

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

EN BANC

BUREAU OF INTERNAL REVENUE, CTA EB NO. 2569
represented by COMMISSIONER (CTA Case No. 10298)
CAESAR R. DULAY,

Petitioner, Present:

-versus-

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, JJ.**

**HON. MENARDO I. GUEVARRA in
his capacity as SECRETARY OF
JUSTICE and FERDINAND SANTOS
in his capacity as president of** Promulgated:
Camp John Hay Hotel Corp.,

Respondents.

AUG 03 2023

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D E C I S I O N

MANAHAN, J.:

Before the Court of Tax Appeals *En Banc* is the instant *Petition for Review* filed on March 1, 2022 seeking for the following reliefs, to wit:

1. Reversal of public respondent's resolution promulgated on February 05, 2020;
2. Issuance of a resolution directing the Secretary of Justice and the state prosecutors to file an Information indicting private respondent for violation of Section 266 in relation to Section 5(C) of the 1997 National Internal Revenue Code (NIRC), as amended; and, *am*

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3. Reversal of the Decision and Resolution promulgated by the Second Division of this Court (Court in Division) on October 15, 2021 and February 8, 2022, respectively.

We quote portions of the assailed Decision and assailed Resolution of the Court in Division, thus:

Decision dated October 15, 2021

“In sum, there being no grave abuse of discretion on the part of public respondent in this case, and since We have found that the instant *Petition for Certiorari* should not prosper there being an appeal earlier available to petitioner, the same must perforce be dismissed.”

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Certiorari* is **DISMISSED**.

SO ORDERED.”

Resolution dated February 8, 2022

“**WHEREFORE**, in light of the foregoing considerations, petitioner’s Motion for Reconsideration (of the Decision promulgated October 15, 2021) is **DENIED** for lack of merit.

SO ORDERED.”

THE PARTIES

Petitioner Bureau of Internal Revenue (BIR) is the government agency tasked to administer and enforce tax laws, rules and regulations. It was represented by Mr. Caesar R. Dulay, the former Commissioner of Internal Revenue.

Public respondent, Hon. Menardo I. Guevarra, is the former Secretary of the Department of Justice (DOJ), the government’s prosecution arm. Private respondent, Ferdinand Santos, is being sued in his capacity as the President of Camp John Hay Hotel Corporation with registered business address at 7/F Renaissance Tower, Meralco Avenue, Ugong, Pasig City *an*

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FACTS

The facts as narrated by the Court in Division in the assailed Decision dated October 15, 2021 and as established by the records, are as follows:

On March 26, 2015, petitioner filed a Joint Complaint-Affidavit against private respondent for violation of Section 266 of the 1997 NIRC, as amended, in relation to Section 5(C) of the same Code.

On June 23, 2015, private respondent submitted his Counter Affidavit claiming that he exerted efforts to comply with the various requests of petitioner for the presentation and examination of records. He likewise maintained that after the last examination, he was never advised that there were still additional documents or records to be submitted prior to issuing the *subpoena duces tecum* and filing of complaint.

On July 21, 2015, petitioner submitted its Joint Reply-Affidavit while private respondent submitted his Rejoinder-Affidavit on September 8, 2015.

On February 24, 2016, petitioner received a copy of the Investigating Prosecutor's Resolution dated January 26, 2016 recommending the dismissal of the complaint against private respondent. In said resolution, the Investigating Prosecutor resolved as follows:

"After the last audit, there is no evidence that respondent was still required to submit additional documents or that the books presented were still insufficient. Viewed from the foregoing, there appears to be no evidence that respondent 'neglected to appear or produce books' as provided for under the above-quoted provision."

On March 10, 2016, petitioner filed a Motion for Reconsideration of the Investigating Prosecutor's Resolution dated January 26, 2016.

On June 1, 2014, the Investigating Prosecutor issued a Review Resolution on even date denying the petitioner's Motion for Reconsideration, the dispositive portion of which states: *an*

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“WHEREFORE, premises considered, this Office resolves to DENY the present Motion for Reconsideration filed by herein complainant.”

On July 12, 2016, petitioner filed a Petition for Review on the dismissal of the case and denial of the motion for reconsideration before public respondent in DOJ-Manila Office of the Secretary of Justice.

On July 12, 2017, petitioner received a copy of the public respondent’s Resolution promulgated on June 20, 2017, dismissing the above-mentioned Petition for Review. The dispositive portion reads as follows:

“WHEREFORE, premises considered, the Petition for Review is hereby DENIED. Accordingly, the assailed Resolution is hereby AFFIRMED.”

Petitioner then filed a Petition for Certiorari¹ with the Court in Division on July 1, 2020 docketed as CTA Case No. 10298.

On October 13, 2020, private respondent filed his Comment (*on Petition for Certiorari dated 10 June 2020*).

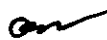
On November 3, 2020, the case was submitted for decision.

As mentioned earlier, the Court in Division promulgated a Decision on October 15, 2021 dismissing petitioner’s Petition for Certiorari.

On November 8, 2021, petitioner filed a Motion for Reconsideration (of the Decision promulgated October 15, 2021).

On February 8, 2022, the Court in Division denied petitioner’s Motion for Reconsideration.

Petitioner then filed a Petition for Review with the Court *En Banc* on March 1, 2022 docketed as CTA EB No. 2569.

¹ Based on Rule 65 of the Revised Rules of Court. 

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In a Resolution dated April 8, 2022, the Court *En Banc* directed respondents to file their respective comments to the Petition for Review within ten (10) days from notice.

On May 16, 2022, private respondent posted his Comment (On: Petition for Review dated 22 February 2022) which was received by the Court on May 20, 2022.

On June 7, 2022, public respondent through the Office of the Solicitor General (OSG) posted his Comment (on the Petition for Review dated June 10, 2020) which was received by the Court on June 16, 2022.

In a Resolution dated July 13, 2022, the Court *En Banc* submitted the instant Petition for Review for decision.

ISSUES

The grounds raised by petitioner in its Petition for Review are as follows:

1. There is no plain, speedy and adequate remedy as contemplated under Rule 65 of the 1997 Rules of Court available to petitioner;
2. The Court of Tax Appeals has the jurisdiction to look into whether public respondent committed grave abuse of discretion in affirming the investigating prosecutor's resolution on appeal; and,
3. Public respondent committed grave abuse of discretion in dismissing the criminal complaint for violation under Section 266 in relation to Section 5(C) of the 1997 NIRC, as amended.

Petitioner's arguments

Petitioner argues that the subject of its Petition for Certiorari is a final decision of the Secretary of Justice and that there is no more appeal available under the law except the remedy provided under Rule 65 of the Revised Rules of Court. This contravenes the ruling of the Court in Division that the remedy of an ordinary appeal was still available to petitioner, thus negating the avilment of the remedy of the special civil 

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action for Certiorari. While acknowledging that the Petition for Certiorari under Rule 65 is available only when there is no plain, speedy and adequate remedy under the Rules, petitioner contends that findings of courts and quasi-judicial bodies that were either contrary to law, jurisprudence and the Rules of Court is a proper subject of an extraordinary remedy of Certiorari based on grave abuse of discretion. Citing the case of *Alcaraz vs. Gonzalez*,² petitioner posits that a Petition for Review under Rule 43 of the Revised Rules of Court is an improper remedy from an adverse resolution issued by the Secretary of Justice. In the instant case, the Secretary of Justice allegedly committed grave abuse of discretion when it dismissed the criminal complaint against private respondent for violation of Section 266 in relation to Section 5(C) of the 1997 NIRC, as amended. It is the opinion of petitioner that private respondent clearly failed to obey summons and to comply with the *subpoena duces tecum* to produce records and documents supposedly listed in the attached list of requirements.

Petitioner also finds the Court to have the requisite jurisdiction to resolve the issue on whether public respondent committed grave abuse of discretion in affirming the investigating prosecutor's resolution but at the same time disagrees with its findings that no grave abuse of discretion was committed. Petitioner alleges that the Court in Division disregarded the evidence it presented to prove the clear existence of the elements charged against private respondent.

Respondents' counter-arguments

In his *Comment*, private respondent agrees with the Court in Division that resort to a Petition for Certiorari is the wrong remedy due to the availability of an ordinary appeal under Section 25, Chapter 4, Book VII of the Administrative Code of 1987 or Executive Order (EO) No. 292 which provides that any party aggrieved or adversely affected by an agency decision may seek judicial review and such suit may be brought against the agency, or its officers and all indispensable and necessary parties as may be defined in the Rules of Court. Alternatively, and even assuming that a Petition for Certiorari is proper, the private respondent sees no grave abuse of discretion on the part of public respondent in issuing the questioned Resolution dated June 20, 2017 affirming the investigating prosecutor's Resolution dismissing the criminal complaint against him for

² G.R. No. 164715, September 20, 2006. 

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violation of Section 266 in relation to Section 5(C) of the 1997 NIRC, as amended.

Public respondent seconded the position of private respondent and maintained that he did not commit grave abuse of discretion when he affirmed the aforesaid Resolution. He asserts that as long as the public prosecutor's findings are supported by evidence on record, such findings are for all intents and purposes considered valid and legal. He firmly stands by his conclusion in affirming the resolution of the public prosecutor that there is no probable cause to indict private respondent for violation of Section 266 of the 1997 NIRC, as amended. He expounds on the concept of grave abuse of discretion as a "capricious, whimsical or despotic manner" amounting to an evasion of a positive duty enjoined by law and denies having committed such infraction nor by the Investigating Prosecutor.

THE COURT *EN BANC*'S RULING

We shall first rule on the timeliness of the appeal made by petitioner CIR to the Court *En Banc*.

Records show that the CIR received a copy of the assailed Resolution dated February 8, 2022 of the Court in Division on February 16, 2022, denying his Motion for Reconsideration. He had fifteen (15) days from receipt thereof to file a Petition for Review with the Court *En Banc* pursuant to Section 3(b) of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended.³

Counting from February 16, 2022, petitioner had until March 3, 2022 to file a Petition for Review with the Court *En Banc*.

Petitioner then filed a Petition for Review with the Court *En Banc* on March 1, 2022 which is well within the fifteen-day

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**"Rule 8
Procedure in Civil Cases**

Section 3. *Who may appeal; period to file petition.-*

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(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. xxx xxx xxx *en*

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period provided by the foregoing provision, hence the Petition for Review filed with the Court *En Banc* was timely filed.

The next primordial issue which was also discussed by the petitioner in his Petition for Review is the jurisdiction of the Court over a special civil action for Certiorari. There is no question nor dispute on the Court's jurisdiction over the instant case as the petitioner merely reiterated the position of the Court in Division when it ruled that the Court has jurisdiction over Petitions for Certiorari.

Indeed, the Supreme Court in the cases of *Philippine American Life and General Insurance Company vs. Secretary of Finance, et.al.*,⁴ and *Bureau of Customs vs. The Honorable Agnes VST Devanadera, et. al.*,⁵ (*Devanadera* case) both confirm the authority of the Court of Tax Appeals to hear and decide Petitions for Certiorari. More pertinent to the instant case is the ruling of the Supreme Court in the *Devanadera* case which upheld the jurisdiction of the Court in Petitions for Certiorari filed against the DOJ Secretary relative to the issuance of a DOJ resolution, and we quote:

“Concededly, there is no clear statement under R.A. No. 1125, the amendatory R.A. No. 9282, let alone in the Constitution, that the CTA has original jurisdiction over a petition for *certiorari*. By virtue of Section 1, Article VIII of the 1987 Constitution, vesting judicial power in the Supreme Court and such lower courts as may be established by law, to determine whether or not there has been a grave abuse of discretion on the part of any branch or instrumentality of the Government, in relation to Section 5(5), Article VIII thereof, vesting upon it the power to promulgate rules concerning practice and procedure in all courts, the Court thus declares that the CA's original jurisdiction over a petition for *certiorari* assailing the DOJ resolution in a preliminary investigation involving tax and tariff offenses was necessarily transferred to the CTA pursuant to Section 7 of R.A. No. 9282, and that such petition shall be governed by Rule 65 of the Rules of Court, as amended. **Accordingly, it is the CTA, not the CA, which has jurisdiction over the petition for *certiorari* assailing the DOJ resolution of dismissal of the BOC's complaint-affidavit against private respondents for violation of the TCCP.**” (*emphasis supplied*)

⁴ G.R. No. 210987, November 24, 2014.

⁵ G.R. No.193253, September 8, 2015. 

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The Court will now proceed to rule on the substantive merits of the instant Petition.

One of the issues raised in the instant appeal is whether the Petition for Certiorari filed by herein petitioner is the proper remedy against the DOJ Secretary relative to the issuance of DOJ Resolutions dated June 20, 2017 and February 5, 2020 affirming the dismissal of the complaint-affidavit against private respondent in NPS Docket No. XV-03-INV-15C-03555.

The facts as narrated by the Court in Division show that petitioner's revenue officers filed a criminal complaint against Camp John Hay Hotel Corp. (CJHHC) represented by its President, Ferdinand Santos (private respondent) for alleged violation of Section 266, in relation to Section 5(C) of the 1997 NIRC, as amended. The complaint arose from the alleged failure of private respondent to present the available books of accounts and other accounting records of CJHHC in spite of notices and the *subpoena duces tecum* sent by the revenue officers. The Investigating Prosecutor dismissed the complaint against private respondent on the ground that there was no evidence that he was still required to present additional documents or that the documents presented were insufficient. On appeal via Petition for Review with the Secretary of Justice, the latter dismissed the same and denied the subsequent motion for reconsideration.

A Petition for Certiorari was then filed against both public and private respondents assailing the aforementioned DOJ Resolutions.

At the outset, this Court finds merit in the argument of petitioner that the Petition for Certiorari filed with the Court in Division is the proper remedy as there is no more appeal available in the ordinary course of law.

Basic is the rule that a writ of certiorari will not issue where the remedy of appeal is available to an aggrieved party.⁶

We quote below the relevant portions of Rule 65 of the Revised Rules of Court as the basis of our conclusion, to wit:

⁶ *Tagle vs. Equitable PCI Bank, et.al.*, G.R. No. 172299, April 22, 2008. *am*

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**“Rule 65
Certiorari, Prohibition and Mandamus**

Section 1. *Petition for Certiorari.* – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, **and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court**, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

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Section 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty-day (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court, or, if it relates to the acts or omissions of a lower court or of a corporation, board or officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable by the Court of Appeals.

No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days.” *(emphasis supplied)*

Upon a review of existing jurisprudence applicable to this case, we provide a different view from that held in the assailed Decision that there is no more appeal available from the resolutions of the Secretary of Justice upholding the investigating prosecutor’s resolution dismissing the complaint against private respondent for lack of probable cause. *am*

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In a fairly recent case, the Supreme Court (SC) in the case of *Levi Strauss and Co. vs. Antonio Sevilla and Antonio L. Guevarra*,⁷ ruled that **a prosecutor's act of determining the existence of probable cause is not a quasi-judicial function as it is the courts that ultimately pass judgment on the accused**. Citing its decision in the case of *Manila Electric Company vs. Atilano*,⁸ the SC further elaborated on the concept of quasi-judicial function as compared to the act of a public prosecutor in determining probable cause, and we quote:

“A quasi-judicial agency performs adjudicatory functions when its awards determine the rights of parties, and its decisions have the same effect as a judgment of a court. [This] is not the case when a public prosecutor conducts a preliminary investigation to determine probable cause to file an information against a person charged with a criminal offense, **or when the Secretary of Justice [reviews] the former's order [s] or resolutions on determination of probable cause.**” (*emphasis supplied*)

In the case of *Leila de Lima, et.al., vs. Mario Joel T. Reyes*⁹ (*De Lima* case), the SC ruled that not being a quasi-judicial function, the actions of the Secretary of Justice in affirming or reversing the findings of prosecutors may still be subject to judicial review only if it is tainted with grave abuse of discretion, and we quote pertinent portions of said decision, to wit:

“The determination by the Department of Justice of the existence of probable cause is not a quasi-judicial proceeding. However, the actions of the Secretary of Justice in affirming or reversing the findings of prosecutors may still be subject to judicial review if it is tainted with grave abuse of discretion”

Notwithstanding the foregoing conclusion, this Court finds that public respondent did not act with grave abuse of discretion amounting to lack or excess of jurisdiction when he issued the subject resolutions.

A Petition for Certiorari under Rule 65 is intended for the correction of errors of jurisdiction only or grave abuse of discretion amounting to lack or excess of jurisdiction.¹⁰ In the case of *Leonis Navigation Co., Inc. vs. Villameter*¹¹, the Supreme Court clearly distinguished reversible errors of judgment which

⁷ G.R. No. 219744, March 1, 2021.

⁸ G.R. No. 166758, June 27, 2012.

⁹ G.R. No. 209330, January 11, 2016.

¹⁰ *People of the Philippines vs. Court of Appeals*, G.R. No. 142051, February 24, 2004 *an*

¹¹ *Id.*

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may be the subject of an ordinary appeal and a judgment which borders on grave abuse of discretion amounting to lack or excess of jurisdiction, and we quote:

“A petition for certiorari does not normally include an inquiry into the correctness of its evaluation of evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for certiorari, which is merely confined to issues of jurisdiction or grave abuse of discretion. It is, thus, incumbent upon petitioner to satisfactorily establish that the NLRC acted capriciously and whimsically in order that the extraordinary writ of certiorari will lie. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically.” *(emphases supplied)*

The circumstances attendant to the instant case do not show evidence that the public respondent committed grave abuse of discretion when it affirmed the Investigating Prosecutor’s Resolution dated January 26, 2016 recommending the dismissal of the criminal complaint filed by petitioner against the private respondent for violation of Section 266 in relation to Section 5(C) of the 1997 NIRC, as amended.

Section 5(C) of the 1997 NIRC, as amended, empowers the Commissioner of Internal Revenue (CIR) to summon a person liable to pay taxes or required to file a return, or any employee or officer of such person, and we quote:

“Section 5. Power of the Commissioner to Obtain Information and to Summon, Examine, and Take Testimony of Persons. –

(C) To summon the person liable for tax or required to file a return, or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records, containing entries relating to the business of the person liable for tax, or any other person, to appear before the Commissioner or his duly authorized representative at a time “and place specified in the summons and to produce books, papers, records, or other data, and to give testimony.”

Section 266 of the 1997 NIRC, as amended, penalizes any person who, when summoned by the CIR or his authorized representatives, *neglects* to appear or to produce such books of accounts, records, etc. We quote the said provision of law, thus: 

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“Section 266. *Failure To Obey Summons.* – Any person who, being duly summoned to appear to testify, or to appear and produce books of accounts, records, memoranda or other papers, or to furnish information as required under the pertinent provisions of this Code, neglects to appear or to produce such books of accounts, records, memoranda or other papers, or to furnish such information, shall, upon conviction, be punished, by a fine of not less than Five thousand pesos (P5,000) but not more than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than two (2) years.”

In evaluating the facts leading up to the alleged non-submission of the requested documents, the Investigating Prosecutor believed that petitioner “has not given sufficient proof to warrant the filing of an Information against private respondent.” Likewise, the Investigating Prosecutor found no evidence to prove that private respondent was apprised and informed of whatever records and documents are still needed to be presented.”

We subscribe to the findings of the Court in Division when it stated that the public prosecutor should be given “a wide latitude of discretion in the conduct of a preliminary investigation,” and we quote a portion of the assailed Decision, to wit:

“Generally, the public prosecutor is afforded a wide latitude of discretion in the conduct of a preliminary investigation. Consequently, it is a sound judicial policy to refrain from interfering in the conduct of preliminary investigation, and to just leave the DOJ the ample latitude of discretion in the determination of what constitutes sufficient evidence to establish probable cause for the prosecution of supposed offenders. Consistent with this policy, courts do not reverse the Secretary of Justice’s findings and conclusions on the matter of probable cause except in clear cases of grave abuse of discretion.”

There is grave abuse of discretion when there is an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act in contemplation of law as when the judgment rendered is not based on law and evidence but on caprice, whim and despotism.¹²

¹² Jose S. Ramiscal vs. Commission on Audit, G.R. No. 213716, October 10, 2017 

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Citing the case of *Yu vs. Judge Reyes-Carpio*, the Supreme Court in its decision in *Commissioner of Internal Revenue vs. CTA and Wintelcom, Inc.*,¹³ reiterated the gravity of the charge of grave abuse of discretion and its evidentiary implications when availing of the special civil action of *Certiorari*, when it ruled thus:

“A petition for *certiorari* under Rule 65 of the Rules of Court is the proper remedy in assailing that a tribunal exercising judicial functions committed grave abuse of discretion amounting to lack or excess of jurisdiction. In this regard, the Court has expounded on the meaning of the term ‘grave abuse of discretion’ in *Yu v. Judge Reyes-Carpio, et al.*, to wit:

The term grave abuse of discretion has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse discretion when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. **Furthermore, the use of a petition for *certiorari* is restricted only to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion if the petitioner could manifestly show that such act was patent and gross.”** (*emphasis supplied*)

We find no showing that the public respondent in affirming the resolutions of the Investigating Prosecutor was marked with grave abuse of discretion. We again quote with approval the findings of the Court in Division in the assailed Decision, to wit:

“Thus, what is clear is that from the perspective of the Investigating Prosecutor and the DOJ, petitioner has not given sufficient proof to warrant the filing of an Information against private respondent. In other words, the prosecuting arm of the government opines that there is no evidence to support petitioner’s allegation that there was a violation of Section 266 of the NIRC of 1997 on the part of private respondent. Furthermore, it is likewise noted by the same Investigating Prosecutor and the DOJ that there is no evidence that private respondent was apprised and informed of whatever records and documents which are still needed to be presented and

¹³ G.R. No. 203403, November 14, 2018. *on*

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submitted by him, to petitioner to comply with the subject *subpoena duces tecum*.”

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by Petitioner in CTA *EB* No. 2569 is **DENIED** for lack of merit. The assailed Decision dated October 15, 2021 and Resolution dated February 8, 2022 are hereby **AFFIRMED** with modification as discussed above.

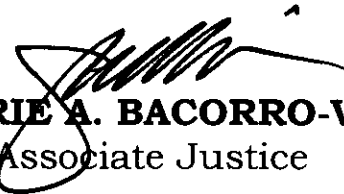
SO ORDERED.


CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

(On Leave)
MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice

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CORAZON G. FERRER-FLORES
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

