

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Third Division

SAN MIGUEL FOODS, INC.,
Petitioner,

CTA AC NO. 203

-versus-

Members:
UY, *Chairperson,*
RINGPIS-LIBAN, *and*
MODESTO-SAN PEDRO, *II.*

HON. LUCINA ALPAEZ-DAYAON,
Presiding Judge of the Regional Trial
Court of Macabebe, Pampanga, Branch
54 and the MUNICIPALITY OF SAN
SIMON and ROWELL P. MANIACUP,
in his capacity as In-Charge of the Office
(ICO) – Municipal Treasurer of San Simon,
Respondents.

Promulgated:

DEC 03 2019

11:02 a.m.

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DECISION

RINGPIS-LIBAN, J.

STATEMENT OF THE CASE

Before this Court is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the Orders dated December 8, 2017 and March 2, 2018 rendered by the Regional Trial Court – Branch 54 of Macabebe, Pampanga, in Civil Case No. 17-1903(M), for being issued with grave abuse of discretion amounting to excess of jurisdiction based the following grounds:

- i. The RTC committed grave abuse of discretion amounting to excess of jurisdiction in denying San Miguel Foods, Inc.'s Motion to Declare Respondents (Municipality of San Simon and Rowel P. Maniacup, in his capacity as In-Charge of Office – Municipal Treasurer of San Simon) in default; and
- ii. The RTC committed grave abuse of discretion amounting to excess of jurisdiction for not expunging from the records the acts

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conducted by private counsel Atty. Sheryl C. Santos-Centeno after ruling to disqualify the latter to represent the respondent Municipality of San Simon.

THE PARTIES

Petitioner San Miguel Foods, Inc. is a domestic corporation duly registered with the Securities and Exchange Commission to do business in the Philippines, with principal office address located at the 23rd Floor, The JMT Corporate Condominium, ADB Avenue, Ortigas Center, Pasig City.¹ Petitioner may be served with court summons and process through their counsel Du-Baladad and Associates with office address at the 20th Floor, Chatham House, Rufino corner Valero Streets, Salcedo Village, Makati City.

On the other hand, respondent Municipality of San Simon, Pampanga is the local government which imposed the permit/hauling fees against petitioner. While, respondent Mr. Rowel P. Maniacup, is the duly appointed Municipal Treasurer of respondent Municipality. (Hereinafter collectively refer to as “respondents”). The respondents may be served with court summons and process at San Simon Municipal Hall, MacArthur Highway, San Agustin, San Simon, Pampanga.

Whereas, public respondent Honorable Lucina Alpez-Dayao and is being sued in his official capacity as Presiding Judge of Regional Trial Court (RTC) – Branch 54 of Macabebe, Pampanga.

THE FACTS

Pursuant to Section 195² of Republic Act (RA) No. 7160, otherwise known as “The Local Government Code of 1991”, petitioner filed on January 13, 2017 a Petition for Review³ before the RTC of Macabebe, Pampanga, which was docketed as Civil Case No. 17-1903(M). In the said petition, petitioner appeals the denial made by respondent Municipal Treasurer of its



¹ Par. 1, The Parties, petitioner’s Memorandum, docket, p. 153; Parties, respondents’ Memorandum, docket, p. 196.

² **Section 195. Protest of Assessment.** – When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

³ RTC records (vol. 1), pp. 6-25.

protest for its alleged deficiency local/permit/hauling fees for the taxable years 2013 to July 2016, in the total sum of ₱7,581,000.00.

On February 7, 2017, respondents filed an Ex-Parte Motion for Extension of Time to File Answer⁴ signed by, under special appearance for respondents, Atty. Sheryl C. Santos-Centeno of Sheryl C. Santos-Centeno Law Office with address at 3rd Floor, Salud Building, Gen. Hizon Avenue, Sto. Rosario, City of San Fernando, Pampanga. The same was granted by the court *a quo* in the Order⁵ dated February 8, 2017.

Shortly thereafter, on February 28, 2017, an Entry of Appearance with Ex-Parte Motion for Another Extension of Time to File Responsive Pleading⁶ was filed, wherein Atty. Sheryl C. Santos-Centeno formally entered her appearance as the counsel for respondents. Likewise, the same was noted and granted by the court *a quo* in the Order⁷ dated March 2, 2017.

On March 9, 2017, respondents filed their Answer⁸.

Accordingly, a Notice of Pre-Trial Conference⁹ was issued by the court *a quo* on March 15, 2017. As such, respondents filed their Pre-Trial Brief¹⁰ on April 4, 2017.

Meanwhile, on March 27, 2017, petitioner filed a Reply (To Respondents' Answer dated March 6, 2017)¹¹, claiming, among others, that respondents should be declared in default for being represented by a private lawyer, which is contrary to law. Petitioner then argues that all pleadings filed by Atty. Centeno must be expunged from the records of the case.

Thus, on May 19, 2017, petitioner filed a Motion to Declare Respondents in Default (with Motion to Disqualify Counsel for Respondents)¹². In response, respondents' counsel filed on June 13, 2017 an Opposition/Comment to the Motion to Declare in Default (with Motion to Disqualify Counsel for the Respondents)¹³, primarily arguing that being appointed as Municipal Legal Officer by virtue of Executive Order IILSCW16, she has the authority, among others, to represent respondents the present case. However, she should not be faulted for having her appointment not timely acted upon by the Sangguniang Bayan for concurrence.



⁴ *Id.*, pp. 63-64.

⁵ *Id.*, p. 65.

⁶ *Id.*, pp. 66-67.

⁷ *Id.*, p. 69.

⁸ *Id.*, pp. 70-77.

⁹ *Id.*, pp. 80-81.

¹⁰ *Id.*, pp. 82-84.

¹¹ *Id.*, pp. 87-109.

¹² *Id.*, pp. 112-121.

¹³ *Id.*, pp. 217-219.

On December 8, 2017, the court *a quo* issued the assailed Order¹⁴, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, this court hereby: (a) **denies** petitioner's Motion to Declare Respondents in Default; (b) **grants** petitioner's motion to Disqualify Counsel for Respondents from representing the latter; and (c) directs respondents to secure the services of the provincial prosecutor or provincial attorney to represent them in this case.

SO ORDERED.

Aggrieved, respondents' counsel filed a Motion for Partial Reconsideration on December 29, 2017¹⁵, praying that she be allowed to continue handling and representing the respondents in the present case.

On the other hand, petitioner also filed a Motion for Partial Reconsideration¹⁶, through registered mail, on December 28, 2017, reiterating that respondents be declared in default for failure to file a valid Answer with the prescribed period, and that also the subsequent pleadings filed by the disqualified counsel be expunged from court records.

Accordingly, in the other assailed Order¹⁷ dated March 2, 2018, the court *a quo* denied both Motions, the dispositive portion of which reads as follows:

WHEREFORE, finding no cogent reason to amend the assailed Order dated December 8, 2017, this court hereby **denies** for lack of merit the Motion for Partial Reconsideration filed by petitioner and the Motion for [P]artial Reconsideration filed by respondents.

SO ORDERED.

Alleging that there being no appeal or other plain, speedy, and adequate remedy in the ordinary course of law to resolve this very important matter, petitioner then filed the present Petition for Certiorari¹⁸ before this Court on May 18, 2018.

On June 4, 2018, a Resolution¹⁹ was promulgated by this Court, directing respondents to file their comment on the petition and, also, ordering the

¹⁴ RTC records (vol. 1), pp. 243-248.

¹⁵ *Id.*, pp. 251-253.

¹⁶ RTC Records (vol. 2), pp. 265-273.

¹⁷ *Id.*, pp. 295-296.

¹⁸ Docket, pp. 8-27.

¹⁹ *Id.*, pp. 136-137.

Branch Clerk of Court of RTC – Branch 54 of Macabebe, Pampanga, to elevate the entire original records of Civil Case No. 17-1903(M). In compliance, Atty. Noreen S. Sarmiento, the court *a quo*'s Branch Clerk of Court, certified and elevated the original case records of the proceedings therein to this Court on November 12, 2018.

Thereafter, considering that respondents failed to file their comment, as per Records Verification²⁰ dated August 1, 2018, this Court deemed them to have waived their right to file the same and gave due course to the present petition. Furthermore, the parties were also directed to file their respective memoranda for the present case.²¹

Thus, petitioner filed its Memorandum²² on September 27, 2018.

Meanwhile, on October 8, 2018, respondents' counsel, Atty. Sheryl C. Santos-Centeno, filed through registered mail a Motion for Extension of Time to File Memorandum²³. Respondent's counsel entered her appearance as counsel for the respondents but only for the purpose of asking extension of time to secure the services of a public prosecutor. Then, on October 23, 2018 respondents' counsel again filed through registered mail a Motion for Another Extension of Time to File Memorandum²⁴.

In the Resolutions dated October 22, 2018²⁵ and November 13, 2018²⁶, this Court granted respondents' motions for extension of time.

Subsequently, on November 9, 2018, respondents' counsel, Atty. Alexandro Lopez from the Office of the Provincial Prosecutor, City of San Fernando, Pampanga, filed through registered mail a Memorandum²⁷. Hence, in the Resolution²⁸ dated December 3, 2018, the present case was deemed submitted for decision.

THE ISSUES

The issues²⁹ submitted by petitioner for this Court's resolution are as follows, *viz.*:

²⁰ *Id.*, p. 141.

²¹ Resolution dated August 20, 2018, *id.*, pp. 150-151.

²² Docket, pp. 152-170.

²³ *Id.*, pp. 172-174.

²⁴ *Id.*, pp. 182-183.

²⁵ *Id.*, p. 181.

²⁶ *Id.*, p. 194.

²⁷ *Id.*, pp. 196-203.

²⁸ *Id.*, p. 260.

²⁹ Issues, Petition for Certiorari, *id.*, p. 15.

- a. Whether or not the Court of Tax Appeals has jurisdiction over the instant Petition for Certiorari; and
- b. Whether or not public respondent committed grave abuse of discretion amounting to excess of jurisdiction in issuing the Orders dated December 8, 2017 and March 2, 2018.

THE RULING OF THE COURT

After due consideration, this Court finds no merit in the present Petition for Certiorari.

This Court has jurisdiction over the present Petition for Certiorari.

In the present case, petitioner claims that the Court of Tax Appeals (CTA) has exclusive jurisdiction over special civil actions arising from an interlocutory order issued by the RTC in relation to the cases falling within the CTA's exclusive appellate jurisdiction. In support of its argument, petitioner cites the Supreme Court cases of *CE Casecanan Water and Energy Company, Inc. vs. The Province of Nueva Ecija*³⁰ and *City of Manila vs. Grecia-Cuerdo*³¹, wherein the CTA was deemed to have jurisdiction to issue writs of *certiorari* in determining whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory orders in relation to tax cases.

On the other hand, respondents contend that the cited cases are not applicable in the present case because the bone of contention herein pertains to the disqualification of Atty. Sheryl C. Santos-Centeno as the handling counsel for respondents and to declare the latter in default. Simply stated, the present controversy has nothing to do with local tax.

This Court agrees with petitioner.

Verily, it must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature



³⁰ G.R. No. 196278, June 17, 2015.

³¹ G.R. No. 175723, February 4, 2014.

of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.³²

Perforce, Section 7(a)(3) of RA No. 1125³³, as amended, provides that the CTA has exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the RTCs in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction.

In relation thereto, Section 3(a)(3), Rule 4 and Section 3(a) and (c), Rule 8 of the Revised Rules of the Court of Tax Appeals state that the CTA shall exercise exclusive original over or appellate jurisdiction to review by appeal, decisions, resolutions or orders of the RTCs in local tax cases decided or resolved by them in the exercise of their original or appellate jurisdiction.

In the present case, there is no question that this Court has jurisdiction over petitions for *certiorari* in assailing interlocutory orders issued by the RTC with respect to local tax cases. However, what was being questioned by respondents, as the crux of the instant controversy, has nothing to do with local taxation. Thus, respondents claim that the petition therefore should had been filed with the Court of Appeals and not with this Court.

Poignantly, this “split-jurisdiction” scenario is what the case of *The City of Manila, et al. vs. Hon. Grecia-Cuerdo, et al.*³⁴ precisely tries to avoid. In the said case, the Supreme Court held, to wit:

“Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.

If this Court were to sustain petitioners’ contention that jurisdiction over their certiorari petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter – precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with



³² *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.

³³ An Act Creating the Court of Tax Appeals.

³⁴ G.R. No. 175723, February 4, 2014.

the ruling of the CA that since appellate jurisdiction over private respondents' complaint for tax refund is vested in the CTA, it follows that a petition for certiorari seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.

Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of certiorari against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court in the same case. It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases filed in and decided by the RTC carries with it the power to issue a writ of certiorari when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of certiorari in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter." (*Emphases supplied*)

More so, with regard to the procedural aspect of the petition, Sections 1 and 4 of Rule 65, as amended, provides for the supporting documents and period within which to file the petition, thus:

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.

Sec 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 (60) day period shall be counted from notice of the denial of the 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, 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 only 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.

Applying the above-quoted provisions in the present case, the instant verified Petition for Certiorari was accompanied with certified photocopies of the Orders³⁵ dated December 8, 2017 and March 2, 2018, respectively; copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping³⁶.

As to the 60-period required within which to file the petition, petitioner received the Order dated March 2, 2018 (denying petitioner's motion for partial reconsideration of the Order dated December 8, 2017) on March 19, 2018. Thus, counting sixty (60) days from March 19, 2018, petitioner has until May 18, 2018 within which to file a petition for *certiorari* with this Court. Accordingly, by filing the instant petition on May 18, 2018, the same was timely filed.

There was no grave abuse of discretion amounting to excess of jurisdiction committed in issuing the Orders dated December 8, 2017 and March 2, 2018.

Petitioner argues that there was grave abuse of discretion, amounting to lack or excess of jurisdiction when the court *a quo* denied its Motion to Declare Respondents in Default. Petitioner claims that the disqualification of

³⁵ Annexes "G" and "H", Petition for Certiorari, docket, pp. 124-131.

³⁶ Petition for Review, docket, p. 27.

respondents' counsel is the consequence of arbitrarily hiring a private counsel to appear in behalf of a city or municipality. As such, it therefore follows that the pleadings filed or actions conducted by the respondents' counsel, Atty. Centeno, should be expunged from the records since it was signed without authority, thereby, effectively making them unsigned pleadings and should be considered as if they were not filed at all.

Moreover, petitioner claims that Atty. Centeno's allegation that she was authorized to represent respondents is only a mere afterthought when petitioner already questioned her authority.

On the other hand, respondents assert that Atty. Sheryl C. Santos-Centeno was appointed as Municipal Legal Officer of San Simon Pampanga since 2016, as shown in Executive Order No. IILSCW16³⁷ dated July 1, 2016. Nonetheless, respondents insist that by not having been acted upon, in spite of it being timely submitted to the Sangguniang Bayan for their concurrence, the appointment thereto should be, by operation of law, deemed confirmed.

Furthermore, respondents claim that petitioner has no right to collaterally attack the authority of Atty. Centeno since it is only the Solicitor General or the public prosecutor who can attack her authority thru a special civil action of *quo warranto*. Respondents also argue that, assuming that the appointment was irregular, the acts of a *de facto* officer are just as valid for all purposes as those of a *de jure* officer, insofar as the public or third persons who are interested therein are concerned. Hence, in the absence of a ruling annulling the authority given to Atty. Centeno by the Municipal Mayor, respondents claim that the authority or the appointment of Atty. Centeno as Legal Officer of the Municipality of San Simon enjoys a presumption of regularity.

This Court finds petitioner's argument untenable.

It bears stressing that for *certiorari* to lie, the petitioner must prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent. Jurisprudence has defined grave abuse of discretion in these terms: [b]y grave abuse of discretion is meant capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be *grave* abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.³⁸

³⁷ Annex "H", respondents' Memorandum, docket, pp. 254-255.

³⁸ *William T. Toh vs. Hon. Court of Appeals, et al.*, G.R. No. 140274, November 15, 2000.

In the present case, petitioner believes that *certiorari* will lie because public respondent Honorable Lucina Alpez-Dayao denied its Motion to Declare Respondents in Default and admitted the Answer and other pleadings filed by Atty. Sheryl C. Santos-Centeno.

However, upon careful scrutiny of the Motion to Declare Respondents in Default (with Motion to Disqualify Counsel for Respondents), together with the respondents' Opposition/Comment to the Motion to Declare in Default (with Motion to Disqualify Counsel for the Respondents), and the action taken by the court *a quo* thereto, this Court finds nothing that may constitute grave abuse of discretion. Noteworthy, in the assailed Order dated December 8, 2017, public respondent judge explained the basis for not declaring the respondents in default, an excerpt of which is quoted hereafter as follows:

“The record shows that respondents filed their Answer dated March 6, 2017 within the period allowed them by the court after their two motions for extension of time to file the same were granted. Petitioner was furnished a copy of respondents' Answer; the same was admitted by this Court; and subsequently, petitioner filed its Reply (To Respondents' Answer dated March 6, 2017). Clearly, the timeliness of the filing of respondents' Answer is not disputed. Suffice is to say, that respondents cannot be declared in default on the ground of failure to file their Answer on time.

Thus, petitioner's motion to declare respondents in default is anchored not on respondents' failure to file their Answer but rather, on its claim that respondents' counsel who filed the now questioned Answer is not authorized by law to represent the Municipality of San Simon given the mandatory provisions of Section 481(b)(3)(1) of the Local Government Code (LGC) that only a duly appointed Legal Officer shall represent a municipality in court actions.

X X X

On the matter of the appointment of respondents' counsel, this court agrees with petitioner that the appointment of Atty. Centeno as municipal attorney lacks the requisite concurrence of the majority of the members of the Sanggunian Bayan of San Simon, Pampanga, as mandated in the Rules and Regulations Implementing the Local Government Code of 1991, which provides:

X X X

Noticeably, Executive Order No. IILSCW16 appointing Atty. Centeno as San Simon's Municipal Attorney has not been submitted to the Sangguniang Bayan for either concurrence or disapproval of

the majority of its members. Non-compliance with this mandate makes Atty. Centeno's appointment lacking in validity.

Given the above-mentioned infirmity in Atty. Centeno's appointment, this court opines that she cannot represent respondent municipality in any court action for or against it.

On petitioner's prayer that the answer filed by respondents be expunged from the record on the ground that the counsel who represented said respondent in the filing of the Answer is not qualified to do so, this court cannot grant the same.

In the same case of *Ramos, et. al [sic] vs. Court of Appeals, (supra)*, the High Court said:

'This Court believes that conferring legitimacy to the appearance of Atty. Romanillos would not cause substantial prejudice on petitioners. Requiring new trial on the mere legal technicality that the municipality was not represented by a legally authorized counsel would not serve the interest of justice. After all, this Court does not see any injustice committed against petitioners by the adoption of the work of private counsel nor any interest of justice being served by requiring retrial of the case by the duly authorized legal representative of the town.

In sum, although a municipality may not hire a private lawyer to represent it in litigations, in the interest of substantial justice however, we hold that a municipality may adopt the work already performed in good faith by such private lawyer, which work is beneficial to it (1) provided that no injustice is thereby heaped on the adverse party and (2) provided further that no compensation in any guise is paid therefor by said municipality to the private lawyer. Unless so expressly adopted, the private lawyer's work cannot bind the municipality.'

This court does not see any injustice towards petitioner in admitting the Answer already filed. On the contrary, expunging the same from the records would do more harm than good in the court's and the parties' quest for truth. Also, the same *Ramos v. Court of Appeals* reminds us that: 'It should be remembered that rules of procedure are but tools designed to facilitate the attainment of justice, such that when rigid application of the rules tend to frustrate rather than promote substantial justice, this Court is empowered to suspend their operation.'



Guided by the foregoing, this court believes that it is more in accord with justice and equity to deny petitioner's motion to declare respondents in default."

In the same vein, public respondent judge denied both parties' Motion for Partial Reconsideration in assailed Order dated March 2, 2018. Judge Alpez-Dayao found that petitioner merely reiterated the arguments it raised in its Motion to Declare Respondents in Default (with Motion to Disqualify Counsel for Respondents) and also cited the same jurisprudence relied upon in the said motion. She likewise found that, except for alleging that this case was referred to the Provincial Legal Officer who failed to act on the same, no new arguments was presented by respondents.

Evidently, the foregoing Orders cannot be characterized as whimsical, arbitrary or capricious. No grave abuse of discretion can be imputed to the public respondent judge considering that his decision was made in accordance with the case of *Antonio C. Ramos et al. vs. Court of Appeals, et al.*³⁹, believing that expunging respondents' Answer from the records would do more harm than good in the court's, and the parties', quest for truth and that it is more in accord with justice and equity to deny petitioner's motion to declare respondents in default.

Perforce, with regard to petitioner's contention that the pleadings signed by respondents' counsel, Atty. Centeno, should be expunged from the records since it was signed without authority, thereby, effectively making them unsigned pleadings which produces no legal effect at all, Section 3 of Rule 7 of the Rules of Court provides as follows:

Section 3. Signature and address. — Every pleading must be signed by the party or counsel representing him, stating in either case his address which should not be a post office box.

The signature of counsel constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

An unsigned pleading produces no legal effect. However, the court may, in its discretion, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading, or signs a pleading in violation of this Rule, or alleges scandalous or indecent matter therein, or fails promptly report to the court a change of his address, shall be subject to appropriate disciplinary action.

³⁹ G.R. No. 99425, March 3, 1997.

While it is true that an unsigned pleading produces no legal effect, this Court finds that respondents' Answer should still be admitted considering that the same was accompanied by a Verification⁴⁰ duly signed by the Municipal Mayor, Ms. Leonora C. Wong, of the Municipality of San Simon, Pampanga, the respondent in this case,⁴¹ who stated under oath that she cause the preparation of the Answer and that she read the contents thereof and the allegations are true and correct of her own personal knowledge and based on authentic documents and records. Although the Answer may be considered as unsigned by the counsel, still, considering that the Verification was attached to the same, then, it is as if the Answer was signed by the respondent municipality itself which substantially complies with the requirement under Section 3, Rule 7 of the Rules of Court in providing that every pleading must be signed by the party or counsel representing him.

Also, assuming for the sake of argument that the assailed Orders were erroneous, such error however would merely be deemed as an error of judgment, not error in jurisdiction, and therefore cannot be remedied by *certiorari*.

As a rule, only jurisdictional questions may be raised in a petition for *certiorari*, including matters of grave abuse of discretion which are equivalent to lack of jurisdiction. *Certiorari* is not a substitute for appeal. Any error imputable to the trial court in not declaring a defendant in default can be reviewed in an appeal from the final decision on the merits of the case. If every error committed by the trial court were to be a proper object of review by *certiorari*, the trial would never come to an end and the appellate courts' dockets would be clogged *ad infinitum* with the aggrieved parties-litigants filing petitions against every interlocutory order of the trial court. Such a situation could only undermine the proper conduct of litigation before the courts and ought not to be tolerated if we are to enhance the prompt administration of justice at every level of the judicial hierarchy.⁴²

It is the avowed policy of the law to accord both parties every opportunity to pursue and defend their cases in the open and relegate technicality to the background in the interest of substantial justice.⁴³ Indeed, cases should be determined on the merits after all parties have been given full opportunity to ventilate their causes and defenses, rather than on technicalities or procedural imperfections. We should always bear in mind that rules of procedure are mere tools designed to facilitate the attainment of justice. Their strict and rigid application especially on technical matters, which tends to

⁴⁰ RTC records (vol. 1), p. 77.

⁴¹ Under Section 444(b)(3)(ix) of RA No. 7160 or the Local Government Code of 1991, the municipal mayor shall "[i]nstitute or cause to be instituted administrative or judicial proceedings for violation of ordinances in the collection of taxes, fees or charges, and for the recovery of funds and property; and cause the municipality to be defended against all suits to ensure that its interests, resources and rights shall be adequately protected".

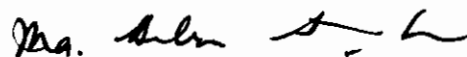
⁴² *Spouses Rudy S. Ampeloquio, Sr. and Lagrimas Obnamia vs. Court of Appeals, et al.*, G.R. No. 124243, June 15, 2000.

⁴³ *Spouses Delos Santos vs. Hon. Carpio, et al.*, G.R. No. 153696, September 11, 2006.

frustrate rather than promote substantial justice, must be avoided. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from the courts.⁴⁴

WHEREFORE, premises considered, the instant Petition for Certiorari is **DENIED** for lack of merit. Accordingly, the assailed Orders dated December 8, 2017 and March 2, 2018, respectively, are **AFFIRMED**. Let the record of Civil Case No. 17-1903(M) be remanded to the RTC – Branch 54 of Macabebe, Pampanga, for further proceedings.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:



ERLINDA P. UY
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest 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's Division.



ERLINDA P. UY
Associate Justice
Chairperson

⁴⁴ *Allied Banking Corporation, et al. vs. Spouses Eserjose*, G.R. No. 161776, March 10, 2005.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it 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