

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

SECOND DIVISION

**ANESY HOLDINGS
CORPORATION,**

Petitioner,

CTA CASE NO. 9681

Members:

- versus -

CASTAÑEDA, JR., Chairperson,
MINDARO-GRULLA, and
BACORRO-VILLENA, JJ.

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

DEC 02 2019

10:35 AM 

X- - - - -X

RESOLUTION

For resolution of the Court is petitioner's **Motion to Dismiss** filed on August 5, 2019, *sans* respondent's comment.

In its motion, petitioner manifests that it considers pursuing its contract of sale with the City Government of Cebu. Thus, it opted to file the present Motion to Dismiss in order to enforce the subject contract.

Section 2, Rule 17 of the Revised Rules of Court provides:

"Section 2. Dismissal upon motion of plaintiff. — Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of

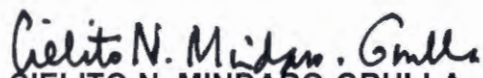
the plaintiffs motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his counterclaim resolved in the same action. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court."

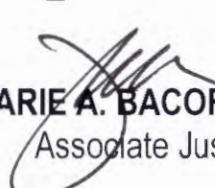
Here, considering that no prejudice could be had should the Court grant the instant motion, and further considering that respondent opted not to oppose the same, the Court finds that the grant of the Motion to Dismiss is in order.

WHEREFORE, petitioner's Motion to Dismiss is **GRANTED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice