

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

NUEVA ECIJA II AREA 1 CTA CASE NO. 9549
ELECTRIC COOPERATIVE, INC.,

Petitioner, Members:

BAUTISTA, Chairperson

FABON-VICTORINO, and

RINGPIS-LIBAN, II.

– versus –

COMMISSIONER OF INTERNAL
REVENUE,

Promulgated:

Respondent.

JUL 05 2018

10:14 a.m.

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R E S O L U T I O N

For resolution is petitioner's Motion to Lift Entry of Judgment ("Motion to Lift EOJ") filed on May 28, 2018; with Opposition Re: Petitioner's Motion to Lift Entry of Judgment ("Opposition") submitted by respondent on June 18, 2018.

On April 6, 2017, the Court promulgated a Resolution¹ dismissing the Petition for Review (With Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction) for being filed out of time. The dispositive portion of the Resolution reads:²

WHEREFORE, premises considered, the instant Petition for Review is hereby **DISMISSED** for being filed beyond the reglementary period.

SO ORDERED.³

On May 30, 2017⁴ and February 26, 2018⁵, the Judicial Records

¹ Records, CTA Case NO. 9549, Resolution, pp. 126-134.

² Id, Dispositive Portion, p. 134.

³ Emphases retained.

⁴ Records, Records Verification Report, p. 216.

⁵ Id., p. 217.

Division issued Records Verification Reports which state that no appeal to the Court *En Banc* or to the Supreme Court was interposed by any of the parties. Accordingly, on May 4, 2018, the Court promulgated a Resolution⁶ allowing the issuance of an Entry of Judgment. On May 7, 2018, the Court issued an Entry of Judgment declaring the Resolution dated April 6, 2017 as final and executory.⁷

On May 28, 2018, petitioner filed its Motion to Lift EOJ praying for the Court to: (1) recall and cancel the Resolution dated May 4, 2018; and (2) order the cancellation and lifting of the Entry of Judgment, and that the Motion for Reconsideration dated May 15, 2017 ("MR") attached thereto be given due course.

In its Motion to Lift EOJ, petitioner claims that it received *via* electronic mail a copy of the Entry of Judgment on May 17, 2018. According to petitioner, it would appear that the Court did not receive a copy of its MR, which was filed by registered mail on May 18, 2017. While admittedly being filed out of time, petitioner asserts that such was upon a rather crucial oversight of its personnel who, although instructed to make the filing on May 17, 2017, was able to actually file it only on May 18, 2017. Petitioner adds that during that period, his counsel was commissioned as an Independent Certified Public Accountant in a case pending before the First Division of the Court; and that given the equally important task, making a thorough verification that the MR was duly filed was the least of his counsel's concern. Petitioner states that the belated filing of the MR is not without reason, and was never intentional. Petitioner posits that it has a good case given that one of its defenses against the assessment is prescription, which should not be permitted to progress into a valid assessment only because of the circumstances. Thus, with utmost humility and candor, petitioner begs for the Court to lift the Entry of Judgment and give due course to the MR.

In his Opposition, respondent counters that petitioner's Motion to Lift EOJ raised no points of contention that would warrant the reversal of the Entry of Judgment. According to respondent, petitioner's argument that rules must give way in the higher interest of justice should fail because the excuses propounded by petitioner is all but excuses of neglect on its part. Respondent posits that petitioner should have been diligent enough to assure that the MR

⁶ *Records, Resolution*, p. 219.

⁷ *Id.*, *Entry of Judgment*, p. 221.

was filed. Further, since petitioner already admitted that its MR was not filed on time, respondent avers that such failure necessarily renders the Resolution dated April 6, 2017 final and executory. For lack of any excusable reason for the relaxation of the rules, it is the respondent's view that the Entry of Judgment be stayed.

The Court finds no merit in petitioner's Motion to Lift EOJ.

Petitioner's argument revolves around the alleged failure of the Court to receive, and thus, to consider, its MR on the Resolution dated April 6, 2017 which was filed on May 18, 2017. According to petitioner, the MR was sent *via* registered mail on May 18, 2017 as evidenced by Registry Receipt No. 035631⁸. However, other than this bare allegation, petitioner failed to substantiate its claim by presenting other evidence.

When a mail matter is sent by registered mail, there exists a presumption, set forth under *Section 3(v)*⁹, *Rule 131 of the Rules of Court*, that it was received in the regular course of mail. The facts to be proved in order to raise this presumption are: (1) that the letter was properly addressed with postage prepaid; and (2) that it was mailed. While a mailed letter is deemed received by the addressee in the ordinary course of mail, this is still merely a disputable presumption subject to controversion, and a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.¹⁰

In the instant case, the Resolution¹¹ dated May 4, 2018, informing petitioner that the Resolution dated April 6, 2017 will be entered in the book of judgments for petitioner's failure to appeal, is a direct denial of receipt of the MR. The burden to prove that the MR was received by the Court is thus shifted to petitioner.

⁸ *Records, Motion to Lift Entry of Judgment, Annex C, Motion for Reconsideration*, p. 230.

⁹ SEC. 3. *Disputable presumptions*. – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

xxx	xxx	xxx
(v) That a letter duly directed and mailed was received in the regular course of the mail;		
xxx	xxx	xxx

¹⁰ *Barcelon, Roxas Securities, Inc. (now known as UBP Securities, Inc.) v. CIR*, G.R. No. 157064, August 7, 2006, 498 SCRA 126.

¹¹ *Records, Resolution*, p. 219.

In trying to prove the fact of mailing the MR, petitioner attached to the Motion to Lift EOJ a photocopy of the MR allegedly sent to the Court, email correspondences of his counsels, and the Affidavit of Mr. Vincent Norombaba ("Mr. Norombaba"). The Court finds these documents insufficient.

For one, petitioner could have presented the original copy of the MR, with the original Registry Receipt attached thereto. This, petitioner did not do. Secondly, a certification from the Bureau of Posts that the MR was actually mailed to and received by the Court could have been secured. Again, petitioner failed to do so. There is also nothing in the email correspondences of petitioner's counsels that will show or confirm that the MR was filed with the Court. Anent the Affidavit of Mr. Norombaba, a reading of the same shows nothing but mere excuses of neglect on his part to file the MR within the period directed. Accordingly, the Court holds that petitioner failed to discharge the burden of proof that the MR was in fact received by the Court.

Even assuming that the Court received petitioner's MR, the same is procedurally infirm. *Section 112, Rule 15 of the Revised Rules of the Court of Appeals ("RRCTA")*¹² provides that a motion for reconsideration of a resolution must be filed within fifteen (15) days from receipt of notice of said resolution.

In the present case, records show that respondent received the Resolution dated April 6, 2017 on April 21, 2017¹⁴. Counting fifteen (15) days therefrom, petitioner should have filed its motion for reconsideration on May 6, 2017. However, petitioner allegedly filed its MR only on May 18, 2017. Further, even if the Court will consider petitioner's claim that it learned of the Resolution dated on April 6, 2017 only on May 2, 2017¹⁵, the MR filed on May 18, 2017 was still made out of time. With the untimely filing of the MR, the Resolution dated April 6, 2017 has already attained finality. Consequently, it is already immutable and unalterable following the doctrine of immutability of judgment.

¹² SEC. 1. *Who may and when to file motion.* - Any aggrieved party may seek a reconsideration or new trial of any decision, resolution, or order of the Court by filing a motion for reconsideration or new trial for fifteen days from the date of receipt of notice of the decision, resolution, or order of the Court in question.

¹³ A.M. No. 05-11-07-CTA, November 22, 2005.

¹⁴ *Records, Registry Return Receipt*, p. 125.

¹⁵ *Id.*, *Motion to Lift Entry of Judgment, Annex C, Motion for Reconsideration, par. 1*, p. 230.

In *Apo Fruits Corporation v. Court of Appeals*¹⁶, the Supreme Court explained the purpose and rationale of the doctrine of immutability of judgment in this wise:

The main role of the courts of justice is to assist in the enforcement of the law and in the maintenance of peace and order by putting an end to judicable controversies with finality. Nothing better serves this role than the long established doctrine of immutability of judgments. It is never a small matter to maintain that litigation must end and terminate sometime and somewhere, even at the risk of occasional errors. A judgment that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. The reason for the rule is that if, on the application of one party, the court could change its judgment to the prejudice of the other, it could thereafter, on application of the latter, again change the judgment and continue this practice indefinitely. The equity of a particular case must yield to the overmastering need of certainty and unalterability of judicial pronouncements.

The doctrine of immutability and inalterability of a final judgment has a two-fold purpose: (1) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business and (2) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Controversies cannot drag on indefinitely. The rights and obligations of every litigant must not hang in suspense for an indefinite period of time. The doctrine is not a mere technicality to be easily brushed aside, but a matter of public policy as well as time-honored principle of procedural law.

Considering that the Resolution dated April 6, 2017 has attained finality, the Entry of Judgment is proper following *Sections 6 and 7 of Rule 14 of the RRCTA*. The relevant provisions state:

Sec. 6. *Entry of judgment and final resolution.* – If no appeal or motion for reconsideration or new trial is filed within the time provided in these Rules, the Clerk of Court shall forthwith enter the judgment or final resolution in the

¹⁶ G.R. No. 164195, December 4, 2009, 607 SCRA 200.

book of judgment. The date when the judgment or final resolution becomes executory shall be deemed the date of its entry. The entry shall contain the dispositive part of the judgment or final resolution and shall be signed by the Clerk of Court, with a certification that such judgment or resolution has become final and executory.

Sec. 7. *Execution of judgment.* – Upon the expiration of the period to appeal from a judgment or order that disposes of the action or proceeding and no appeal has been duly perfected, execution shall issue as a matter of right, on motion.

xxx

xxx

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Applying the foregoing to the present case, it thus becomes the Court's ministerial duty to issue the writ of execution.¹⁷ Accordingly, it is only proper for the Court to issue the Entry of Judgment on May 7, 2018.

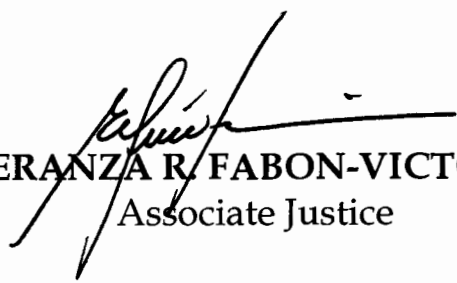
All told, the pieces of evidence presented by petitioner are not sufficient to warrant the lifting of the Entry of Judgment.

WHEREFORE, premises considered, petitioner's Motion to Lift Entry of Judgment filed on May 28, 2018 is **DENIED** for lack of merit. Meanwhile, the Entry of Judgment dated May 7, 2018 is **STAYED**. The case is hereby declared **CLOSED** and **TERMINATED**. No further pleadings or motions shall be entertained herein.

SO ORDERED.


LOVELL R. BAUTISTA

Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice

¹⁷ *National Power Corporation v. Spouses Lorenzo L. Laohoo*, G.R. 151973, July 23, 2009, 593 SCRA 564.