

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ROGELIO A. TAN,
Petitioner, C.T.A. EB CRIM. NO. 022
(C.T.A. Crim. Case Nos. O-064
and O-065)

-versus -

PEOPLE OF THE PHILIPPINES ,
Respondent.

X - - - - -X

PEOPLE OF THE PHILIPPINES ,
Petitioner, C.T.A. EB CRIM. NOS. 023
(C.T.A. Crim. Case Nos. O-064
and O-065)

Present:

-versus -

DEL ROSARIO, PJ
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, JJ.

Promulgated:

ROGELIO A. TAN,
Respondent.

MAY 28 2015

[Signature] 3:14 p.m.

X - - - - -X

RESOLUTION

Fabon-Victorino, J.:

For consideration are the following:

[Signature]

1. Accused' *Motion for Reconsideration*¹ filed on December 22, 2014, to which the Prosecution filed its *Comment*² on March 19, 2015; and
2. Prosecution's *Motion for Reconsideration*³ filed on January 8, 2015, to which accused registered an opposition on March 27, 2015.

Both accused and the prosecution assail the CTA *En Banc* Decision⁴ promulgated on November 18, 2014, the dispositive portion of which reads:

WHEREFORE, both Petitions for Review, docketed as C.T.A. EB Crim. Nos. 022 and 023, are hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated June 27, 2012 and the Resolution dated November 7, 2012 are hereby **AFFIRMED**.

SO ORDERED.

In impugning the ruling of the Court *En Banc*, accused invokes the doctrine laid down in *Pleyto vs. Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG)*⁵ saying "[t]hat a judge should detach himself from cases where his decision is appealed to a higher court for review", and that the participation of the members⁶ of the Court in Division whose decision was the subject of the appeal, rendered the assailed Decision infirm.

Accused also finds his conviction erroneous as sustained by the Court *En Banc* insisting that the evidence presented during the trial of the cases failed to prove his participation in commission of the offense charged.

On the other hand, the prosecution, in praying for a partial reversal of the assailed Decision, maintains that the

¹ *En Banc* docket, pp. 325-338.

² *Id.*, pp. 351-357.

³ *Id.*, pp. 339-345.

⁴ *Id.*, pp.283-306.

⁵ 538 SCRA 534, 549.

⁶ Associate Justices Lovell R. Bautista and Amelia R. Cotangco-Manalastas.

✓

"estimates and computation" of the Revenue Officers were made under the authority of the Commissioner of Internal Revenue (CIR) as evidenced by the Letter of Authority (LOA) No. 2000 00086177⁷ dated February 28, 2006. The fact that the said "estimates and computation" were endorsed⁸ by no less than Commissioner Jose Mario C. Buñag himself to the Secretary of Justice indubitably shows his approval and final determination of the civil liability of accused.

A long and hard look at the record of the cases and meticulous evaluation of the arguments proffered by the parties in their respective motions for reconsideration reveal that all the arguments raised by the parties in their respective *motions* have already been thoroughly addressed and passed upon by the Court *En Banc* in the assailed Decision of November 18, 2014 except for accused' contention that the assailed Decision is infirm due to the participation of the members of the Third Division whose Decision is now the subject of appeal. To discuss them anew is to waste the time and dwindling resources of the Court.

Anent accused's contention that the participation of the members of the Third Division in the determination of the instant cases rendered the assailed Decision infirm, suffice it to say that accused' reliance in the doctrine enunciated in *Pleyto vs. Philippine National Police Criminal Investigation and Detection Group (PNP-CIDG)*⁹ is misplaced. For one, the factual milieu of *Pleyto* case is not on all fours with the present cases. In the *Pleyto* case, it was the Office of the Ombudsman that rendered the judgment appealed from, who actively sought intervention in the appellate court. This is certainly not obtaining in these appealed cases. For the other, the present actions are with the Court *En Banc* whose members are obliged to participate in the determination and disposition of the appealed cases unless expressly prohibited or legally excluded.

WHEREFORE, the *Motion for Reconsideration* filed by accused Rogelio A. Tan on December 22, 2014, as well as the *Motion for Reconsideration (Re: Decision promulgated on*

⁷ Exhibit "G"

⁸ Exhibit "Y"

⁹ 538 SCRA 534, 549.

18 November 2014) filed by the Prosecution on January 8, 2015 are hereby **DENIED**, for lack of merit.

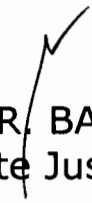
SO ORDERED.


ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:


(I maintain my dissent.)
ROMAN G. DEL ROSARIO
Presiding Justice


JUANITO C. CASTANEDA, JR.
Associate Justice


LOVELL R. BAUTISTA
Associate Justice

(On Leave)
ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice


(I join PJ's dissenting opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice