Republic of the Philippines
Department of Finance
Securities and Exchange Commission

**In the Matter of:**
**PETITION FOR DECLARATION OF A STATE OF SUSPENSION OF PAYMENTS WITH PROPOSED REHABILITATION PLAN of RUBBERWORLD PHILIPPINES, INC.**

**SEC *En Banc* Case No. 06-16-405**

**CARLOS S. TAN, *appellant.***

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# RESOLUTION

For resolution of the Commission is an *Appeal* filed by Carlos S. Tan ("Appellant") on 15 June 2016[1] from the Order dated 30 July 2014 ("Assailed Order") issued by the Special Hearing Panel I (SHP) in relation to SEC Case N. 11-94-4920 entitled *In the Matter of the Petition for Declaration of a State of Suspension of Payments with Proposed Rehabilitation Plan*, the dispositive portion of which states:

> In view of the foregoing, it is hereby resolved to:
>
> 1. Apply the provision on Gratuity Pay under Section 1, Article X of the CBA;
> 2. Use the year 1994 as the cut off date for the computation of the workers' claims;
> 3. Adopt the list submitted by Opal, as well as the amount of claims indicated thereat, which already included other factors such as SL/VL. 13th month pay, and tax refund;
> 4. Include the list of resigned (Annex "A") and retrenched (Annex "B") employees in the list of workers submitted by Opal;
> 5. Exclude the Board of Directors and Corporate Officers indicated in the 1992 GIS of RWPI in the grant of Gratuity Pay;
> 6. Deduct from the workers' claims the amount of advances and money judgment awarded and distributed to employees, if any.
>
> SO ORDERED.

On appeal, Appellant admitted that the *Assailed Order* was received sometime in August 2014. Clearly, the *Appeal* is filed outside the reglementary period under Rule XI, Section 11-2 of the 2006 Rules of Procedure of the Commission ("2006 Rules"), which provides that appeals are to be filed with the Commission *En Banc* within fifteen (15) days from receipt of the Decision, Order, or Ruling. Thus, a dismissal of the instant *Appeal* is in order, pursuant to Section 11-6 of the 2006 Rules.[2]

While Appellant admits his failure to timely file the instant *Appeal*, he attempted to justify the same by claiming that it was made through mistake and excusable negligence. In support of this claim, he submitted an *Affidavit of Merit*,[3] excerpts therefrom read:

> x x x I just decided to contact the other corporate officers named therein for enlightenment until such time that I have **overlook the passage of time** and/or by **oversight**, awaiting to communicate even with one of them. x x x[4] (emphasis supplied)

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[1] Dated 8 June 2016.
[2] Section 11-6. Dismissal of Appeal for Non-Compliance. The appeal may be dismissed by the Commission *En Banc* for failure to comply with these Rules, or **failure to perfect the appeal within the prescribed period**. (emphasis ours)
[3] Annex "A" of the *Appeal*.
[4] Paragraph 1 of the *Affidavit of Merit*.

Jurisprudence defines "mistake" as an error in action or a blunder,[5] and "excusable negligence" as one that ordinary diligence and prudence could not have guarded against.[6] In the case at bar, Appellant admitted oversight as the cause of his failure to timely act on the matter when he received the *Assailed Order*. Jurisprudence holds that oversight is neither an error[7] in action nor avoidable[8] that shall exonerate a party in his failure to do the necessary action in judicial or administrative cases.

Considering that Appellant's failure to comply with the 2006 Rules in connection with appeals is unjustified, a dismissal of the instant *Appeal* is proper.

**WHEREFORE**, premises considered, the *Appeal* is hereby **DISMISSED**.

**SO ORDERED**.

Pasay City, Philippines; 8 July 2016.

**TERESITA J. HERBOSA**
*Chairperson*

**MANUEL HUBERTO B. GAITE**
*Commissioner*

**ANTONIETA F. IBE***
*Commissioner*

**EPHYRO LUIS B. AMATONG**
*Commissioner*

**BLAS JAMES G. VITERBO**
*Commissioner*

***On Leave**

[5] Coombs vs. Santos, G.R. No. L-7644, 24 March 1913.
[6] Guevara and Bantugan vs. Spouses Bautista et al., G.R. No. 148435, 28 November 2008.
[7] See Note 6.
[8] See Note 7.