REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

EDS MANUFACTURING, INC.
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE
Respondent.

CTA CASE NO. 8830

Members:

CASTAÑEDA, JR., *Chairperson, and*
MANAHAN, *JJ.*

Promulgated:

JAN 11 2019 10:22 AM

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RESOLUTION

CASTAÑEDA, JR., *J.*:

For the Court's resolution is respondent's **Petition for Relief from Judgment**, filed on November 5, 2018, with petitioner's **Opposition (To Respondent's *Petition for Relief from Judgment dated 31 October 2018*)**, filed on November 15, 2018.

On June 5, 2014, petitioner filed a Petition for Review with the Court of Tax Appeals, praying for the cancellation and nullification of the Final Decision on Disputed Assessment ("FDDA") dated May 9, 2014. In a Decision dated August 3, 2017, the Court granted the Petition for Review, declaring the FDDA dated May 9, 2014 and the Assessment Notices null and void.

The Motion for Reconsideration of said decision filed by respondent was denied by the Court on December 12, 2017. Per Records Verification dated March 20, 2018, no En Banc/SC appeal was filed by any of the parties in the instant case. Thus, in a

Resolution dated April 4, 2018, the Court ordered that Entry of Judgment be issued in this case and that the Clerk of Court shall forthwith enter the Decision dated August 3, 2017 in the Book of Entries of Judgments. Accordingly, the said Decision became final and executory on January 24, 2018.

In view thereof, respondent filed a Petition for Relief from Judgment on November 5, 2018, praying that (1) the instant Petition for Relief from Judgment be given due course; (2) the Entry of Judgment be recalled; and (3) respondent be allowed to elevate his claim to the Court *En Banc* via Petition for Review.

Respondent avers that he was prevented from taking an appeal thereto due to excusable negligence brought by the fact that respondent's counsel was on leave for almost half a month due to health concerns of her children that required her immediate attention and care, and the hasty departure of her immediate superior. According to respondent's counsel, the foregoing was further aggravated by the volume of cases she is handling that require almost morning and afternoon court appearances, preparation of pleadings with overlapping deadlines and overwhelming reassignment of cases brought about by the resignation and transfers of lawyers from respondent's Litigation Division which ordinary diligence and prudence could not have guarded against.

In its opposition, petitioner counters that respondent's Petition for Relief from Judgment was filed out of time and that respondent's failure to observe the grace period under the Rules of Court is fatal to his position. Petitioner also argues that the alleged departure of the Chief of the Litigation Division of the Bureau of Internal Revenue ("BIR") on December 20, 2017 and the several work/vacation leaves taken by one of the handling lawyers from December 27, 2017 until January 11, 2018 cannot justify wanton disregard by counsel of the above-enumerated issuances and documents from the Court and petitioner, considering the number of lawyers the BIR employs. Petitioner avers that the work load of respondent's counsel also cannot justify relief from judgment, after counsel completely ignored the proceedings in this case.

A petition for relief from judgment under Rule 38 of the 1997 Rules of Civil Procedure is an equitable remedy that is allowed only in exceptional cases when there is no other available or adequate remedy. It may be availed of only after a judgment, final order, or other proceeding was taken against petitioner in any court through fraud, accident, mistake, or excusable negligence.[1] It is not available if other remedies exist, such as a motion for new trial or appeal. To set aside a judgment through a petition for relief, the negligence must be so gross "that ordinary diligence and prudence could not have guarded against." This is to prevent parties from "reviving the right to appeal already lost through inexcusable negligence."[2]

A petition for relief from judgment shall be filed within 60 days after petitioner learns of the judgment, final order or proceeding *and* not more than six months after such judgment or final order was entered, or such proceeding was taken. Section 3 of Rule 38 provides:

> Sec. 3. *Time for filing petition; contents and verification.* – A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits, showing the fraud, accident, mistake or excusable negligence relied upon and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.

Thus, it is clear that a petition for relief from judgment must be filed within: (a) 60 days from knowledge of judgment, order or other proceedings to be set aside; and (b) six (6) months from entry of such judgment, order or other proceeding. These two periods must concur. Both periods are also not extendible and never interrupted. Strict compliance with these periods stems from the equitable character and nature of the petition for relief. Indeed, relief is allowed only in exceptional cases as when there is no other available or adequate remedy. As it were, a petition for relief is actually the "last chance" given by law to litigants to question a final judgment or order. And failure to avail of such "last chance" within the grace period fixed by the Rules is fatal.[3]

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[1] *Julio B. Purcon, Jr. vs. MRM Philippines, Inc., et al.*, G.R. No. 182718, September 26, 2008.
[2] *Juliet Vitug Madarang vs. Spouses Jesus D. Morales and Carolina N. Morales*, G.R. No. 199283, June 9, 2014.
[3] *Andy Quelnan vs. VHF Philippines*, G.R. No. 138500, September 16, 2005.

In this case, respondent claims that his counsel only learned about the Resolution dated December 12, 2017 when he received the Entry of Judgment. Considering that respondent received a copy of the Entry of Judgment on **May 2, 2018** and the Entry of Judgment in this case was made on **January 24, 2018**, the last day for respondent to file his petition for relief from judgment was on **July 2, 2018** considering that July 1, 2018, which is the 60th day from his date of receipt of the Entry of Judgment, fell on a Sunday, and which is likewise within six months from January 24, 2018.

However, respondent filed his Petition for Relief from Judgment only on **November 5, 2018,** which is way beyond the 60-day period provided by law, and almost 10 months after the Decision became final and executory on January 24, 2018.

The double period required under Section 3, Rule 38 is jurisdictional and should be strictly complied with. A petition for relief from judgment filed beyond the reglementary period is dismissed outright. This is because a petition for relief from judgment is an exception to the public policy of immutability of final judgments.[4] Since the Petition for Relief from Judgment in this case was filed beyond the periods provided by law, the said petition should be dismissed.

The Court also notes that the Supreme Court has previously directed the BIR to adopt mechanisms, procedures, or measures that can effectively monitor the progress of cases being handled by its counsels to prevent similar disadvantageous incidents against the government in the future.[5] Accordingly, respondent is bound by his counsel's negligence in this case. Respondent's alleged lack of knowledge of the Court's Resolution dated December 12, 2017 on his motion for reconsideration of the Decision dated August 3, 2017 is inexcusable considering that several notices and pleadings have been received by him thereafter, including the Entry of Judgment, which he received on May 2, 2018.

While it is true that rules of procedure are not cast in stone, it is equally true that strict compliance with the Rules is indispensable for the prevention of needless delays and for the orderly and expeditious dispatch of judicial business. Utter disregard of the rules

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[4] *Juliet Vitug Madarang, et al. vs. Spouses Jesus D. Morales and Carolina N. Morales*, G.R. No. 199283, June 9, 2014.

[5] *Commissioner of Internal Revenue vs. Kepco Ilijan Corporation*, G.R. No. 199422, June 21, 2016.

cannot justly be rationalized by harking on the policy of liberal construction.[6]

It is a well-known maxim that equity aids the vigilant, not those who slumber on their rights. Once a judgment becomes final and executory, the prevailing party should not be denied the fruits of his victory by some subterfuge devised by the losing party.[7]

WHEREFORE, the **Petition for Relief from Judgment** is hereby **DISMISSED** at respondent's costs.

SO ORDERED.

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

I CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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[6] *Sps. Rolando Dela Cruz and Teresita Dela Cruz vs. Sps. Feliciano Andres and Erlinda Austria*, G.R. No. 161864, April 27, 2007.
[7] *Andy Quelnan vs. VHF Philippines*, G.R. No. 138500, September 16, 2005.