued by the City Treasurer of Mandaluyong ("City Treasurer") and was sent to MRTC wherein the assessed deficiency RPT amounted to ₱12,843,928.79. This was later on superseded by another Notice of Delinquency, dated 7 September 2005, where the amount of deficiency RPT was increased to ₱1,306,617,522.96. The City Treasurer also issued and served a Warrant of Levy to MRTC.[10]

This prompted the Republic to file a Complaint against petitioner and the Registrar of Deeds of Mandaluyong City in the RTC of Mandaluyong-Branch 208 (hereinafter referred to as "RTC Branch 208") on 5 December 2005. This is the Pending RTC Case. MRTC took part in the case as intervenor.[11]

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[4] *Ibid.*
[5] *Ibid.*
[6] *Ibid.*
[7] *Ibid.*
[8] *Ibid.*
[9] *Ibid.*
[10] *Ibid.*
[11] *Ibid.*

Among the Republic's prayer in the Pending RTC Case is for the court to issue a temporary restraining order, preliminary writ of injunction, and permanent injunction against petitioner from causing the conduct of a public auction sale and the annotation or registration of a certificate of sale of the EDSA MRT III real properties; from causing the transfer of the title of the aforesaid properties; and/or from exercising other acts of ownership and administration over the same.[12]

Likewise, the Republic sought the issuance of a temporary restraining order, preliminary writ of injunction, and permanent injunction against the Registrar of Deeds to stop it from implementing the eventual annotation or registration of the certificate of sale of the EDSA MRT III real properties and from transferring the title of said properties.[13]

MRTC had substantially the same prayer as the Republic.[14]

On 24 March 2006, petitioner conducted the public auction of the EDSA MRT III real properties. Since there were no bidders, the same were forfeited in favor of petitioner for the price of ₱1,483,700,100.18.[15]

As a consequence of the said forfeiture, petitioner issued Tax Declaration No. D-013-10636 transferring the EDSA MRT III real properties under its name, and cancelling Tax Declaration No. D-13-06267 under the name of MRTC.[16] Likewise, petitioner filed an *ex parte* Petition for the Issuance of a Writ of Possession with RTC of Mandaluyong Branch 213. The said petition was granted on 30 July 2008 and was affirmed, through an Order, on 6 October 2008. However, these were eventually overturned by the Supreme Court in the case of Republic of the Philippines (Department of Transportation and Communications) v. City of Mandaluyong, docketed as G.R. No. 184879, promulgated on 23 February 2011.[17]

On 22 March 2006, RTC Branch 208 issued the first assailed Order denying respondents' prayer for the issuance of a temporary restraining order.[18]

Aggrieved, respondents filed on 5 April 2006 and 7 April 2006 their respective Motions for Reconsideration.[19] The said Motions were denied by RTC Branch 208 through the second assailed Order dated 25 May 2006.[20]

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[12] *Ibid.*
[13] *Ibid.*
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
[17] *Ibid.*
[18] *Ibid.*
[19] *Ibid.*
[20] *Ibid.*

Then on 15 September 2006, RTC Branch 208 issued the third assailed Order denying respondent's application for issuance of a writ of preliminary injunction against petitioner.[21]

The respondents filed their respective Motions for Reconsideration on 11 and 20 October 2006. The same were denied by RTC Branch 208 in its fourth assailed Order dated 9 March 2007.[22]

Hence, the Republic was prompted to file a Petition for Certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 98334 (hereinafter referred to as "CA Petition"). The CA Petition sought the annulment and setting aside of the assailed Orders of RTC Branch 208. However, the same was dismissed for lack of jurisdiction on 21 January 2015. The Republic filed its Motion for Reconsideration on 17 February 2015, but this, too, was subsequently denied by the Court of Appeals on 18 January 2016 for lack of merit.[23]

The Republic then appealed the Court of Appeals Decision and Resolution to the Supreme Court. The case was docketed as G.R. No. 222636. MRTC also filed a separate Petition to the Supreme Court docketed as G.R. No. 222483.[24]

Subsequently, the Supreme Court denied the Petitions filed by the respondents through a Notice issued by the Second Division's Deputy Division Clerk of Court, Teresita Aquino Tuazon. Unconvinced, respondents filed their respective Motions for Reconsideration which were, likewise, denied by the Supreme Court on 22 August 2016.[25]

Thereafter, the Republic filed the original Petition for Certiorari with the CTA on 28 November 2016.[26]

On 18 September 2018, the Court in Division issued the assailed Decision granting the original Petition for Certiorari. The dispositive portion is hereby quoted, to wit:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition* is **GRANTED**. Accordingly, the Orders dated March 22, 2006, May 25, 2006, September 15, 2006, and March 9, 2007 of RTC-Branch 208 in Civil Case No. MC05-2882 are hereby **VACATED** and **SET ASIDE**.

[21] *Ibid.*
[22] *Ibid.*
[23] *Ibid.*
[24] *Ibid.*
[25] *Ibid.*
[26] *Ibid.*

> Respondent Mandaluyong City, or any persons or entity acting under its control or supervision, or for or in its behalf, is **ENJOINED** from enforcing the real property tax assessments on the subject EDSA MRT III System properties while the validity of said assessments is still being determined in Civil Case No. MC05-2882.
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> Let the entire docket of Civil Case No. MC05-2882 be immediately returned to RTC-Branch 208 of Mandaluyong City for the continuation of proceedings in said case.
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> **SO ORDERED.**"

Aggrieved, petitioner filed its Motion for Reconsideration on 29 October 2018. Thereafter, the respondents filed their respective Comments on 8 and 9 January 2019.[27]

On 22 April 2019, the Court in Division issued the assailed Resolution denying petitioner's Motion for Reconsideration for lack of merit.[28] Petitioner received its copy of the assailed Resolution on 21 May 2019.[29]

On 6 June 2019,[30] petitioner filed a Motion for Extension of Time to File Petition for Review asking the Court *En Banc* to grant it an additional period of fifteen (15) days or until 20 June 2019 to file its Petition for Review.[31] The Court *En Banc* granted the said Motion.[32]

Petitioner filed the instant Petition for Review on 20 June 2019.[33] MRTC and the Republic filed their respective Comments on 16 September 2019,[34] and 15 October 2019,[35] which were both filed within the extended period granted by the Court *En Banc*.[36]

With the filing of respondents' respective Comments, the Court *En* Banc, on 4 December 2019, submitted the case for decision.[37] Hence, this Decision.

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[27] Resolution, *Rollo* Vol. 1, pp. 77-84.
[28] *Ibid.*
[29] *Ibid.*
[30] 5 June 2020 was declared a regular holiday in observance of Eid'l Fitr.
[31] Motion for Extension of Time to File Petition for Review, *Rollo* Vol. 1, pp. 1-7.
[32] Minute Resolution; *Rollo* Vol. 1, p. 8.
[33] Petition for Review; *Rollo* Vol. 1, pp. 9-84, with annexes.
[34] Comment (on Petition for Review dated June 20, 2019), *Rollo* Vol. 1, pp. 107-181.
[35] Comment, *Rollo* Vol. 2, pp. 191-738.
[36] Minute Resolution, *Rollo* Vol. 1, p. 106; Resolution, *Rollo* Vol. 2, pp. 188-190; Resolution, *Rollo* Vol. 2, pp. 745-746.
[37] Resolution, *Rollo* Vol. 2, pp. 745-746.

The Issues[38]

WHETHER THE COURT IN DIVISION ERRED IN RULING THAT IT RETAINED JURISDICTION OVER A RULE 65 PETITION THAT WAS FILED TEN (10) YEARS LATE; AND

WHETHER RTC BRANCH 208 ACTED WITH GRAVE ABUSE OF DISCRETION IN DENYING RESPONDENTS' APPLICATIONS FOR INJUNCTIVE RELIEF.

Arguments of the Parties

Petitioner's Arguments[39]

Petitioner argues that the assailed Decision and Resolution are without legal basis. It explains that the original Petition for Review was filed only after almost ten (10) years from the time RTC Branch 208 promulgated the assailed Orders. Hence, the same was filed out-of-time and way beyond the 60-day period allowed under Rule 65 of the Rules of Court.

Petitioner explains that although the 60-day period admits of certain exceptions, it alleges that these are not applicable in this case since the Republic failed to move for a timely extension. It contends that the ruling of the Court in Division granting the original Petition on the grounds of substantial justice and good faith are not supported by any lawful authority.

Petitioner insists that the filing of the Petition for Review questioning the assailed Orders in the wrong venue is fatal, rendering the case filed in the CTA dismissible. It opines that the Republic should be bound by the mistakes of its counsel and should not be afforded relief to its detriment. Likewise, it points out that the Court in Division acted arbitrarily when it extended excessive liberality to the respondents in granting the original Petition.

Lastly, petitioner explains that RTC Branch 208 did not act arbitrarily in issuing the assailed Orders. It states that, contrary to the position of respondents, the EDSA MRT III real properties are owned by MRTC, which is a private entity. Furthermore the said properties are used for commercial and revenue purposes. Therefore, it concludes that the real properties are subject to RPT, rendering respondents request for temporary restraining order, writ of preliminary injunction, and/or permanent injunction without basis.

[38] Petition for Review; *Rollo* Vol. 1, pp. 9-84, with annexes.
[39] *Ibid.*

Respondents' Counter-Arguments[40]

Respondents counter that the Court in Division is correct in taking cognizance of the case. They explain that although, as a general rule, a petition for certiorari must be instituted within a period of sixty (60) days from notice of judgment, order, or resolution, the same admits of certain exceptions that are applicable in the case at bar.

Respondents contend that they cannot be faulted for initially filing the petition for certiorari with the Court of Appeals. They argue that during the time of the filing of the CA Petition, there was no clear rule that the CTA has jurisdiction over Rule 65 certiorari petitions. They allege that it was only in the case of ***City of Manila v. Grecia-Cuerdo (hereinafter referred to as "Grecia Case")***,[41] which was promulgated almost seven (7) years after the Republic filed the CA Petition, that the certiorari powers of the CTA was established. They explain that neither can they file the petition for certiorari with the CTA right after the promulgation of the ***Grecia Case*** since the CA Petition was still pending with the Court of Appeals. Therefore, pursuing the case with the CTA will run against the rule on forum-shopping.

Respondents also point-out that in their appeal with the Supreme Court, they relied in good faith on jurisprudence ruling that when the appeal or the special civil action for certiorari arising from a decision or order of the RTC in a local tax case is filed, not with the CTA but with the Court of Appeals, the Supreme Court is not precluded to take cognizance of the said case when the substantive issues point to a patent nullity of the RTC's decision, order or resolution, which they insist to exist in this case.

Lastly, they explain that the Court in Division correctly ruled that RTC Branch 208 acted in grave abuse of discretion when it issued the assailed Orders refusing to enjoin petitioner from conducting the auction sale of the EDSA MRT III real properties. They argue that petitioner has no right to assess and collect RPT over the EDSA MRT III real properties since these are owned and actually possessed by the Republic making the same properties of the public dominion which are not subject to said tax for being outside the commerce of men. They insist that the continued sale of the EDSA MRT III real properties will cause grave and irreparable injury, not just to them, but also to the public since the users of the same will be forced to take other means of transportation along EDSA. Thus, exacerbating the traffic congestion on the main thoroughfare of Metro Manila. For these reasons, they opine that their prayer for a temporary restraining order, writ of preliminary injunction and/or permanent injunction should have been granted by RTC Branch 208.

[40] Comment (on Petition for Review dated June 20, 2019), *Rollo* Vol. 1, pp. 107-181; Comment, *Rollo*, pp. 191-738.

[41] G.R. No. 175723, 4 February 2014.

<u>The Ruling of the Court</u>

After considering the issues raised by petitioner and the arguments propounded by respondents, the Court *En Banc* sees no cogent reason to reverse the assailed Decision and Resolution of the Court in Division.

<u>The filing of the original Petition for Certiorari falls under the exceptions to the observance of the 60-day rule under Rule 65.</u>

Under ***Section 4, Rule 65 of the Rules of Court***, a petition for certiorari must be filed not later than 60 days from notice of the judgment, order or resolution complained of. If a motion for reconsideration or new trial was timely filed, the 60-day period shall be counted from the notice of denial of the motion for reconsideration. However, the foregoing rule is not without exception.

In the case of ***Republic of the Philippines v. St. Vincent de Paul Colleges, Inc.***,[42] the Supreme Court laid down exceptions to the strict application of the 60-day period, to wit:

> What seems to be a "conflict" is actually more apparent than real. A reading of the foregoing rulings leads to the simple conclusion that Laguna Metts Corporation involves a strict application of the general rule that petitions for certiorari must be filed strictly within sixty (60) days from notice of judgment or from the order denying a motion for reconsideration. Domdom, on the other hand, relaxed the rule and allowed an extension of the sixty (60)-day period subject to the Court's sound discretion.
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> Labao v. Flores subsequently laid down some of the exceptions to the strict application of the rule, viz.:
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>> Under Section 4 of Rule 65 of the 1997 Rules of Civil Procedure, certiorari should be instituted within a period of 60 days from notice of the judgment, order, or resolution sought to be assailed. The 60-day period is inextendible to avoid any unreasonable delay that would violate the constitutional rights of parties to a speedy disposition of their case.
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>> xxx xxx xxx
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>> **However, there are recognized exceptions to their strict observance, such as: <u>(1) most persuasive and weighty reasons; (2) to relieve a litigant from an injustice not commensurate with his failure to comply with the prescribed procedure; (3) good faith of the defaulting party by immediately paying within a reasonable time</u>**

[42] G.R. No. 192908, 22 August 2012.

> **from the time of the default; (4) the existence of special or compelling circumstances; (5) the merits of the case; (6) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (7) a lack of any showing that the review sought is merely frivolous and dilatory; (8) the other party will not be unjustly prejudiced thereby; (9) fraud, accident, mistake or excusable negligence without appellant's fault; (10) peculiar legal and equitable circumstances attendant to each case; (11) in the name of substantial justice and fair play; (12) importance of the issues involved; and (13) exercise of sound discretion by the judge guided by all the attendant circumstances. Thus, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his/her failure to comply with the rules.**

Note that Labao explicitly recognized the general rule that the sixty (60)-day period within which to file a petition for certiorari under Rule 65 is non-extendible, **only that there are certain exceptional circumstances, which may call for its non-observance**. Even more recently, in Mid-Islands Power Generation Corporation v. Court of Appeals, the Court, taking into consideration **Laguna Metts Corporation and Domdom, "relaxed the procedural technicalities introduced under A.M. No. 07-7-12-SC in order to serve substantial justice and safeguard strong public interest" and affirmed the extension granted by the CA to the respondent Power One Corporation due to the exceptional nature of the case and the strong public interest involved**.

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> **Indeed, we have relaxed the procedural technicalities introduced under A.M. No. 07-7-12-SC in order to serve substantial justice and safeguard strong public interest. . . .:**
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> xxx xxx xxx
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> The present Petition involves one of those exceptional cases in which relaxing the procedural rules would serve substantial justice and safeguard strong public interest. . . . Consequently, in order to protect strong public interest, this Court deems it appropriate and justifiable to relax the amendment of Section 4, Rule 65 under A.M. No. 07-7-12-SC, concerning the reglementary period for the filing of a Rule 65 petition. **Considering that the imminent power crisis is an exceptional and meritorious circumstance, the parties herein should be allowed to litigate the issues on the merits.** Furthermore, we find no significant prejudice to the substantive rights of the litigants as respondent was able to file the Petition before the CA within the 15-day extension it asked for. We therefore find no grave abuse of discretion attributable to the CA when it granted respondent Power One's Motion for Extension to file its Petition for Certiorari.

> To reiterate, under Section 4, Rule 65 of the Rules of Court and as applied in Laguna Metts Corporation, the general rule is that a petition for certiorari must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. Under exceptional circumstances, however, and subject to the sound discretion of the Court, said period may be extended pursuant to Domdom, Labao and Mid-Islands Power cases."[43]

To recapitulate, a petition for certiorari must be filed within the 60-day reglementary period subject only to exceptional circumstances. In order to effectively invoke the said exceptions, the party must be able to advance a reasonable or meritorious explanation why it failed to comply with the rule. It must also show that the relaxation of the rules will serve substantial justice and safeguard strong public interest.

Among the exceptional circumstances recognized by the Supreme Court in the relaxation of the 60-day period is when there are peculiar legal and equitable circumstances or special or compelling circumstances that will cause injustice should the rules of procedure be strictly applied.

The case of ***Cometa v. Court of Appeals, (hereinafter referred to as "Cometa Case")***[44] discussed the mandate of the courts to relax the application of technical rules of procedure should its application cause miscarriage of justice in light of peculiar circumstances attendant in a particular case, to wit:

> "Paraphrasing what we trenchantly pointed out in Hermoso v. CA, we test a law by its result. **A law should not be interpreted so as to cause an injustice. There are laws which are generally valid but may seem arbitrary when applied in a particular sense because of its peculiar circumstances. We are not bound to apply them in servile subservience to their language**. More explicitly —
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> xxx xxx xxx
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> There is no question that petitioners were remiss in attending with dispatch to the protection of their interests as regards the subject lots, and for that reason the case in the lower court was dismissed on a technicality and no definitive pronouncement on the inadequacy of the price paid for the levied properties was ever made. In this regard, it bears stressing that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights as in this case. **Like all rules, they are required to be followed except only when for the most persuasive of reasons they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed**.
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> Such compelling justifications for taking exception to the general rule are strewn all over the factual landscape of this case. Pertinently, in Dayag v. Canizares, we said that —

[43] Citations omitted and emphasis ours.
[44] G.R. No. 141855, 6 February 2001.

> . . . where a rigid application of the rule will result in a manifest failure or miscarriage of justice, technicalities may be disregarded in order to resolve the case. Litigations should, as much as possible, be decided on the merits and not on technicalities. . . . Given the foregoing, it seems improper to nullify Young's motion on a mere technicality. Petitioner's averments should be given scant consideration to give way to the more substantial matter of equitably determining the rights and obligations of the parties. It need not be emphasized that rules of procedure must be interpreted in a manner that will help secure and not defeat justice.
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> In short, since rules of procedure are mere tools designed to facilitate the attainment of justice, their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. Technicality should not be allowed to stand in the way of equitably and completely resolving the rights and obligations of the parties. It was thus towards this sacrosanct goal that this Court in the recent case of Paz Reyes Aguam v. CA, et al. held:
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> > . . . The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice "A litigation is not a game of technicalities." "Law suits unlike duels are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. . . . the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not miscarriage of justice."[45]

Guided by the foregoing principles, the Supreme Court, in numerous cases, had relaxed the application of the technical rules of procedure in order to afford substantial justice. Included in these cases are ***Mactan Cebu International Airport Authority v. Mangubat***[46] as cited in ***Planters Products, Inc. v. Fertiphil Corpration***,[47] to wit:

[45] Citations omitted and emphasis ours.
[46] G.R. No. 136121. 16 August 1999.
[47] G.R. No. 156278, 29 March 2004.

"This is not all. We have also previously ruled that failure to pay the appellate docket fee does not automatically result in the dismissal of an appeal, dismissal being discretionary on the part of the appellate court. And in determining whether or not to dismiss an appeal on such ground, **courts have always been guided by the peculiar legal and equitable circumstances attendant to each case.** Thus, in Pedrosa v. Hill and Gegare v. Court of Appeals, the appeals were dismissed because appellants failed to pay the appellate docket fees despite timely notice given them by the Court of Appeals and despite its admonitions that the appeals would be dismissed in case of non-compliance. **<u>On the other hand, the appeal in Mactan Cebu International Airport Authority v. Mangubat was not dismissed because we took into account the fact that the 1997 Rules of Civil Procedure had only been in effect for fourteen (14) days when the Office of the Solicitor General appealed from the decision of the RTC of Lapu-Lapu City on July 14, 1997 without paying the appellate court docket fees as required by the new rules. Considering the recency of the changes and appellant's immediate payment of the fees when required to do so, the appeal was not dismissed.</u>** We can do no less in the instant case where PPI was not even required under the rules in 1992 to pay the appellate docket fees at the time it filed its appeal. We note moreover that PPI, like the appellant in Mactan, promptly paid the fees when required to do so for the first time by the RTC of Makati in its Order dated April 3, 2001, and informed the Court of Appeals of such compliance when it in turn notified PPI that the fees were due, in an Order dated April 9, 2002. The remedy of appeal being an essential part of our judicial system, caution must always be observed so that every party-litigant is not deprived of its right to appeal, but rather, given amplest opportunity for the proper and just disposition of his cause, freed from the constraints of technicalities."[48]

Other examples include the cases of ***Cometa v. Intermediate Appellate Court***[49] and ***Barican v. Intermediate Appellate Court***[50] as cited in ***Sps. Vaca v. Court of Appeals, et., al.***,[51] to wit:

"Petitioners cite the cases of Cometa v. Intermediate Appellate Court, and Barican v. Intermediate Appellate Court, where we ordered the **<u>deferment of the issuance of the writ of possession notwithstanding the lapse of the one-year period of redemption. The deferment, however, was due to the peculiar circumstances of those case</u>**. In Cometa, which actually involved execution under Rule 39, sec. 35, the properties were sold at an unusually lower price than their true value, while in Barican, the mortgagee bank took five years from the time of foreclosure on October 10, 1980 before filing the petition for the issuance of a writ of possession on August 16, 1985. Earlier the property had been sold to third parties who assumed the indebtedness of the mortgagor and took possession of the property so that at the time of the hearing on the petition for a writ of possession, the original debtor was no longer in possession. **<u>Under these circumstances, it was held that the obligation of the court to issue the writ of possession had ceased to be ministerial</u>**."[52]

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[48] Citations omitted and emphasis ours.
[49] G.R. No. L-69294, 30 June 1987.
[50] G.R. No. 79906, 20 June 1988.
[51] G.R. No. 109672, 14 July 1994.
[52] Citations omitted and emphasis ours.

In this case, there is no denying that the Petition for Certiorari was filed out of time. As found by the Court in Division, the last of the assailed Orders was received by the Republic on 9 March 2007. However, instead of filing a petition for certiorari with the CTA, it filed the CA Petition in the Court of Appeals. It was only on 28 November 2016 that the Republic filed the original Petition for Certiorari with the CTA.

Equally undeniable is that the power of the CTA to rule over certiorari petitions under Rule 65 of the Rules of Court was only established in 2014 with the promulgation of the ***Grecia Case***.

In fact, prior to the ***Grecia Case***, the CTA had been dismissing petitions for certiorari filed in its courts for lack of jurisdiction ruling that the law creating the CTA, specifically RA No. 1125, as amended by RA No. 9282, is silent as to whether the said court has jurisdiction over said petitions. The discussion in ***Dacudao Brothers, Inc. v. Court of Tax Appeals, et. al.,***[53] illustrates this point, to wit:

> "In Our assailed Decision dated September 30, 2013, We Denied the instant Petition for Review on the ground that the Court of Tax Appeals is without jurisdiction to take cognizance of petitions for certiorari. As held in the case of Soller v. Sandiganbayan, the rule is that in order to ascertain whether a court has jurisdiction or not, the provisions of the law should be inquired into. In this connection, **We looked into pertinent provisions of the law creating the Court of Tax Appeals, Republic Act No. (RA) 1125, as amended by RA 9282, and apparently, We found no provision pertaining to this Court's jurisdiction to hear and entertain petitions for Certiorari under a procedure analogous to that provided under Rule 65 of the 1997 Rules of Civil Procedure.**
>
> **However, in the recent pronouncement of the Supreme Court in the case "The City of Manila v. Hon. Cardidad H. Grecia-Cuerdo", delving specifically on the issue on whether or not the CTA has jurisdiction to take cognizance of a special civil action for certiorari under Rule 65 of the Revised Rules of Court, the Supreme Court held that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of certiorari in these cases.** The Supreme Court said 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 for certiorari assailing interlocutory orders issued by the RTC in local tax cases filed before it.
>>
>> xxx xxx xxx

[53] CTA E.B. No. 819, 2 May 2014.

> The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, 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 within 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."

> **In light of the foregoing pronouncement of the Supreme Court, We therefore hold that the CTA En Banc can take cognizance of the special civil action of certiorari which is included in the powers granted by the Constitution as well as inherent in the exercise of this Court's appellate jurisdiction.**"[54]

It stands clear, then, that the lack of a clear pronouncement as to the jurisdiction of the CTA over petitions for certiorari under Rule 65 of the Rules of Court during the filing of the CA Petition is a peculiar legal and equitable circumstance warranting the relaxation of the 60-day period. To deny respondents' Petition for Certiorari will cause grave injustice to them and, likewise, runs counter to the principles of substantial justice and equity.

As for the argument of petitioner that a timely filing of a motion for extension is required before the court may relax the application of the 60-day period, the Court *En Banc* finds the same unmeritorious.

[54] Citations omitted and emphasis ours.

First, the respondent failed to cite any legal basis to justify its contention that a motion for extension is an indispensable requirement for the court to relax the application of the 60-day period.

Second, as discussed, the respondents cannot be faulted for not filing a timely motion for extension since during the time they questioned the assailed Orders via Rule 65, the jurisdiction of the CTA over these cases was not yet established.

Therefore, based on the foregoing reasons, the Court *En Banc* affirms the assailed Decision and Resolution finding the reasons raised by respondents to be exceptional circumstances warranting the liberal application of the 60-day period under Rule 65 of the Rules of Court.

The RTC Branch 208 committed grave abuse of discretion when it issued the assailed Orders.

In order for a petition for certiorari filed under Rule 65 of the Rules of Court to prosper, the party must first alleged and prove the existence of grave abuse of discretion on the part of the court or tribunal which rendered the assailed order, resolution, decision, or issuance.[55]

Grave abuse of discretion "has been defined as a capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law. It also includes a virtual refusal to act in contemplation of law or an exercise of power in an arbitrary and despotic manner by reason of passion or personal hostility. Thus, mere abuse of discretion is not enough in order to oust the court of its jurisdiction — it must be grave."[56]

In the instant case, petitioner argues that RTC Branch 208 correctly issued the assailed Orders which denied the issuance of a temporary restraining order, preliminary injunction and permanent injunction in favor of respondents. It belies respondents' argument that the EDSA MRT III real properties are properties of the public dominion that should not be subjected to RPT. It asks the Court *En Banc* to reconsider the Court in Division's Decision and Resolution finding RTC Branch 208 to have committed grave abuse of discretion in its issuance of the assailed Orders.

The contention of petitioner is without merit.

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[55] National Telecommunications Commission v. Brancomm Cable and Television Network Co., G.R. No. 204487, 5 December 2019.
[56] *Id.*

In ***Department of Public Works and Highways v. City Advertising Ventures Corp.***,[57] the Supreme Court reiterated the requisites of preliminary injunction, as follows:

> (1) the applicant must have a clear and unmistakable right, that is a right in esse;
> (2) there is a material and substantial invasion of such right;
> (3) there is an urgent need for the writ to prevent irreparable injury to the applicant; and
> (4) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.

In order to satisfy the foregoing requisites, the applicant of a writ of preliminary injunction "need not substantiate his or her claim with complete and conclusive evidence since only *prima facie* evidence or a sampling is required to give the court an idea of the justification for the preliminary injunction pending the decision of the case on the merits."[58]

In this case, the parties anchored their respective arguments on the BLT Agreement which delineates the rights and obligations of the Republic and Metro Rail over the EDSA MRT III real properties. The pertinent provision of the BLT Agreement highlighting the relationship of the respondents are hereby quoted, to wit:

> "5. <u>LEASE, OPERATION AND MAINTENANCE OF THE LRTS.</u>
>
> 5.1. <u>Lease.</u> **On the Completion Date and on each Partial Opening Date, this Agreement will constitute a lease of LRTS Phase I or the appropriate portion thereof by Metro Rail to DOTC until the end of the Revenue Period, during which <u>DOTC shall operate LRTS Phase I (or such appropriate portion)</u>** and Metro Rail shall provide Technical Maintenance in accordance with Annex F, **<u>such lease and DOTC's right of possession thereunder being subject to payment by DOTC of the Rental Fees</u>** due pursuant to Paragraph 9 and all adjustments thereto and other amounts due pursuant to this Agreement. For the avoidance of doubt it is understood and agreed that Rental Fees under Section 9.1(c) may be payable prior to the Completion Date.
>
> xxx xxx xxx
>
> 11. <u>TRANSFER OF OWNERSHIP ON TERMINATION</u>
>
> 11.1 Transfer to DOTC. **<u>At the end of the Revenue Period and after Metro Rail and any other intended recipient shall have received from DOTC full payment of all Rental Fees and all other amounts payable by DOTC pursuant to this Agreement. Metro Rail shall transfer to DOTC, free from any lien or encumbrance created by Metro Rail or existing as a result of Metro Rail's actions, all its title to, and rights and interest in, LRTS Phase I in return for DOTC's payment to</u>**

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[57] G.R. No. 182944, 9 November 2016.
[58] Bicol Medical Center v. Botor, G.R. No. 214073, 4 October 2017.

> **<u>Metro Rail of U.S. $1.00.</u>** This Paragraph 11.1 does not apply if Paragraph 11.4 is applicable."[59]

Based on the foregoing, it is evident that the arrangement between respondents is more of a financing mechanism whereby the Republic is obligated to amortize payments to MRTC, which in turn will be sourced from the operations of the EDSA MRT III. These arrangement makes the Republic not just a mere possessor of the real properties in question but also the beneficial owner of the same.

Moreover, considering that the MRT EDSA III real properties are intended for and devoted to public use, the same are recognized under Philippine Laws as properties of the public dominion and, therefore, are owned by the State or the Republic. ***Article 420 of the Civil Code*** is the relevant law in this case, to wit:

> "Article 420. **The following things are property of public dominion:**
>
> (1) **<u>Those intended for public use</u>**, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads, and others of similar character;
>
> (2) Those which belong to the State, without being for public use, and are intended for some public service or for the development of the national wealth."[60]

Being properties of public dominion, it follows that the EDSA MRT III real properties are exempted from RPT, as provided under ***Sections 133(o) and 234(a) of the LGC***, to wit:

> "SECTION 133. Common Limitations on the Taxing Powers of Local Government Units. - Unless otherwise provided herein, **the exercise of the taxing powers** of provinces, **cities**, municipalities, and Barangays **shall not extend to the levy of the following**:
>
> xxx xxx xxx
>
> (o) **Taxes, fees or charges, of any kind on the National Government**, its agencies and instrumentalities, and local government units.
>
> SECTION 234. Exemptions from Real Property Tax. - **The following are <u>exempted from payment of the real property tax</u>**:
>
> (a) **<u>Real property owned by the Republic of the Philippines</u>** or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;"[61]

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[59] Emphasis supplied.
[60] Emphasis supplied.
[61] Emphasis supplied.

Likewise, the properties cannot be the lawful subject of an auction sale, as ruled by the Supreme Court in the case of ***Manila International Airport Authority v. CA***,[62] to wit

> "The Court has also ruled that **property of public dominion, being outside the commerce of man, <u>cannot be the subject of an auction sale</u>**.
>
> **<u>Properties of public dominion, being for public use, are not subject to levy, encumbrance or disposition through public or private sale</u>. Any encumbrance, levy on execution or auction sale of any property of public dominion is void for being contrary to public policy. Essential public services will stop if properties of public dominion are subject to encumbrances, foreclosures and auction sale.**"[63]

In view of the foregoing, the Court *En Banc* is one with the Court in Division that the respondents were able to substantiate with *prima facie* evidence that the Republic, as the owner of the EDSA MRT III real properties has a clear and unmistakable right to protect the same from being taxed for RPT and from being sold in a public auction.

The Court *En Banc,* likewise, affirms the finding of the Court in Division that the Republic's right was substantially and materially invaded by petitioner, thus, satisfying the second requisite.

As admitted by petitioner, it had already conducted a public auction to sell the EDSA MRT real properties but due to lack of bidders the same were forfeited in its favor. In fact, a new tax declaration was already issued covering the questioned real properties under its name. Clearly, petitioner's action substantially and materially invaded the rights of the Republic as owner and possessor of the said real properties.

The Court *En* Banc also finds respondents to have sufficiently satisfied the third requisite. As demonstrated by respondents, the non-issuance of the preliminary injunction would cause irreparable injury, not only to them but to the general public, since the action of petitioner would cause disruption to the operations of the EDSA MRT III real properties causing inconvenience to the public commuters and exacerbating the traffic congestion on the main thoroughfare of Metro Manila. Clearly, such damage cannot be pecuniarily estimated.[64]

Lastly, respondents were able to demonstrate that they have no other ordinary, speedy and adequate remedy under the Rules of Court to prevent the injury they sought to enjoin, therefore, satisfying the last requisite.

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[62] G.R. No. 155650, 20 July 2006.
[63] Emphasis supplied.
[64] Evy Construction and Development Corp. v. Valiant Roll Forming Sales Corp., G.R. No. 207938, 11 October 2017.

Hence, given the foregoing, the Court *En Banc* finds that the Court in Division committed no reversible error in rendering the assailed Decision and Resolution which would warrant the modification, much less the reversal, thereof.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the Court in Division's Decision promulgated on 18 September 2018 and the Resolution dated 22 April 2019 are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Leave)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
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