REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL HOME MORTGAGE FINANCE CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2472
(CTA Case No. 9916)

Present:

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

Promulgated:
APR 19 2023 4:15 pm

x- x

DECISION

MANAHAN, *J.*:

This resolves the *Petition for Review*[1] filed by petitioner Bahay Bonds 2 Special Purpose Trust (BB2SPT), administered by Land Bank of the Philippines through its Trust Banking Group, filed on June 9, 2021 pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), as amended[2], which prays for the reversal and setting aside of the *Decision* dated November 9, 2020[3] (Assailed Decision) and the *Resolution* dated May 24, 2021[4] (Assailed Resolution) promulgated by the Second Division of the Court of Tax

[1] *Rollo*, CTA EB No. 2472, pp. 1-20.
[2] Rules of the Court of Tax Appeals – approved by the Supreme Court on November 22, 2005 (A.M. No. 05-11-07-CTA); Amendments to the 2005 Rules of Court of the Court of Tax Appeals – approved by the Supreme Court on September 16, 2008 (A.M. No. 05-11-07-CTA; and Additional Amendments to the 2005 Revised Rules of the Court of Tax Appeals – approved by the Supreme Court on February 10, 2009 (A.M. No. 05-11-07-CTA).
[3] *Rollo*, pp. 26-47.
[4] *Id.*, pp. 49-51.

Appeals (CTA) in CTA Case No. 9916 entitled "*Bahay Bonds 2 Special Purpose Trust, administered by Land Bank of the Philippines through its Trust Banking Group vs. Commissioner of Internal Revenue*", and the issuance of an Order granting its claim for refund.

The Facts

Petitioner BB2SPT is a special purpose trust formed under Philippine laws, with special purpose vehicle status under Republic Act (RA) No. 9267, otherwise known as "The Securitization Law of 2004", duly registered and qualified as such by the *Bangko Sentral ng Pilipinas* (BSP) under the General Banking Law and administered by the Land Bank of the Philippines, a government-owned and controlled financial institution duly authorized to engage in trust business through its Trust Banking Group, with address at 21/F Landbank Plaza, 1598 M.H. Del Pilar corner Dr. J. Quintos Sts., Malate, Manila.[5]

Respondent Commissioner of Internal Revenue (CIR) is the duly appointed head of the Bureau of Internal Revenue (BIR) vested under appropriate laws with the authority to carry out the functions, duties and responsibilities of said office, including, *inter alia*, the power to issue rulings, memorandum circulars, and other tax laws, rules and regulations, and is empowered to act upon and approve claims for refund or tax credit.[6]

On July 9, 2012, the National Home Mortgage Finance Corporation (NHMFC) filed a request for ruling with the BIR on the tax consequence of petitioner's asset-backed securities (ABS). Thus, the NHMFC received from respondent, BIR Ruling No. 516-12 dated August 3, 2012, stating that the subject ABS is deemed falling within the coverage of "deposit substitutes" and that, said securities are not exempt from taxes.[7]

On August 14, 2012, the NHMFC, nonetheless, filed a request for reconsideration of the above-stated ruling.[8]

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[5] *Rollo*, CTA EB No. 2472, *Decision* dated November 9, 2020, pp. 26-27.
[6] *Id.* at p. 27.
[7] *Id.*
[8] *Id.*

From August 31, 2016 to June 11, 2018, a total of Php6,426,000.00 final withholding taxes (FWTs) was remitted by petitioner to the BIR broken down as follows:[9]

Taxable Period	Date of Payment	Amount
August 2016	August 31, 2016	Php1,080,000.00
November 2016	November 23, 2016	1,080,000.00
February 2017	March 2, 2017	1,080,000.00
May 2017	May 31, 2017	1,080,000.00
August 2017	August 29, 2017	1,080,000.00
November 2017	December 4, 2017	360,000.00
February 2018	March 2, 2018	342,000.00
June 2018	June 11, 2018	324,000.00
	TOTAL	**Php6,426,000.00**

On August 2, 2018, petitioner filed its administrative claim for refund.[10]

On August 30, 2018, petitioner filed the original Petition for Review as its judicial claim for refund.[11]

After trial, the Court in Division rendered the Assailed Decision where the dispositive portion reads as follow:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED**."

Petitioner then moved for the reconsideration of the Assailed Decision but was denied anew under the Assailed Resolution for being filed out of time, the dispositive portion of which reads as follows:[12]

> "**WHEREFORE**, petitioner's Motion for Reconsideration (Re: Decision promulgated on 09 November 2020) is **DENIED** for being filed out of time.
>
> **SO ORDERED**."

Hence, the instant Petition for Review was filed by petitioner on June 9, 2021.

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[9] *Rollo*, *Decision* dated November 9, 2020, p. 27.
[10] *Id.* at p. 27.
[11] Docket, CTA Case No. 9916, Petition for Review, p. 10.
[12] *Rollo*, Resolution dated May 24, 2021, pp. 49-51.

On July 30, 2021, respondent was ordered to submit his comment on said petition.

However, Records Verification dated March 15, 2022 reveals that respondent failed to file comment on the instant Petition for Review.[13]

Thus, the case was submitted for decision on April 20, 2022.[14]

On August 22, 2022, petitioner filed a *Motion for Substitution of Parties* which was granted in the Resolution dated February 2, 2023. The National Home Mortgage Finance Corporation has substituted petitioner BB2SPT.

The Issue

Whether the Decision of the Court in Division on the instant case has become final and executory.

Arguments of Petitioner[15]

Petitioner pleads this Court for grace to allow the continuation of the instant appeal despite the denial of its motion for reconsideration on the ground that it was filed one (1) day late only.

Petitioner argues that the BB2SPT was created solely for the purpose of securitization and to which the seller makes a true and absolute sale of assets and its ABS were issued pursuant to a plan of securitization approved by the Securities and Exchange Commission (SEC).

Petitioner insists that there is no need to prove that the ABS were held by tax exempt investors for the refund to prosper and that it is entitled to a refund on the basis of law and jurisprudence.

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[13] *Rollo*, p. 74.
[14] *Id.*, Resolution dated April 20, 2022, pp. 76-78.
[15] *Supra*, Note 1.

Ruling of the Court *En Banc*

This Court shall determine first whether the instant petition is filed on time. Sections 1 and 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provide that:

> SECTION 1. *Review of cases in the Court en banc.*- In cases falling under the exclusive appellate jurisdiction of the Court *en banc,* the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.
>
> xxx xxx xxx
>
> SEC. 3. *Who may appeal; period to file petition.*- (a) xxx xxx xxx
>
> (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**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

The records of the case reveal that the instant petition was preceded by a Motion for Reconsideration which is the subject of the assailed *Resolution* dated May 24, 2021 and petitioner received a copy of said resolution on May 28, 2021.

However, it should be noted that in the said Resolution dated May 24, 2021, the Court in Division denied petitioner's motion for reconsideration because it was filed out of time. Thus, the *Decision* dated November 9, 2020 attained its finality.

In *Charnnel Shane Thomas v. Rachel Trono, et al.,*[16] the Supreme Court ruled that an appellate court would have no power to review a judgment that has acquired finality:

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[16] G.R. No. 241032, March 15, 2021.

> "Moreover, a judgment becomes final and executory by operation of law. There is no need for any judicial declaration or performance of an act before the finality takes effect. Finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected, or motion for reconsideration or new trial is filed. The trial court need not even pronounce the finality of the order as the same becomes final by operation of law. In fact, **the trial court could not even validly entertain a motion for reconsideration filed after the lapse of the period for taking an appeal**. It is of no moment that the opposing party failed to object to the timeliness of the motion for reconsideration. **Thereafter, the court loses jurisdiction over the case and not even an appellate court would have the power to review a judgment that has acquired finality.**" (*Emphasis supplied*)

Hence, such finality of the *Decision* dated November 9, 2020 precludes this Court from entertaining the instant petition for review.

Procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party. Adjective law is important in insuring the effective enforcement of substantive rights through the orderly and speedy administration of justice. These rules are not intended to hamper litigants or complicate litigation but, indeed, to provide for a system under which suitors may be heard in the correct form and manner and at the prescribed time in a peaceful confrontation before a judge whose authority they acknowledge. The other alternative is the settlement of their conflict through the barrel of a gun.[17]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

[17] *Nicanor T. Santos v. Court of Appeals, et al.*, G.R. No. 92862, July 4, 1991.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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