

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE CTA CRIM. CASE NO. O-1058
PHILIPPINES,

Plaintiff,

- versus -

Members:

NATURE'S BEST AGRI FOODS
CORPORATION and
ANGELINA M. ALONZO, (Lot 9
Block 5, Pineapple Road,
Constantino Subd., Phase III,
Poblacion 2, Marilao, Bulacan),

- At-Large -

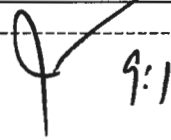
RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *II*.

Promulgated:

NOV 18 2024

Accused.

x -----x

 9:15 am

RESOLUTION

On September 28, 2023, the Court *found probable cause* and ordered the issuance of *Warrant of Arrest* against **ANGELINA M. ALONZO**. Copies of the resolution were served upon both counsels from the Department of Justice (DOJ) and the Bureau of Internal Revenue (BIR).

On October 3, 2023, a *Warrant of Arrest* was issued against the accused, with the directive to the Director, National Bureau of Investigation (NBI), Manila; the Chief of the Philippine National Police (PNP) - Criminal Investigation and Detection Group (CIDG), Camp Crame; and, Chief of Police, Marilao, Bulacan to execute the warrant and make a return to the Court under Rule 113, Section 4 of the Rules of Court.¹

On April 26, 2024, the Court noted that the prosecution and/or the enforcement officers deputized to execute the warrant have *not* informed it of

¹ SEC. 4. *Execution of warrant.* — The head of the office to whom the warrant of arrest was delivered for execution shall cause the warrant to be executed within ten (10) days from its receipt. Within ten (10) days after the expiration of the period, the officer to whom it was assigned for execution shall make a report to the judge who issued the warrant. In case of his failure to execute the warrant, he shall state the reasons therefor. (4a)

the status of the same as required under the Rules of Court. Accordingly, the Court gave the prosecution and/or the enforcement officers *five (5) days from notice* to file a report on the status of the warrant. Copies of the resolution were served upon both the DOJ and BIR counsels.

On May 27, 2024, the Court's *Records Verification* stated that the counsels failed to file the report within the stated deadline, *despite notice*.

On June 25, 2024, the Court issued another *Resolution*, which gave the prosecution and/or the enforcement officers deputized to execute the warrant one last opportunity to file, *within five (5) days from notice*, a report to the Court on the status of the same. Again, copies of the resolution were served upon the DOJ and BIR counsels and the NBI.

On September 20, 2024, the Court's *Records Verification* stated that the prosecution and/or enforcement officers failed to file the report in compliance with the June 25, 2024 *Resolution*.

On October 9, 2024, counsels from the BIR filed an *Ex-Parte Manifestation* informing the Court that the accused is still at large and her whereabouts unknown as she cannot be located and committing to inform it should there be any leads about the accused. However, the counsels aside from failing to comply within the deadline given by the Court also failed to send by email the Portable Document Format (PDF) of the *Ex-Parte Manifestation*, pursuant to *En Banc* Resolution No. 8-2024.²

It is well-settled that jurisdiction over the person of the accused is acquired upon (1) his arrest or apprehension, with or without a warrant, or (2) his voluntary appearance or submission to the jurisdiction of the court.³

More than a year has lapsed since April 20, 2023, when the *Information* was filed by the prosecution, and since October 3, 2023, when the warrant was issued pursuant to a finding of probable cause. Despite repeated reminders to the prosecution of its duty to inform the Court of the status of the warrant, the same went *unheeded*. In order for this case to proceed without delay, it is necessary for the Court to acquire jurisdiction over the person of the accused, who is subject of the issued warrant.

Courts have an inherent right to dismiss a suit for failure to prosecute it with due diligence.⁴ Furthermore, Rule 17, Section 3 of the Rules of Court, as amended, reads:

² Section 2 of En Banc Resolution No. 8-2024 which took effect on September 1, 2024 states that "The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; ***otherwise, the pleading or court submission shall be deemed as not filed.***"

³ *Inocentes v. People of the Philippines, et al.*, G.R. Nos. 205963-64, July 7, 2016.

⁴ *Brandt v. Behn, Myer & Co. (Ltd.)*, G.R. No. 12556, July 19, 1918), 38 Phil 351-356, Supreme Court *En Banc*.

Section 3. *Dismissal due to fault of plaintiff.* — If, for no justifiable cause, the plaintiff fails to appear on the date of the presentation of his or her evidence in chief on the complaint, or to prosecute his or her action for an unreasonable length of time, or to comply with these Rules or any order of the court, the complaint may be dismissed upon motion of the defendant or upon the court's own motion, without prejudice to the right of the defendant to prosecute his or her counterclaim in the same or in a separate action. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise declared by the court. (3a)

More importantly, upon a closer review of the facts of this case, it appears that when the *Information* was filed on April 20, 2023, *more than five (5) years* have lapsed since the issuance of the *Final Letter of Demand* or *Assessment Notice* on October 3, 2016 or even the issuance of *Preliminary Collection Letter* on January 24, 2017 and the *Final Notice Before Seizure* on February 6, 2017.⁵

In this connection, the Tax Code imposes a five-year prescription period for *all* violations of any of its provisions. Specifically, Section 281 provides:

“TITLE X
STATUTORY OFFENSES AND PENALTIES

XXX XXX XXX

CHAPTER IV
OTHER PENAL PROVISIONS

XXX XXX XXX

SEC. 281. *Prescription for Violations of any Provision of this Code.* - All violations of any provision of this Code shall prescribe after Five (5) years.

Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment.

The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

The term of prescription shall not run when the offender is absent from the Philippines.” (*Underscoring supplied*)

⁵ September 28, 2023 *Resolution*, Docket, p. 110.

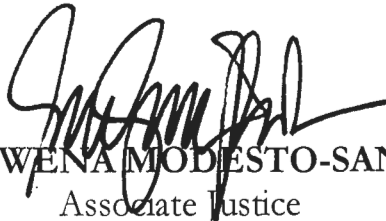
To reiterate, more than five (5) years have lapsed before the prosecution was able to file the *Information* in Court from the time of discovery of the offense. *Prescription*, therefore, has set in and bars the prosecution from pursuing the criminal case.

IN VIEW OF THE FOREGOING, due to prescription and the failure of the prosecution and/or the enforcement officers to comply with a lawful order of the Court, the case is **DISMISSED**.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice