

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

SECOND DIVISION

**RAPPLER HOLDINGS
CORPORATION and MARIA
A. RESSA,**

Petitioners,

-versus-

CTA CASE NO. 10323

Members:

Castañeda, Jr., *Chairperson,*
and
Bacorro-Villena, *JJ.*

**HON. ANA TERESA T.
CORNEJO-TOMACRUZ, in
her capacity as the
Presiding Judge of the
Regional Trial Court of
Pasig City, Branch 157, and
the PEOPLE OF THE
PHILIPPINES,**

Respondents.

Promulgated:

DEC 04 2020

X-----X
10:15 a.m.

DECISION

CASTAÑEDA, JR., J.:

For the Court's resolution is the petitioners' Petition for *Certiorari* With Urgent *Ex-Parte* Application for a Temporary Restraining Order and/or Writ of Preliminary Injunction, under Rule 65 of the Rules of Court, filed by registered mail on August 17, 2020 and received by this Court on September 4, 2020.¹ *je*

¹ Division Docket, Vol. II, pp. 381-419.

THE PARTIES

Petitioner Rappler Holdings Corporation (RHC) is a domestic corporation with principal place of business at the 3rd Floor, North Wing Estancia Offices, Capitol Commons, Pasig City 1605.²

Petitioner Maria A. Ressa (Ressa) is a Filipino, of legal age, with office address as above.³ She is an investigative journalist by profession and has been a journalist for more than thirty-four (34) years.⁴

Public respondent Hon. Ana Teresa T. Cornejo-Tomacruz (Judge Cornejo-Tomacruz), represented by the Office of Solicitor General (OSG), is the presiding judge of the Regional Trial Court of Pasig City, Branch 157 (RTC Branch 157).⁵

Public respondent People of the Philippines, represented by the Office of the City Prosecutor Pasig City (OCP Pasig), Department of Justice (DOJ), is impleaded as plaintiff in Criminal Case No. R-PSG-18-02983-CR⁶ for violation of Section 255 of the National Internal Revenue Code of 1997 (1997 NIRC),⁷ as amended, pending before RTC Branch 157.

THE FACTS

Antecedent Facts / Proceedings Before the Court *A Quo*

On November 14, 2018 in RTC Pasig, an information dated October 2, 2018⁸ was filed against petitioners for alleged violation of Section 255 of the 1997 NIRC pertaining to the alleged:

- Willful and unlawful failure of petitioner Ressa, as president of RHC, to supply correct and accurate information in RHC's quarterly Value-Added Tax (VAT) return for the second (2nd) quarter of taxable year 2015; and,
- Failure to report therein the total quarterly sales receipts coming from the issue and sale by RHC of Philippine⁹

² Par. 2.1, Petition for *Certiorari*, Division Docket, Vol. II, p. 384.

³ *Id.*

⁴ Par. 6.1, *Id.*, p. 387.

⁵ Par. 2.2, *Id.*, p. 385.

⁶ Par. 2.3, *Id.*; July 27, 2020 Resolution, Annex A, Petition for *Certiorari*, *Id.*, p. 431.

⁷ *Failure to File Return, Supply Correct and Accurate Information, Pay Tax Withheld and Remit Tax and Refund Excess Taxes Withheld on Compensation.*

⁸ Annex C, Petition for *Certiorari*, Division Docket, Vol. II, pp. 437-439.

Depository Receipts (PDRs), as a dealer in securities, to NBM Rappler, L.P. in the total amount of Two Million Four Hundred Fifty-Two Thousand One Hundred Fifty-Four Pesos and Eighty-Seven Centavos (₱2,452,154.87), thereby resulting in deficiency VAT of Two Hundred Ninety-Four Thousand Two Hundred Fifty-Eight Pesos and Fifty-Eight Centavos (₱294,258.58), exclusive of surcharge and interest, to the damage and prejudice of the government.

On December 3, 2018, petitioner Ressa surrendered voluntarily and applied for bail before RTC Branch 157.⁹

In the December 3, 2018 Order of the trial court, arraignment of the accused was set on December 7, 2018.¹⁰

For more than a year, from December 2018 up March 2020, petitioner Ressa filed several Motions to Travel with the court *a quo* for her various monthly international engagements:¹¹

	Previous Destinations	Previous Travel Periods	Purposes
1	Doha, Qatar	14 December 2018 to 16 December 2018	To attend as speaker in the Doha Forum in Doha, Qatar.
2	New York, U.S.A.	29 December 2018 to 04 January 2019	To attend as representative of the international media during the 2019 New Year's Eve Celebration in Manhattan's Time Square in New York, USA.
3	Davos, Switzerland	23 January 2019 to 25 January 2019	To attend as a keynote speaker at the World Economic Forum in Davos, Switzerland
4	Toronto, Canada	25 January 2019 to 28 January 2019	To attend the DemocracyXChange Forum in Toronto, Canada
5	Florida, USA	28 January 2019 to 30 January 2019	To attend the Digital Content Next: Summit in Florida, U.S.A.
6	Kuala Lumpur, Malaysia	14 February 2019 to 17 February 20019	To attend a joint business and leisure trip in Kuala Lumpur, Malaysia

⁹ December 3, 2020 Order, Annex D, *Id.*, p. 440.
¹⁰ *Id.*
¹¹ Pars. 6.6, Petition for *Certiorari*, *Id.*, pp. 390-393.

7	Singapore and San Francisco, USA	15 March 2019 to 29 March 2019	To attend the Newsgeist Asia Conference and her business trips
8	Italy and New York, USA	3 April 2019 to 14 April 2019	To attend the International Journal Festival and her business trips
9	New York, USA	21 April 2019 to 28 April 2019	To attend the Inaugural Trial Watch Conference and the Launch of Trial Watch and her business trip.
10	Hong Kong	16 May 2019 to 20 May 2019	To attend as the keynote speaker at the Human Rights Press Awards in Hong Kong.
11	New York, USA	20 May 2019 to 25 May 2019	To accept the Columbia Journalism Award and speak at the Columbia Journalism School's Commencement in New York.
12	Glasgow, Scotland	30 May to 3 June 2019	To attend the 71 st World News Media Congress and 26 th World Editors Forum in Glasgow, Scotland.
13	Geneva, Switzerland	3 June 2019 to 16 June 2019	To attend as speaker at the 2019 IPI World Congress in Geneva Switzerland.
14	Toronto, Canada	11 June 2019 to 16 June 2019	To attend CJF Awards Gala and accept the Annual CJF Tribute in Toronto, Canada.
15	Taipei, Taiwan	19 June 2019	To attend the Google News Initiative APAC Roundtable 2019
16	Bangkok, Thailand	23 July 2019 to 24 July 2019	To attend as speaker at the 8 th World Congress in Bangkok.
17	New Jersey, USA	28 July 2019 to 21 July 2019	To attend the Don Spaulding Memorial Concert in New Jersey.
18	Atlanta, Georgia, USA	1 August 2019 to 8 August 2019	To engage in a Firechat Conversation at AAJA's 2019 National Convention, "Unite and Represent" in Atlanta, Georgia.
19	Sydney Australia	27 August 2019 to 2 September 2019	To attend as a speaker at the Annual Talks Festival, Antidote in Sydney, Australia
20	New York and Washington D.C. USA, Hamburg Germany and San Francisco, USA.	6 September 2019 to 6 October 2019	To attend as interviewee in the Atlantic Festival, attend as speaker in the L.A. Press Freedom Week, and be part of the 2019 GNI Global Product Working Group.
21	New York City	13 October 2019 to 18 October 2019	To attend as speaker at the Quid Explore_NY Event.
22	San Francisco and Washington USA.	20 October 2019 to 28 October	To receive the 2019 Oxi Courage Award at the Courage Awards Black



		2019	Tie Gala and the 2019 Shorenstein Journalism Award for Coverage of Asia in San Francisco And Washington USA.
23	New York City	5 November 2019 to 9 November 2019	To attend as speaker and receive the William J. Brennan Defense of Freedom Award in New York City.
24	Paris	10 November 2019 to 12 November 2019	To attend the meeting of the International Commission on Information & Democracy at the Paris Peace Forum in Paris.
25	London	12 November 2019 to 14 November 2019	To attend as speaker at the Trust Conference in London.
26	Paris	14 November 2019 to 17 November 2019	To attend the AXA Stakeholders Meeting in Paris.
27	Reykjavik, Iceland	17 November 2019 to 22 November 2019.	To attend as a Featured Conversationalist at the Reykjavik Global Forum-Women Leaders in Reykjavik, Iceland.
28	Philadelphia, USA	4 December 2019 to 9 December 2019	To attend as panelist at the Power/Resistance: Understanding the Media in Authoritarian States Symposium in Philadelphia, USA.
29	Munich Germany	16 January 2020 to 21 January 2020	To attend as speaker at the DLD Munich Conference in Munich Germany.
30	Park City, Utah, USA	24 January 2020 to 30 January 2020	To attend as speaker, panelist and representative of the film "a Thousand Cuts" at the Sundance Film Festival in Park City, Utah, USA.
31	London	9 February 2020 to 16 February 2020	To attend the AI Jazeera English/Lawyers Meeting in London.
32	Camden, USA.	20 February 2020 to 23 February 2020	To attend as speaker at the Camden Conference in Camden, USA.
33	New York, USA	23 February 2020 to 9 March 2020	To attend as speaker at the Jigsaw Solutions Summit in New York, USA.
34	Austin, Texas, USA	12 March 2020 to 18 March 2020	To attend as speaker at SXSW Conference in Austin, Texas, USA.

Accordingly, the court *a quo* has issued fifteen (15) resolutions granting the motions.¹² 

¹² Annexes E to S, Petition for *Certiorari*, *Id.*, pp. 441-474.

Pursuant to RTC Branch 157's resolutions, which approved the travels, petitioner Ressa also filed her compliances to the conditions of travel.¹³

Petitioner Ressa had posted a total of One Million Two Hundred Thousand Pesos (P1,200,000) in travel bonds for the travel authorities granted by the court *a quo*.¹⁴

On March 8, 2020, however, the Philippine government declared a state of public health emergency throughout the Philippines due to the confirmed local transmission of Coronavirus Disease 2019 (COVID-19).¹⁵

On March 11, 2020, deeply concerned both by the alarming levels of spread and severity, and by the alarming levels of inaction, the World Health Organization (WHO) made the assessment that COVID-19 can be characterized as a pandemic.¹⁶

Thus, on March 16, 2020, the President of the Philippines also declared a state of public calamity throughout the Philippines because of COVID-19.¹⁷ Specifically, it stated that, despite government interventions, the number of confirmed COVID-19 cases continue to rise and imposed, among others, enhanced community quarantine¹⁸ where land, sea and air travels were restricted.¹⁹ Other governments in the world have also imposed various containment measures to stop the spread of the outbreak.²⁰

On March 20, 2020, citing the rising cases of COVID-19 infection, the Supreme Court ordered the closure of all courts nationwide effective March 23, 2020.²¹ The *physical* closure of courts nationwide was extended to April 30, 2020,²² then to May 15, 2020.²³

On March 24, 2020, Republic Act No. (RA) 11469 or the "Bayanihan to Heal As One Act" was enacted which declared a state of 

¹³ Annexes T to KK, Petition for *Certiorari*, *Id.*, pp. 475-624.

¹⁴ Travel Bond Official Receipts, Annexes LL to QQ, Petition for *Certiorari*, *Id.*, pp. 625-630.

¹⁵ Proclamation No. 922 dated March 8, 2020.

¹⁶ WHO Timeline - COVID-19. Last accessed on November 6, 2020: <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19>.

¹⁷ Proclamation No. 929 dated March 16, 2020.

¹⁸ Section 2, Proclamation No. 922 dated March 8, 2020.

¹⁹ Section 7, Memorandum from the Executive Secretary, March 16, 2020.

²⁰ Timeline of COVID-19 from ThinkGlobalHealth website, last accessed on November 6, 2020: <https://www.thinkglobalhealth.org/article/updated-timeline-coronavirus>; Timeline of COVID-19 from The New York Times website, last accessed on November 6, 2020: <https://www.nytimes.com/article/coronavirus-timeline.html>.

²¹ Administrative Circular No. 32-2020, March 20, 2020.

²² Administrative Circular No. 34-2020, April 8, 2020.

²³ Administrative Circular No. 35-2020, April 27, 2020.

national emergency due to COVID-19.²⁴ The law specifically authorized the President “to exercise powers that are necessary and proper to carry out the declared national policy” and “to adopt temporary emergency measures to respond to crisis brought by the pandemic”, specifically the powers to:

- Ensure that all Local Government Units (LGUs) are “implementing standards of Community Quarantine consistent with what the National Government has laid down for the subject area, while allowing LGUs to continue exercising their autonomy on matters undefined by the National Government or are within the parameters it has set”;²⁵
- Regulate and limit the operation of all sectors of transportation through land, sea or air, whether private or public;²⁶ and,
- Regulate traffic on all roads, streets, and bridges, and access, among others.²⁷

On April 27, 2020, alluding to the serious need to further restrain the movement and travel of court users, persons deprived of liberty, judges and court personnel to stem the spread of COVID-19, the Supreme Court pilot-tested the hearings on urgent matters in criminal cases involving persons deprived of liberty through videoconferencing in the National Capital Judicial Regions (NCJR) and selected provinces.²⁸ Section 2 of Administrative Circular No. 37-2020 stated that the hearings through videoconferencing “may apply to all stages of trial of newly-filed and pending criminal cases, including but not limited to arraignment, pre-trial, bail hearings, trial proper, and promulgation of judgement.”²⁹

Subsequently, the Supreme Court issued Administrative Circular No. 39-2020 dated May 14, 2020 considering that the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID) has placed certain areas in the country, i.e., National Capital Region, Laguna Province, and Cebu City, under Modified *Je*

²⁴ An Act Declaring the Existence of National Emergency Arising from the Coronavirus Disease 2019 (COVID-19) Situation and a National Policy in connection therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Restrictions, to Exercise Powers Necessary and Proper to Carry Out the Declared National Policy and for Other Purposes; *see* Section 2.

²⁵ Section 4(g), RA 11469.

²⁶ Section 4(r), RA 11469.

²⁷ Section 4(s), RA 11469.

²⁸ Administrative Circular No. 37-2020, April 27, 2020.

²⁹ Dated April 27, 2020.

Enhanced Community Quarantine (MECQ) until May 31, 2020. Specifically, it stated that:

"ALL courts initially authorized to hear through videoconferencing only urgent matters in criminal cases involving Persons Deprived of Liberty are now herein authorized to hear through videoconferencing ALL matters pending before them, in both criminal and civil cases, whether newly-filed or pending, and regardless of the stage of trial. The videoconferencing hearings in both criminal and civil cases shall be upon joint motion of the parties, or upon orders of the court, which shall schedule the said videoconferencing hearings."³⁰ (*Underscoring supplied*)

On June 18, 2020, public respondent issued a Notice of Arraignment and Pre-Trial set on July 22, 2020.³¹

On July 13, 2020, petitioners filed an *Ex Abundanti Ad Cautelam* Urgent Motion to Travel to Travel Outside the Country with Manifestation dated July 10, 2020, stating her purpose and undertaking to comply with the conditions imposed by the court *a quo*.³² Specifically, petitioners requested permission for travel outside the Philippines for thirty (30) days from August 1 to 30, 2020 to support the release of the documentary "A Thousand Cuts"; to attend as a speaker at various journalism and filmmaking conferences, including the Asian American Journalists Association; to attend the recording of promotional materials for the national PBS broadcast; to attend live and pre-recorded interviews; and, to attend the film festival screenings and panels in Boston, United States of America.³³

The plaintiff, Bureau of Internal Revenue (BIR), through the DOJ, filed a Comment/Opposition dated July 15, 2020 praying for the denial of the motion due to the conviction of petitioner Ressa on June 15, 2020 for violation of Section 4(c)(4) of the Republic Act No. 10175, or the Cybercrime Prevention Act of 2012, by the Manila RTC Branch 46. The Comment/Opposition concluded that there is doubt that accused Ressa has sufficiently established her intent to return "since there were no attached plane tickets/itinerary showing [her] intended departure and return dates."³⁴ *je*

³⁰ Section 17, Administrative Circular No. 37-2020, May 14, 2020.

³¹ Par. 6.14, Petition for *Certiorari*, Division Docket, Vol. II, p. 394.

³² Annex RR, Petition for *Certiorari*, *Id.*, pp. 631-636.

³³ Annex RR, Petition for *Certiorari*, *Id.*, pp. 631-632.

³⁴ Annex RR, Petition for *Certiorari*, *Id.*, pp. 637-639; Section 4 Cybercrime Offenses, Subsection (c) Content-related Offenses, Subsubsection (4) Libel.

Thereafter, on July 20, 2020, petitioner Ressa filed an *Ex Abundanti Ad Cautelam* Reply with Manifestation (Re: Comment/Opposition dated 15 July 2020) underscoring that petitioner Ressa's right to travel cannot be impaired insofar as her conviction, may still be modified or set aside, as it has not yet attained finality. Petitioner Ressa also submitted duly paid travel itinerary from Asiana Airlines with flight ticket number 98887528591651 and from Delta Airlines with flight confirmation number HVHQ2V to prove she will return to Manila on August 30, 2020.³⁵

On July 22, 2020, as scheduled, petitioner Ressa was arraigned before RTC Branch 157 and entered a plea of "not guilty". The public respondent also issued an order setting Preliminary Marking Conferences on August 12 and 19, 2020 and resetting the Preliminary Conference and the arraignment of petitioner RHC to September 3, 2020.³⁶ The pending motion to travel was also submitted for resolution.³⁷

On July 28, 2020, petitioners received an electronic copy of the July 27, 2020 Resolution (First Assailed Resolution), which denied petitioner Ressa's *Ex Abundanti Ad Cautelam* Urgent Motion to Travel.

Specifically cited in the July 27, 2020 Resolution is the fact that travels have been restricted at varying degrees which may force petitioner Ressa to remain abroad, placing her beyond the trial court's jurisdiction indefinitely, thus:³⁸

"As part of conditions for the grant of bail, an accused also holds himself/herself amenable at all times to the orders and processes of the court, and undertakes to make himself/herself available whenever the court requires his/her presence. This condition operates as a legal limitation on the right to travel, the impairment of which may be deemed necessary to protect the court's jurisdiction.

In this case, the accused seeks permission to travel to the United States of America to participate in activities related to the documentary 'A Thousand Cuts' at the height of a global pandemic. It is common knowledge that the worldwide health crisis has made travelling conditions unstable and erratic, with many countries closing borders and commercial airlines cancelling flights at a moment's notice. As active transmission of COVID-19 is happening globally, conditions of international travel have become fluid and 

³⁵ Annex TT, Petition for *Certiorari*, *Id.*, pp. 641-647.

³⁶ Par. 6.19, Petition for *Certiorari*, *Id.*, p. 395.

³⁷ Par. 6.20, Petition for *Certiorari*, *Id.*

³⁸ Annex A, Petition for *Certiorari*, *Id.*, pp. 432-433.

unpredictable. A confirmed plane ticket is no longer an assurance that a flight is certain to take off, even as more countries are opening up its borders.

It is likewise common knowledge that governments around the world have imposed varying degrees of travel restrictions to contain the global spread of the virus. Entry bans for foreign nationals and travel prohibition for citizens have been imposed to respond to the global health threat. Restrictions have been modified, sometimes abruptly, in accordance with changes in the local and global health situation. While borders may be open at present, it can easily shut close depending on the perceived threats posed by the virus.

Thus, to the court's mind, the possibility that Ms. Ressa may be forced by circumstances to remain abroad, should the global health situation deteriorate over time, is very real. If this happens, the accused may indefinitely be placed beyond the court's jurisdiction and the court's hands will be tied, so to speak, without recourse to enforcing Ms. Ressa's presence in court. The court likewise notes that Ms. Ressa is a dual citizen of both the Philippines and the USA. As such, prudent exercise of discretion dictates that the motion to travel abroad filed by Ms. Ressa be denied at this time."
(Underscoring supplied)

On July 30, 2020, petitioner Ressa filed an Urgent Motion for Reconsideration of the Resolution dated 27 July 2020 asking the trial court to reconsider its denial.³⁹

In an August 5, 2020 Resolution (Second Assailed Resolution), the trial court denied petitioner Ressa's Motion for Reconsideration for lack of merit. The Court emphasized its position on the denial and the effectivity of the denial during the pendency of the case:

"First, the cases of *Ricardo Silverio v. Court of Appeals*, *Miriam Defensor-Santiago vs. Court of Appeals* and *Ricardo Manotoc v. Court of Appeals* were cited by the court for the general principles enunciated in relation to accepted limitations on the right to travel. Although not on all fours with the present case, the rulings in these cases are instructive in so far as these declared that conditions for the grant of bail and the court's inherent power to maintain the effectiveness of its jurisdiction operate as legal limitations on the right to travel. The court finds no error in its application of the pronouncements in these cases to the present case.

Next, there need not be any urgent necessity for the court to enforce the appearance of the accused in court during her intended travel period or at any time. As part of the conditions for the grant *Re*

³⁹ Annex UU, Petition for *Certiorari*, *Id.*, pp. 654-675.

of bail, the accused undertook to be present **whenever required** by the court. The basis of the court's denial of the motion to travel is to prevent a situation where the accused will be placed indefinitely beyond its reach due to the fluid travel conditions brought about by the pandemic. Thus, when the court spoke of enforcing the presence of the accused in court, it did not only refer to the intended travel period but the entire duration of time that the case is still pending.

Contrary to the assertion of the accused, the court's denial of the motion to travel is based on concrete facts. It is a fact that there is a global pandemic that has disrupted businesses, upturned airline schedules, restricted movement across borders and has generally made travel conditions unpredictable. Just as governments can ease travel restrictions, so too can they impose stricter limitations or ban travel altogether depending on how the virus progresses globally. As such, the court's conclusion that there is a real risk of the accused being placed beyond the court's jurisdiction is founded on demonstrated facts.

The fact that the accused is not a flight risk is beside the point. It is the uncertainty of travel conditions that the court finds material in denying her motion to travel at this time, coupled with the fact that she is a dual citizen, has been convicted in another criminal case, and the purpose for travel does not appear to be essential. The court must ensure that its jurisdiction over the case and the accused will remain effective at all times. Thus, the court chose to exercise its discretion prudently given the prevailing unpredictable conditions." (*Underscoring supplied; emphasis in the original*)

Hence, the petition for *certiorari* before the Court.

Proceedings before the Court

On August 17, 2020, petitioners filed a Manifestation⁴⁰ which informed the Court that, on even date, petitioners also filed, through registered⁴¹ and electronic mail,⁴² a Petition for *Certiorari* with Urgent *Ex-Parte* Application for a Temporary Restraining Order and/or Writ of Preliminary Injunction dated 14 August 2020, with the Court.

The petition prayed that the Court:

- Immediately issue an *ex-parte* Temporary Restraining Order (TRO) and/or Writ of Injunction to enjoin the Assailed Resolutions and temporarily allow petitioner Ressa to travel for twenty (20) days, thereby allowing her to travel *outside* 

⁴⁰ Division Docket, Vol I, pp. 6-8.

⁴¹ Affidavit of Service, Division Docket, Vol II, p. 429-430.

⁴² Division Docket, Vol I, p. 330.

the Philippines from August 23, 2020 to September 10, 2020 and attend the stated engagements.

- Give due course to the petition and, after due proceedings, issue a Writ of *Certiorari* annulling, modifying and setting aside, for having been issued in excess of jurisdiction or with grave abuse of discretion amounting to lack or excess of jurisdiction, the:
 - Assailed Resolutions; and,
 - Most importantly, the statement that decreed that the public respondent intended to enforce the presence of the petitioner Ressa in court, not only during the intended travel period, but also during the pendency of the trial.⁴³

On September 4, 2020, the Court received the petitioners' original copy of their Petition for *Certiorari* with Urgent *Ex-Parte* Application for a Temporary Restraining Order and/or Writ of Preliminary Injunction dated 14 August 2020.

Meanwhile, on September 11, 2020, RA 11494 or "Bayanihan to Recover as One Act" was signed into law which affirmed the existence of a continuing national emergency and recognized the unabated spread of COVID-19 and the ensuing economic disruption therefrom.⁴⁴ It extended the emergency powers previously granted to the President to respond to the pandemic until December 19, 2020.⁴⁵ Specifically, the law reiterated the powers that are necessary to implement the COVID-19 response and recovery interventions, specifically, the powers to:

- Ensure that all LGUs are implementing standards of Community Quarantine consistent with what the National Government has laid down for the subject area, while allowing LGUs to continue exercising their autonomy on matters undefined by the National Government or are within the parameters it has set" and "pursuant to the constitutional right of freedom of movement of persons," the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID) is given the responsibility for providing guidance on cross-border concerns, including, but not limited to

⁴³ Petition for *Certiorari*, *Id.*, pp. 43-44.

⁴⁴ An Act Providing for COVID-19 Response and Recovery Interventions and Providing Mechanisms to Accelerate the Recovery and Bolster the Resiliency of the Philippine Economy, Providing Funds Therefor, and for Other Purposes; *see* Section 2.

⁴⁵ Section 18, RA 11494.

to, Locally Stranded Individuals (LSIs), Overseas Filipino Workers (OFWs), domestic travelers and residents, while the LGUs shall determine the policies and regulations within their respective jurisdiction;⁴⁶

- Regulate and limit the operation of all sectors of transportation through land, sea or air, whether private or public;⁴⁷ and,
- Regulate traffic on all roads, streets, and bridges, and access, among others.⁴⁸

In a Resolution dated September 14, 2020, the Court noted petitioner's Manifestation (Petition for Certiorari with Urgent *Ex-Parte* Application for a TRO and/or Writ of Preliminary Injunction dated 14 August 2020) and the filing of the original copy of the Petition. Without necessarily giving due course to the petition, respondents were given ten (10) days from notice to file their comment (not a motion to dismiss) while petitioners were given five (5) days from notice to file their reply. Finally, the Urgent *Ex-Parte* Application for a TRO and/or Writ of Preliminary Injunction was set for hearing on September 21, 2020.⁴⁹

On September 16, 2020, the State of Calamity throughout the Philippines was extended from September 13, 2020 to September 12, 2021.⁵⁰

On September 18, 2020, the OSG received via electronic mail a copy of petitioners' Submission with Attached Judicial Affidavit of Maria A. Ressa.⁵¹

On September 21, 2020, petitioners filed a Submission of petitioner Ressa's Judicial Affidavit.⁵² On even date, respondent People of the Philippines through the OSG filed a Motion to Expunge (Judicial Affidavit of Maria Ressa dated 18 September 2020).⁵³

During the September 21, 2020 hearing and upon the objection interposed by the petitioners, the Court denied respondents' Motion to ~~re~~

⁴⁶ Section 4(p), RA 11494.

⁴⁷ Section 4(kk), RA 11494.

⁴⁸ Section 4(ll), RA 11494.

⁴⁹ Division Docket, Vol II, pp. 713-715.

⁵⁰ Proclamation No. 1021 dated September 16, 2020.

⁵¹ Motion to Expunge (Judicial Affidavit of Maria Ressa dated 18 September 2020), Division Docket, Vol III, pp.1003-1009.

⁵² Division Docket, Vol III, pp.716-1001.

⁵³ *Id.*, pp. 1003-1009.

Expunge (Judicial Affidavit of Maria Ressa dated 18 September 2020). Furthermore, considering the respective admissions and manifestations advanced by both parties that the prayer of issuance of a TRO contemplates travel dates in November 2020, they were granted a period of five (5) days from September 21, 2020 or until September 26, 2020 within which to file their respective Memoranda in support of their positions.⁵⁴

On September 25, 2020, respondent People of the Philippines filed its Comment/Opposition [On: Petition for Certiorari with Urgent *Ex-Parte* Application for a Temporary Restraining Order and or Writ of Preliminary Injunction dated 14 August 2020].⁵⁵

On September 25, 2020, respondent People of the Philippines filed its Memorandum.⁵⁶

On September 28, 2020, petitioners filed their Memorandum on Jurisdictional Issues.⁵⁷

On October 19, 2020, petitioners filed their Reply (To Respondent's Comment/Opposition dated 23 September 2020).

THE ISSUES

The interrelated issues raised by the parties can be summarized as follows:

- Whether the Court has the jurisdiction to act on the Petition for *Certiorari* in relation to the assailed resolutions of RTC Branch 157 or the court *a quo*.
- Whether the lapse of the original travel period rendered the present case moot.
- Whether RTC Branch 157 or the court *a quo* had acted without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the assailed resolutions. *JR*

⁵⁴ September 21, 2020 Order, Division Docket, Vol III, pp.1003-1011.

⁵⁵ Division Docket, Vol III, pp.1012-1067.

⁵⁶ *Id.*, pp.1068-1113.

⁵⁷ *Id.*, pp.1114-1138.

- Whether petitioner Ressa is entitled to a Temporary Restraining Order and/or Writ of Preliminary Injunction (TRO/WPI).

Arguments of the Petitioners

On the one hand, petitioners argue based on the following grounds:

- The Court has inherent power to issue writs of *certiorari* under Rule 65 over interlocutory orders issued by the courts which fall under its appellate jurisdiction and to receive evidence and provide provisional reliefs consistent with this purpose;⁵⁸
- The issues presented in the petition and the TRO/WPI application are not moot and academic;⁵⁹
- The substantive and formal elements for a petition for *certiorari* under Rule 65 of the Rules of Court are present in this case;⁶⁰ and,
- The respondent should be barred from raising issues or arguments that were already denied in its motion to expunge.⁶¹

Arguments of the Respondents

Respondent People of the Philippines asserts, on the other hand, that:

- Petitioner's right to travel is *not* absolute. It is subject to constitutional, statutory and inherent limitations. As such, criminal charges in court and provisional release on bail are limiting circumstances to petitioner Ressa's right to travel;⁶²
- Furthermore, it was discussed that public respondent did *not* commit grave abuse of discretion in issuing the assailed resolutions denying the August 2020 Motion to Travel considering that petitioner Ressa is a flight risk. She is 

⁵⁸ Memorandum on Jurisdictional Issues, Division Docket, Vol. III, pp. 1117-1122.

⁵⁹ *Id.*, pp. 1122-1127.

⁶⁰ *Id.*, pp. 1127-1129.

⁶¹ *Id.*, pp. 1129-1130.

⁶² Comment/Opposition, Division Docket, Vol. III, pp. 1018-1020.

considered a flight risk in view of her critical opinion on the judicial system, the pending criminal cases against her, her dual citizenship⁶³ and her failure to provide any compelling argument to prove the necessity and urgency of her overseas travel and her in-person attendance as the activities could be accomplished through the use of videoconferencing and other virtual media, which she has done in the past months.⁶⁴ In fact, the Philippines has reimposed the ban on non-essential travels abroad through IATF Resolution No. 57 dated July 21, 2020.⁶⁵

- The denial of the motion does not operate as a prior restraint on her press freedom and neither is it a curtailment of her enjoyment of civil liberties. It was petitioner Ressa's mobility to attend and be physically present in the forums that was limited due to the quarantine but the exercise of her freedoms remains unrestrained and uncensored.⁶⁶
- Finally, the public respondent did not commit grave abuse of discretion because the grant or denial of the permission to travel is within the trial court's jurisdiction and that the error from which petitioners seek relief is not covered by the narrow scope of *certiorari*, which will issue to correct errors of jurisdiction and not errors of judgment.⁶⁷

THE COURT'S RULING

The CTA has certiorari jurisdiction over interlocutory orders issued by the RTC over which it has appellate review.

First, in *Ursal v. Court of Tax Appeals*,⁶⁸ the Supreme Court *En Banc* held that instead of being another superior administrative agency, as was the former Board of Tax Appeals (BTA), the CTA was created by Republic Act No. (RA) 1125 as part of the judicial system, thus: *gr*

⁶³ *Id.*, pp. 1020-1026.

⁶⁴ *Id.*, pp. 1027-1029.

⁶⁵ *Id.*, pp. 1030-1031.

⁶⁶ *Id.*, pp. 1039-1031.

⁶⁷ *Id.*, pp. 1044-1045.

⁶⁸ G.R. Nos. L-10123 and L-10355, April 26, 1957, 101 Phil. 209.

"In these two cases Genaro Ursal as City Assessor of Cebu challenges the correctness of the order of the Court of Tax Appeals dismissing his appeals to that body from two rulings of the Cebu Board of Assessment Appeals.

The record shows that said city assessors in the exercise of his powers assessed for taxation certain real properties of Consuelo Noel and Jesusa Samson in the City of Cebu, and that upon protest of the taxpayers, the Cebu Board of Assessment Appeals reduced the assessments. It also shows he took the matter to the Court of Tax Appeals insisting on his valuation; but said Court refused to entertain the appeal saying it was late, and, besides, the assessor had no personality to bring the matter before it under section 11 of Republic Act No. 1125, which reads as follows:

SEC. 11. *Who may appeal; effect of appeal.* — Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.

We share the view that the assessor had no personality to resort to the Court of Tax Appeals. The rulings of the Board of Assessment Appeals did not 'adversely affect' him. At most it was the City of Cebu¹ that had been adversely affected in the sense that it could not thereafter collect higher realty taxes from the abovementioned property owners. His opinion, it is true had been overruled; but the overruling inflicted no material damage upon him or his office. And the Court of Tax Appeals was not created to decide mere conflicts of opinion between administrative officers or agencies. Imagine an income tax examiner resorting to the Court of Tax Appeals whenever the Collector of Internal Revenue modifies, or lower his assessment on the return of a tax payer!

Republic Act No. 1125 creating the Court of Tax Appeals did not grant it blanket authority to decide any and all tax disputes. Defining such special court's jurisdiction, the Act necessarily limited its authority to those matters enumerated therein. In line with this idea we recently approved said court's order rejecting an appeal to it by Lopez & Sons from the decision of the Collector of Customs, because in our opinion its jurisdiction extended only to a review of the decisions of the *Commissioner* of Customs, as provided by the statute — and not to decisions of the *Collector of Customs*. (*Lopez & Sons vs. The Court of Tax Appeals*, 100 Phil., 850, 53 Off. Gaz., [10] 3065).

The appellant invites attention to the fact that the Court of Appeals is the successor of the former Central Board of Tax Appeals created by Commonwealth Act No. 530 and of the Board of Tax Appeals established by Executive Order No. 401-A, and that said Commonwealth Act No. 530 (section 2) *explicitly authorized the city*

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assessor to appeal to the Central Board of Tax Appeals. Here is precisely another argument against his position: as Republic Act No. 1125 failed to reenact such *express permission*, it is deemed withheld.

Oversight could not have been the clause of such withholding, since there were proper grounds therefor: (a) discipline and command responsibility in the executive branches; and (b) instead of being another superior administrative agency as was the former Board of Tax Appeals the Court of Tax Appeals as created by Republic Act No. 1125 is a part of the judicial system presumably to act only on protests of private persons adversely affected by the tax, custom, or assessment.

There is no merit to the contention that section 2 of Commonwealth Act No. 530 is still in force and justifies Ursal's appeal. Apart from the reasons already advanced, Republic Act No. 1125 is a complete law by itself and expressly enumerates the matters which the Court of Tax Appeals may consider; such enumeration excludes all others by implication. *Expressio unius est exclusio alterius.*

parts of an original act which act omitted from the act as revised are to be considered as annulled and repealed, provided it clearly appears to have been the intention of the legislature to cover the whole subject by the revision. (82 C. J. S. p. 501.)

Inasmuch as we agree to the appellant's lack of personality before the Court of Tax Appeals, we find it unnecessary to review the question whether or not his appeal had been perfected in due time." (*Citations omitted and underscoring supplied*)

Although an appeal to the CTA is manifestly judicial⁶⁹ and the proceedings before it are judicial in nature, the CTA as a court of *special* appellate jurisdiction is *not* bound by technical rules of evidence.⁷⁰ This doctrine is anchored in Section 8 of RA 1125, as amended:

"Section 8. *Court of record; seal; proceedings.* - The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as *fe*

⁶⁹ *Rufino Lopez & Sons v. Court of Tax Appeals*, G.R. No. L-9274, February 1, 1957, 100 Phil. 850.

⁷⁰ Republic Act No. 1125, as amended, Section 8; *Commissioner of Internal Revenue v. Ayala Securities Corporation and The Honorable Court of Tax Appeals*, G.R. No. L-29485, March 31, 1976, 70 SCRA 204.

conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence." (*Underscoring supplied*)

Consistent with this provision, Rule 1 Section 2 of the Revised Rules of the Court of Tax Appeals (RRCTA) expressly provide for the liberal application of the rules⁷¹ and merely the *suppletory* application of the Rules of Court.⁷²

In *AB Leasing and Finance Corporation v. Commissioner of Internal Revenue*,⁷³ the Supreme Court reiterated this doctrine:

"At all events, while the rules of evidence and jurisprudence do not sanction the grant of evidentiary value to evidence which is not formally offered, it must be stressed that technical rules of procedure are not ends in themselves but are primarily designed to help in the administration of justice. Moreover, Section 8 of Republic Act No. 1125 creating the Court of Tax Appeals expressly provides that it shall not be governed strictly by technical rules of evidence." (*Underscoring supplied; citation omitted*)

Second, the CTA's power of judicial review is sanctioned clearly in Section 1, Article VIII of the 1987 Constitution, which reads:

"Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

Third, in 2004, under Republic Act No. (RA) 9282,⁷⁴ the jurisdiction of the CTA was expanded and its rank elevated to the level *je*

⁷¹ "SECTION 2. *Liberal Construction.* — The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court. (RCTA, Rule 1, sec. 2a)"

⁷² "SECTION 3. *Applicability of the Rules of Court.* — The Rules of Court in the Philippines shall apply suppletorily to these Rules."

⁷³ G.R. No. 138342, July 8, 2003.

⁷⁴ AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, effective April 23, 2004.

of a collegiate court with special jurisdiction and possessing *all the inherent powers* of a Court of Justice:

"Section 1. Section 1 of Republic Act No. 1125, as amended is hereby further amended to read as follows:

'SECTION 1. *Court; Justices; Qualifications; Salary; Tenure.* - There is hereby created a Court of Tax Appeals (CTA) which shall be of the same level as the Court of Appeals, possessing all the inherent powers of a Court of Justice, and shall consist of a Presiding Justice and five (5) Associate Justices. The incumbent Presiding Judge and Associate Judges shall continue in office and bear the new titles of Presiding Justice and Associate Justices. The Presiding Justice and the most Senior Associate Justice shall serve as chairmen of the two (2) Divisions. The additional three (3) Justices and succeeding members of the Court shall be appointed by the President upon nomination by the Judicial and Bar Council. The Presiding Justice shall be so designated in his appointment, and the Associate Justices shall have precedence according to the date of their respective appointments, or when the appointments of two (2) or more of them shall bear the same date, according to the order in which their appointments were issued by the President. They shall have the same qualifications, rank, category, salary, emoluments and other privileges, be subject to the same inhibitions and disqualifications, and enjoy the same retirement and other benefits as those provided for under existing laws for the Presiding Justice and Associate Justices of the Court of Appeals.

Whenever the salaries of the Presiding Justice and the Associate Justices of the Court of Appeals are increased, such increases in salaries shall be deemed correspondingly extended to and enjoyed by the Presiding Justice and Associate Justices of the CTA.

The Presiding Justice and Associate Justices shall hold office during good behavior, until they reach the age of seventy (70), or become incapacitated to discharge the duties of their office, unless sooner removed for the same causes and in the same manner provided by law for members of the judiciary of equivalent rank.'" (*Underscoring supplied*) ✕

Fourth, in the case of *The City of Manila, et al. v. Hon. Caridad H. Grecia-Cuerdo, et al.* penned by Chief Justice Peralta,⁷⁵ the Supreme Court *En Banc* explicitly recognized the *inherent* power of the CTA to issue writs of *certiorari* under Rule 65, in aid of its appellate jurisdiction:

“Having disposed of the procedural aspect, we now turn to the central issue in this case. The basic question posed before this Court is whether or not the CTA has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local tax case.”

This Court rules in the affirmative.

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A perusal of the above provisions would show that, while it is clearly stated that the CTA has exclusive appellate jurisdiction over 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, there is no categorical statement under RA 1125 as well as the amendatory RA 9282, which provides that the CTA has jurisdiction over petitions for *certiorari* assailing interlocutory orders issued by the RTC in local tax cases filed before it.

The prevailing doctrine is that the authority to issue writs of *certiorari* involves the exercise of original jurisdiction which must be expressly conferred by the Constitution or by law and cannot be implied from the mere existence of appellate jurisdiction. xxx.

In the same manner, Section 5 (1), Article VIII of the 1987 Constitution grants power to the Supreme Court, in the exercise of its original jurisdiction, to issue writs of *certiorari*, prohibition and *mandamus*. With respect to the Court of Appeals, Section 9 (1) of Batas Pambansa Blg. 129 (BP 129) gives the appellate court, also in the exercise of its original jurisdiction, the power to issue, among others, a writ of *certiorari*, whether or not in aid of its appellate jurisdiction. As to Regional Trial Courts, the power to issue a writ of *certiorari*, in the exercise of their original jurisdiction, is provided under Section 21 of BP 129.

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and **to determine** *ke*

⁷⁵ G.R. No. 175723, February 04, 2014, Supreme Court *En Banc*.

whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.

Indeed, in order for any appellate court to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that 'if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction.' This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that 'a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.' The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

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 the ruling of the CA that since appellate jurisdiction over private respondents'

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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.

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process." (*Underscoring supplied; citations omitted; emphasis in the original*)

To repeat, the CTA possesses *certiorari* jurisdiction under Rule 65 of the Rules of Court over interlocutory orders issued by the RTC over which it has appellate review. *Re*

Finally, once a court is conferred jurisdiction, it has the inherent powers⁷⁶ as well as all the auxiliary writs, processes and other means necessary which it may employ to carry such jurisdiction into effect.⁷⁷ Accordingly, the Court can hear the case,⁷⁸ compel the attendance of persons to testify,⁷⁹ and, in the process, receive evidence⁸⁰ in the exercise of its jurisdiction to determine if the allegations of the petition are true.⁸¹

The issue on the travel from August 23, 2020 to September 10, 2020 travel has become moot

Petitioner originally planned to leave the country from August 1 to August 30, 2020 but moved the dates to August 23, 2020 until September 10, 2020.⁸²

The respondents claim, however, that petitioner's cause of action in the petition is anchored on the alleged grave abuse of discretion amounting to lack or excess of jurisdiction in denying the August 2020 Motion to Travel. Thus, the Court's jurisdiction is limited to the determination of issues relevant to the denial of the August 2020 motion and the determination of whether petitioner is entitled to the issuance of a writ of TRO and/or WPI.⁸³

Well-entrenched is the rule that where the issues have become moot and academic, there is *no* justiciable controversy, thereby rendering the resolution of the same of no practical use or value.⁸⁴

To be clear, "an actual case or controversy involves a conflict of legal right, an opposite legal claim susceptible of judicial resolution. It is definite and concrete, touching the legal relations of parties having adverse legal interest; a real and substantial controversy admitting of specific relief." When the issues have been resolved or when the circumstances from which the legal controversy arose no longer exist, the case is rendered moot and academic. "A moot and academic case is one that ceases to present a justiciable controversy by virtue of 

⁷⁶ Section 5, Rule 135, Rules of Court.

⁷⁷ Section 6, Rule 135, Rules of Court.

⁷⁸ Section 8, Rule 65, Rules of Court.

⁷⁹ Section 5(e), Rule 135, Rules of Court.

⁸⁰ Section 10, RA 1125 as amended by RA 9282 and 9503.

⁸¹ Section 8, Rule 65, Rules of Court.

⁸² Pars. 6.22.4 and 6.28, Petition for *Certiorari*, Division Docket, Vol. II, pp. 397, 400 and 415.

⁸³ Memorandum, Division Docket, Vol. III, p. 1080.

⁸⁴ *The City of Manila, et al. v. Hon. Caridad H. Grecia-Cuerdo, et al.*, G.R. No. 175723, February 04, 2014, Supreme Court *En Banc*.

supervening events, so that a declaration thereon would be of no practical use or value.”⁸⁵

There is an actual case or controversy when the case is appropriate or ripe for determination, not conjectural or *anticipatory*, lest the decision of the court would amount to an advisory opinion.⁸⁶

Clearly, on October 19, 2020, the date of the filing of the *last* pleading in this case, the necessity of travel alleged in the petition has already lapsed. The issue has, therefore, become moot.

***The right to travel is
guaranteed by the
Constitution and may be
limited only by law***

First, the right to travel is guaranteed by the Constitution and may be limited only by law. The text of Section 6, Article III is plain:

“ARTICLE III

BILL OF RIGHTS

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Section 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.”

In the recent consolidated cases of *Efraim C. Genuino, et al. v. Hon. Leila M. de Lima, et al.*,⁸⁷ the Supreme Court *En Banc* discussed the breadth of this Constitutional guarantee and its limitations: *je*

⁸⁵ Consolidated cases of *Efraim C. Genuino, et al. v. Hon. Leila M. de Lima, et al.*, G.R. Nos. 197930, 199034 and 199046, April 17, 2018, Supreme Court *En Banc*.

⁸⁶ Consolidated cases of *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, G.R. Nos. 178552, 178554, 178581, 178890, 179157 and 179461 October 5, 2010, Supreme Court *En Banc*.

⁸⁷ G.R. Nos. 197930, 199034 and 199046, April 17, 2018, Supreme Court *En Banc*.

"The right to travel and its limitations"

The right to travel is part of the 'liberty' of which a citizen cannot be deprived without due process of law. It is part and parcel of the guarantee of freedom of movement that the Constitution affords its citizen. Pertinently, Section 6, Article III of the Constitution provides:

Section 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety or public health, as maybe provided by law.

Liberty under the foregoing clause includes the right to choose one's residence, to leave it whenever he pleases and to travel wherever he wills. Thus, in *Zacarias Villavicencio vs. Justo Lucban*, the Court held illegal the action of the Mayor of Manila in expelling women who were known prostitutes and sending them to Davao in order to eradicate vices and immoral activities proliferated by the said subjects. It was held that regardless of the mayor's laudable intentions, no person may compel another to change his residence without being expressly authorized by law or regulation.

It is apparent, however, that the right to travel is not absolute. There are constitutional, statutory and inherent limitations regulating the right to travel. Section 6 itself provides that the right to travel may be impaired only in the interest of national security, public safety or public health, as may be provided by law. In *Silverio vs. Court of Appeals*, the Court elucidated, thus:

Article III, Section 6 of the 1987 Constitution should be interpreted to mean that while the liberty of travel may be impaired even without Court Order, the appropriate executive officers or administrative authorities are not armed with arbitrary discretion to impose limitations. They can impose limits only on the basis of '**national security, public safety, or public health**' and '**as may be provided by law**,' a limitive phrase which did not appear in the 1973 text (The Constitution, Bernas, Joaquin G., S.J., Vol. I, First Edition, 1987, p. 263). Apparently, the phraseology in the 1987 Constitution was a reaction to the ban on international travel imposed under the previous regime when there was a Travel Processing Center, which issued certificates of eligibility to travel upon application of an interested party. (Emphasis ours)

Clearly, under the provision, there are only three considerations that may permit a restriction on the right to travel: national security, public safety or public health. As a further requirement, there must be an explicit provision of statutory law or *gc*

the Rules of Court providing for the impairment. The requirement for a legislative enactment was purposely added to prevent inordinate restraints on the person's right to travel by administrative officials who may be tempted to wield authority under the guise of national security, public safety or public health. This is in keeping with the principle that ours is a government of laws and not of men and also with the canon that provisions of law limiting the enjoyment of liberty should be construed against the government and in favor of the individual.

The necessity of a law before a curtailment in the freedom of movement may be permitted is apparent in the deliberations of the members of the Constitutional Commission. In particular, Fr. Joaquin Bernas, in his sponsorship speech, stated thus:

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It is clear from the foregoing that the liberty of abode may only be impaired by a lawful order of the court and, on the one hand, the right to travel may only be impaired by a law that concerns national security, public safety or public health. Therefore, when the exigencies of times call for a limitation on the right to travel, the Congress must respond to the need by explicitly providing for the restriction in a law. This is in deference to the primacy of the right to travel, being a constitutionally-protected right and not simply a statutory right, that it can only be curtailed by a legislative enactment.

Thus, in *Philippine Association of Service Exporters, Inc. vs. Hon. Franklin M. Drilon*, the Court upheld the validity of the Department Order No. 1, Series of 1988, issued by the Department of Labor and Employment, which temporarily suspended the deployment of domestic and household workers abroad. The measure was taken in response to escalating number of female workers abroad who were subjected to exploitative working conditions, with some even reported physical and personal abuse. The Court held that Department Order No. 1 is a valid implementation of the Labor Code, particularly, the policy to "afford protection to labor." Public safety considerations justified the restraint on the right to travel.

Further, in *Leave Division, Office of the Administrative Services (OAS) - Office of the Court Administrator (OCA) vs. Wilma Salvacion P. Heusdens*, the Court enumerated the statutes which specifically provide for the impairment of the right to travel, viz.:

Some of these statutory limitations [to the right to travel] are the following:

1] *The Human Security Act of 2010 or (R.A.) No. 9372.*
The law restricts the right to travel of an individual charged with the crime of terrorism even though such person is out on bail. *gr*

2] *The Philippine Passport Act of 1996 or R.A. No. 8239.* Pursuant to said law, the Secretary of Foreign Affairs or his authorized consular officer may refuse the issuance of, restrict the use of, or withdraw, a passport of a Filipino citizen.

3] The '*Anti- Trafficking in Persons Act of 2003*' or *R.A. No. 9208.* Pursuant to the provisions thereof, the [BI], in order to manage migration and curb trafficking in persons, issued Memorandum Order No. 2011-011, allowing its Travel Control and Enforcement Unit to 'offload passengers with fraudulent travel documents, doubtful purpose of travel, including possible victims of human trafficking' from our ports.

4] *The Migrant Workers and Overseas Filipinos Act of 1995 or R. A. No. 8042,* as amended by *R.A. No. 10022.* In enforcement of said law, the Philippine Overseas Employment Administration (POEA) may refuse to issue deployment permit to a specific country that effectively prevents our migrant workers to enter such country.

5] *The Act on Violence against Women and Children or R.A. No. 9262.* The law restricts movement of an individual against whom the protection order is intended.

6] *Inter-Country Adoption Act of 1995 or R.A. No. 8043.* Pursuant thereto, the Inter-Country Adoption Board may issue rules restrictive of an adoptee's right to travel 'to protect the Filipino child from abuse, exploitation, trafficking and/or sale or any other practice in connection with adoption which is harmful, detrimental, or prejudicial to the child.'

In any case, when there is a dilemma between an individual claiming the exercise of a constitutional right vis-à-vis the state's assertion of authority to restrict the same, any doubt must, at all times, be resolved in favor of the free exercise of the right, absent any explicit provision of law to the contrary." (*Underscoring supplied and citations omitted*)

Second, as mandated by the Constitution, there are actually two laws enacted to address the pandemic by authorizing restrictions on travels inside and outside the country. As discussed, these laws have empowered the state to enforce community quarantine as a public health measure to contain or, at the very least, manage the pandemic, thus: 

1. On March 24, 2020, RA 11469 or the "Bayanihan to Heal As One Act" was passed, which declared a state of national emergency due to COVID-19.⁸⁸ The law authorized the President "to exercise powers that are necessary and proper to carry out the declared national policy" and "to adopt temporary emergency measures to respond to crisis brought by the pandemic". Specifically, it gave the powers to:

- Ensure that all Local Government Units (LGUs) are "implementing standards of Community Quarantine consistent with what the National Government has laid down for the subject area, while allowing LGUs to continue exercising their autonomy on matters undefined by the National Government or are within the parameters it has set";⁸⁹
- Regulate and limit the operation of all sectors of transportation through land, sea or air, whether private or public;⁹⁰ and,
- Regulate traffic on all roads, streets, and bridges, and access, among others.⁹¹

2. On September 11, 2020, RA 11494 or "Bayanihan to Recover as One Act" was also signed into law which affirmed the existence of a continuing national emergency and the unabated spread of COVID-19 and the ensuing economic disruption.⁹² It extended the emergency powers previously granted to the President to respond to the pandemic until December 19, 2020.⁹³ Specifically, the law reiterated the powers necessary to implement the COVID-19 response and recovery interventions, such as the powers to:

- Ensure that all LGUs are implementing standards of community quarantine consistent with what the National Government has laid down for the subject area, while 

⁸⁸ An Act Declaring the Existence of National Emergency Arising from the Coronavirus Disease 2019 (COVID-19) Situation and a National Policy in connection therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Restrictions, to Exercise Powers Necessary and Proper to Carry Out the Declared National Policy and for Other Purposes; see Section 2.

⁸⁹ Section 4(g), RA 11469.

⁹⁰ Section 4(r), RA 11469.

⁹¹ Section 4(s), RA 11469.

⁹² An Act Providing for COVID-19 Response and Recovery Interventions and Providing Mechanisms to Accelerate the Recovery and Bolster the Resiliency of the Philippine Economy, Providing Funds Therefor, and for Other Purposes; see Section 2.

⁹³ Section 18, RA 11494.

allowing LGUs to continue exercising their autonomy on matters undefined by the National Government or are within the parameters it has set” and “pursuant to the constitutional right of freedom of movement of persons,” the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID) is given the responsibility for providing guidance on cross-border concerns, including, but not limited to, Locally Stranded Individuals (LSIs), Overseas Filipino Workers (OFWs), domestic travelers and residents, while the LGUs shall determine the policies and regulations within their respective jurisdiction;⁹⁴

- Regulate and limit the operation of all sectors of transportation through land, sea or air, whether private or public;⁹⁵ and,
- Regulate traffic on all roads, streets, and bridges, and access, among others.⁹⁶

Finally, the validity of these laws is not at issue in this case. It has been ruled time and again that the constitutionality or validity of laws, orders, or such other rules with the force of law cannot be attacked collaterally. There is a legal presumption of validity of these laws and rules. Unless a law or rule is annulled in a direct proceeding, the legal presumption of its validity stands.⁹⁷

There is absence of a clear case of grave abuse of discretion amounting to lack or excess of jurisdiction in the issuance of the assailed resolutions

The denial of the August 2020 Motion to Travel is *not* unfounded.

First, records show that the criminal case was commenced when the information was filed in RTC Branch 157 on November 14, 2018.⁹⁸ The arraignment, originally set on December 7, 2018⁹⁹ was eventually held on July 22, 2020,¹⁰⁰ This occurred after an interval of more than *je*

⁹⁴ Section 4(p), RA 11494.

⁹⁵ Section 4(kk), RA 11494.

⁹⁶ Section 4(ll), RA 11494.

⁹⁷ *Andrea Tan et al. v. Bausch & Lomb, Inc.*, G.R. No. 148420. December 15, 2005.

⁹⁸ Annex C, Petition for *Certiorari*, Division Docket, Vol. II, pp. 437-439.

⁹⁹ December 3, 2018 Order, Annex D, *Id.*, p. 440.

¹⁰⁰ Par. 6.19, Petition for *Certiorari*, *Id.*, pp. 375.

a year, from December 2018 until March 2020, when petitioner Ressa was allowed to go abroad to attend several professional engagements as a journalist.¹⁰¹

However, in March 2020, circumstances have drastically changed.

The circumstances that were prevailing *before* the pandemic when the petitioner was granted leave to travel are no longer true. These circumstances directly bear upon the issue of whether the petitioner can *physically* return to the Philippines to continue her trial if she goes abroad. The Court takes judicial notice of the pandemic spreading throughout the world, which the Philippine government has addressed by declaring a public health emergency¹⁰² and by imposing community quarantines that restricted land, sea and air travels, here and outside our borders.¹⁰³ Most countries in the world have also enforced similar preventive measures to contain the pandemic.¹⁰⁴

Precisely, the assailed resolutions named as a reason for the denial the trial court's *concern* that these travel restrictions all over the world may consequently deprive it of the effective exercise of jurisdiction over the person of the accused.¹⁰⁵

The Court notes that these observations are firmly grounded *on the facts* that are still current and *on the laws* that were passed to address them. As previously discussed, there are two laws that explicitly authorize restrictions on travels:

1. Republic Act No. (RA) 11469 or the "Bayanihan to Heal As One Act" was enacted which declared a state of national emergency due to COVID-19;¹⁰⁶ and,
2. RA 11494 or "Bayanihan to Recover as One Act" which affirmed the existence of a continuing national emergency and the unabated spread of COVID-19 and the ensuing *je*

¹⁰¹ Petition for *Certiorari*, Division Docket, Vol. II, pp. 390-393.

¹⁰² Proclamation No. 922 dated March 8, 2020.

¹⁰³ Section 7, Memorandum from the Executive Secretary, March 16, 2020.

¹⁰⁴ Timeline of COVID-19 from ThinkGlobalHealth website, last accessed on November 6, 2020: <https://www.thinkglobalhealth.org/article/updated-timeline-coronavirus>; Timeline of COVID-19 from The New York Times website, last accessed on November 6, 2020: <https://www.nytimes.com/article/coronavirus-timeline.html>.

¹⁰⁵ Annex A, Petition for *Certiorari*, Division Docket, Vol. II, pp. 432-433.

¹⁰⁶ An Act Declaring the Existence of National Emergency Arising from the Coronavirus Disease 2019 (COVID-19) Situation and a National Policy in connection therewith, and Authorizing the President of the Republic of the Philippines for a Limited Period and Subject to Restrictions, to Exercise Powers Necessary and Proper to Carry Out the Declared National Policy and for Other Purposes; see Section 2.

economic disruption.¹⁰⁷ The law extended the emergency powers previously granted to the President until December 19, 2020.¹⁰⁸

*Second, Ricardo C. Silverio v. The Court of Appeals, et al.*¹⁰⁹ is in point when the Supreme Court acknowledged the inherent powers of the RTC to enforce its jurisdiction.

In *Silverio*, the petitioner was charged with a violation of the Revised Securities Act. The petitioner assailed the order issued by the RTC which directed the Department of Foreign Affairs to cancel his passport; and, then Commission on Immigration to prevent him from leaving the Philippines. The petitioner further argued that the RTC could not validly impair his right to travel on the basis of grounds other than national security, public safety and public health. Resolving the issue, the Supreme Court held that Section 6, Article III should *not* be construed to limit the inherent power of the courts to use all means necessary to carry their orders into effect, thus:

"Article III, Section 6 of the 1987 Constitution should by no means be construed as delimiting the inherent power of the Courts to use all means necessary to carry their orders into effect in criminal cases pending before them. When by law jurisdiction is conferred on a Court or judicial officer, all auxillary writs, process and other means necessary to carry it into effect may be employed by such Court or officer (Rule 135, Section 6, Rules of Court).

Petitioner's argument that the ruling in *Manotoc, Jr., v. Court of Appeals, et al. (supra)*, to the effect that the condition imposed upon an accused admitted to bail to make himself available at all times whenever the Court requires his presence operates as a valid restriction on the right to travel no longer holds under the 1987 Constitution, is far from tenable. The nature and function of a bail bond has remained unchanged whether under the 1935, the 1973, or the 1987 Constitution. Besides, the *Manotoc* ruling on that point was but a re-affirmation of that laid down long before in *People v. Uy Tusing*, 61 Phil. 404 (1935).

Petitioner is facing a criminal charge. He has posted bail but has violated the conditions thereof by failing to appear before the Court when required. Warrants for his arrest have been issued. Those orders and processes would be rendered nugatory if an accused were to be allowed to leave or to remain, at his pleasure, 

¹⁰⁷ An Act Providing for COVID-19 Response and Recovery Interventions and Providing Mechanisms to Accelerate the Recovery and Bolster the Resiliency of the Philippine Economy, Providing Funds Therefor, and for Other Purposes; see Section 2.

¹⁰⁸ Section 18, RA 11494.

¹⁰⁹ G.R. No. 94284, April 8, 1991.

outside the territorial confines of the country. Holding an accused in a criminal case within the reach of the Courts by preventing his departure from the Philippines must be considered as a valid restriction on his right to travel so that he may be dealt with in accordance with law. The offended party in any criminal proceeding is the People of the Philippines. It is to their best interest that criminal prosecutions should run their course and proceed to finality without undue delay, with an accused holding himself amenable at all times to Court Orders and processes." (*Underscoring supplied*)

Third, under Rule 65, the Court is given the power of judicial review to annul or modify the proceedings of a tribunal that has acted without or in excess of its 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.¹¹⁰

The Court finds that petitioners *failed* to establish that the RTC Branch 157 committed grave abuse of discretion amounting to lack or excess of jurisdiction.

In *Yu v. Judge Reyes-Carpio*,¹¹¹ the Supreme Court defined the meaning of the phrase "grave abuse of discretion":

"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 of 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. But this is not the case here." (*Citations omitted*)

Grave abuse of discretion implies a capricious and whimsical exercise of judgment tantamount to lack of jurisdiction. The court *ask*

¹¹⁰ Section 1, Rule 65, Rules of Court.

¹¹¹ G.R. No. 189207, June 15, 2011.

quo's exercise of power must have been done in an arbitrary or despotic manner which must be so patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform the duty enjoined or to act at all in contemplation of law. The Court has reviewed the assailed resolutions and finds the same to be anchored on both facts and law. The Court, therefore, discerns *no* clear case of abuse of discretion on the part of the court *a quo*.

Finally, the Court agrees with the assessment that the petitioner filed the petition under Rule 65 to remedy a perceived *error of judgement*, which is not covered by the rule.

An *error of judgment* is one which the court may commit in the exercise of its jurisdiction. An *error of jurisdiction* is one where the act complained of was issued by the court without or in excess of jurisdiction, or with grave abuse of discretion, which is tantamount to lack or in excess of jurisdiction and which error is correctible only by the extraordinary writ of *certiorari*. *Certiorari* will not be issued to cure errors of the trial court in its appreciation of the evidence of the parties, or its conclusions anchored on the said findings and its conclusions of law.¹¹²

Nonetheless, the tenor of the assailed resolutions must be construed in the light of the Constitutional freedom that is at stake

Petitioner Ressa testified that the assailed resolutions directly threaten her right to travel. Specifically, petitioners view that the resolutions were intended to enforce her presence in court, *not* only during the intended travel period but also during "the entire duration of time that the case is still pending".¹¹³

Respondents differ from this interpretation. They state that the Second Assailed Resolution is "not a blanket denial of all future motions to travel" as the dispositive portions of the assailed resolutions refer only to the denial of the August 2020 Motion to Travel.¹¹⁴

The Court agrees with the respondents. *je*

¹¹² *Milagros Manotok Dormido v. Office of the Ombudsman et al.*, G.R. No. 198241, February 24, 2020.

¹¹³ Judicial Affidavit of Maria A. Ressa, Division Docket, Vol. III, pp. 745-746; August 5, 2020 Resolution, Annex B, Petition for *Certiorari*, Division Docket, Vol II, p. 435.

¹¹⁴ Comment / Opposition, Division Docket, Vol. III, pp. 1034-1035.

First, there is no basis to conclude that the assailed resolutions have *foreclosed* the possibility of petitioner Ressa's future travels while her criminal case is pending.

It is worth noting that the assailed resolutions were limited narrowly enough to a specific travel period because of the exigencies caused by the pandemic. More importantly, the dispositive portions of the assailed resolutions distinctly refer *only* to the denial of the August 2020 Motion to Travel, which asked for reliefs specific to the August 1 to August 30, 2020 travel period.

Therefore, the court *a quo's* assailed resolutions cannot reasonably be construed as prohibiting or restraining all upcoming travels of petitioner Ressa.

Second, the anticipation of a *future* harm is not equivalent to a direct injury or impairment. Until there is a specific act subject of the Court's review, there is no justiciable controversy which it can adjudicate.

The existence of an actual case or controversy is a condition precedent for the court's exercise of its power of adjudication. An actual case or controversy exists when there is a conflict of legal rights or an assertion of opposite legal claims between the parties that is susceptible or ripe for judicial resolution. In negative terms, a justiciable controversy must neither be conjectural nor moot and academic. There must be a definite and concrete dispute touching on the legal relations of the parties who have adverse legal interests. The reason is that the issue ceases to be justiciable when a controversy becomes moot and academic; otherwise, the court would engage in rendering an advisory opinion on what the law would be upon a hypothetical state of facts.¹¹⁵

Third, the right to travel, it has been held, may be regulated. However, to withhold permission to travel throughout the duration of the trial or the case is certainly *excessive*. Therefore, the trial court's prudence may be called again if, upon motion, permission is asked to attend forthcoming engagements outside the country. In such cases, the appropriate resolution will depend upon the trial court's assessment of the evolving situation. The assessment should, however, be tempered by the nature of the right that is being regulated bearing in mind that "any doubt must, at all times, be resolved in favor

¹¹⁵ *Young An Cho et al. v. Young Joo Lee*, G.R. No. 224121. October 2, 2019.

of the free exercise of the right, absent any explicit provision of law to the contrary".¹¹⁶

All told, the assailed resolutions were issued *without prejudice* to the filing of *other* motions to travel as needed by petitioner Ressa. In other words, the court *a quo* retains the discretion to permit travels abroad and adopt a conclusion different from that of the assailed resolutions based on the following considerations:

1. Notwithstanding the possibility that the physical presence of the accused in court may be prevented, no less than the Constitution has recognized that "after arraignment, trial may proceed *notwithstanding the absence of the accused* provided that he has been duly notified and his failure to appear is unjustifiable."¹¹⁷

Petitioner Ressa has already submitted herself to the trial court's jurisdiction when she surrendered and posted bail,¹¹⁸ filed the motions to travel, which were subsequently granted, and entered her plea in the arraignment.¹¹⁹ Consequently, based in the Court's own reading of the assailed resolutions, the concern that about the reach of the trial court's jurisdiction is *overplayed* especially when viewed against her Constitutionally-guaranteed freedom.

2. In relation to the first point, the trial of the case can very well proceed through videoconference given the exigencies of the pandemic. For this purpose, the Supreme Court has, in fact, issued Administrative Circular No. 39-2020 dated May 14, 2020.

Also, in the Office of the Court Administrator (OCA) Circular No. 161-2020 dated September 24, 2020, it is stated that "upon the approval of Chief Justice Diosdado M. Peralta, all other first and second level courts not yet authorized to conduct videoconferencing are hereby now authorized to do so, on all matters pending before them, in both criminal and civil cases, regardless of the stage of the trial, in accordance with existing circulars and guidelines." 

¹¹⁶ Consolidated cases of *Efraim C. Genuino, et al. v. Hon. Leila M. de Lima, et al.*, G.R. No. 197930, 199034 and 199046, April 17, 2018, Supreme Court *En Banc*.

¹¹⁷ Section 14(2), Article III of the 1987 Constitution; Italicization supplied.

¹¹⁸ December 3, 2018 Order, Annex D, Petition for *Certiorari*, Division Docket, Vol. II, p. 440.

¹¹⁹ Par. 6.19, Petition for *Certiorari*, *Id.*, pp. 395.

Accordingly, in the event that petitioner Ressa may still be abroad and, thus, unable to *physically* appear in court, trial in a virtual hearing will still be possible. Modern communications technology is at the service of the parties to enable petitioner Ressa to submit to the trial court's jurisdiction whenever so required.

3. Even with the conviction of petitioner Ressa in the Cyber Libel case,¹²⁰ she is still free to travel.

In *Jesusito D. Legaspi v. People of the Philippines*,¹²¹ the Supreme Court allowed an accused, a private citizen engaged in construction business who was found guilty by the Sandiganbayan of violating Section 3(3) of Republic Act No. 3019, to travel with his wife and children to the United States from December 19, 2018 to January 21, 2019, thus:

"The petitioner filed a motion to travel abroad dated November 19, 2018 to seek permission to travel to the United States of America (USA) with his family via Korean Airlines in the period from December 19, 2018 to January 21, 2019. He avers that he had been allowed in previous years to travel abroad with his wife and their children to strengthen their family bond and make them closer to each other. He manifests that he and his family intend to depart from the Philippines on December 19, 2017 and enter the USA through the McCarran International Airport in Las Vegas, Nevada; they will stay at the Venetian Hotel, with address at 3355 Las Vegas Boulevard South, Las Vegas Nevada 89109, and contact numbers 1-702-4141000 and 1-877-8836423; and that the family will return to the Philippines from said place and arrive in the country on January 21, 2019. He attaches his E-Ticket for the trip (Annex A of the motion).

The petitioner reiterates that he was previously allowed to travel to the USA with his family in the past years; that in all that time he demonstrated that he was not a flight risk by returning promptly each time, often ahead of the scheduled return; and that he always complied with all the conditions prescribed for the travels.

Further, the petitioner impresses that he has every reason to return to the country to directly attend to his business, particularly to complete several &

¹²⁰ Section 4(c)(4), RA 10175, Manila RTC-Branch 46.

¹²¹ G.R. No. 220587, December 5, 2018, Resolution.

pending construction projects in the country; that his company, J.D. Legaspi Construction, is a sole proprietorship that primarily depends on his construction business; that he will not also jeopardize the welfare of his family and his employees who have been dependent on him for their livelihood; and that he has been among the top 15 tax-paying contractors in the country.

The petitioner represents that he has not yet withdrawn the travel bond of P500,000.00 deposited with this Court in connection with his previous authorized travels. He requests that should the Court grant his motion to travel said cash deposit can be considered as his bond to be subject of the condition that he would strictly comply with whatever terms and conditions the Court will prescribe for the travel proposed herein. He also designated Atty. Julieanne R. Jorge-Santos to be his personal agent during his travel to the USA. He attaches the Special Power of Attorney in this regard with the express acceptance of the designate (Annex "C" of the Motion).

In the resolution of June 6, 2016,[1] whereby the Court first authorized the foreign travel of the petitioner, the Court noted that he and several of his co-accused had been found guilty by the Sandiganbayan of violating Section 3(3) of Republic Act No. 3019 under the decision promulgated on February 5, 2015, and meted the indeterminate sentence of six years and one month of imprisonment, as the minimum, to eight years of imprisonment, as the maximum; that the Sandiganbayan had convicted him of conspiring with co-accused Manuel Berina, Jr. and Jaime Millan in having the Seaside Drive Extension contract awarded to him based on an affidavit he had executed; that he sincerely believed in the justness of his appeal because the affidavit did not support his conviction, firstly, because the State had not offered the affidavit as evidence during the trial, and, secondly, because the affidavit, which concerned the Bay Boulevard contract, was absolutely irrelevant to the Seaside Drive Extension contract to which his conviction related.

The Court observed in the same resolution of June 6, 2016 that the Sandiganbayan had allowed the petitioner and some of his co-accused to travel abroad during their protracted trial that took all of 13 years; and that all who had been allowed to travel abroad had complied with all the conditions strictly prescribed by the Sandiganbayan. *gc*

After a judicious review of the petitioner's motion to travel and the accompanying documents, the Court RESOLVES to grant the request of the petitioner to travel to the USA with his family in the inclusive period from December 19, 2018 to January 21, 2019 subject to the following conditions, namely:

His existing cash deposit of P500,000.00 shall constitute his travel bond, conditioned upon his compliance with all the conditions herein prescribed, and shall be in addition to the existing bail justifying his provisional liberty;

He shall submit a detailed flight and travel itinerary; and,

He shall forthwith give written advice to the Court within 24 hours from his return to the country."

Thus, petitioner's conviction in the Cyber Libel case *alone* is not sufficient justification for the court *a quo* to prevent her from attending to her professional engagements outside the country.

4. Finally, the travel restrictions are temporary and flexible and, thus, may also ease up. This reality will allay any concerns that lockdowns will prevent petitioner Ressa from ever coming back and place her permanently beyond the reach of the trial court.

WHEREFORE, in light of the foregoing, the petition is **DENIED** for lack of merit. The assailed resolutions are hereby **AFFIRMED**, without prejudice to the filing of other motions to travel with the court *a quo*.

SO ORDERED.

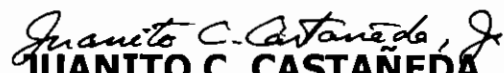

JUANITO C. CASTANEDA, JR.
Associate Justice

I CONCUR:


JEAN MARIE A. BACORRO-VILLENA
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.


JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

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