REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

ROLANDO J. ANG, BETTY A. ANG and EMF ELECTRONICS CORP.,
Respondents.

CTA EB CRIM. NO. 062
(CTA CRIM. CASE NO. O-553)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, and
MANAHAN, *JJ.*

Promulgated:

MAR 14 2019
2:52 p.m.

x- -x

RESOLUTION

For Court action are the following, both filed by petitioner:

1) Motion for Extension of Time to File Petition for Review, filed on January 7, 2019; and

2) Petition for Review, filed on January 18, 2019.

In the first incident, petitioner prays for an extension of time to file its petition for review to assail the twin Resolutions dated August 14, 2018 and December 7, 2018. The first Resolution granted respondent's demurrer to evidence, and the second, denied its motion for reconsideration, both of which were rendered by the Court in Division. Petitioner prays for an extension of fifteen (15) days from January 4, 2019 or until January 19, 2019 to file its petition for review with the Court *En Banc*.

Petitioner admits that it received the assailed Resolution dated December 7, 2018 denying its Motion for Reconsideration on December 20, 2018, thus it had fifteen (15) days or until January 4, 2019 to file its petition for review with the Court *En Banc.* However, it was able to file its motion for extension only on January 7, 2019 allegedly because its counsel, Attorney Christopher G. Eugenio, went on leave on December 20, 2018 and was admitted to the hospital on December 21, 2018 for surgery the following day, December 22, 2018. While he was discharged from the hospital on December 24, 2018, he had to rest for at least two weeks per his Doctor's advice and reported for work only on January 7, 2019. Attached to the motion was the Record of Operation and the Medical Certificate of Attorney Eugenio. Hence, the belated filing of the motion for extension on January 7, 2019.

On January 18, 2019, petitioner filed its Petition for Review with the Court *En Banc*.

Section 9(b),[1] Rule 9 of the Revised Rules of the Court of Tax Appeals provides that an appeal to the Court *En Banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the adverse decision or resolution.

Corollarily, Section 4,[2] Rule 43 of the Rules of Court, as amended, provides that the appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration.

---

[1] SEC. 9. *Appeal; period to appeal.* –
(a) x x x.
(b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.
x x x x x x

[2] SEC. 4. *Period of appeal.* – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

Further, the Court may grant an additional period of fifteen (15) days only within which to file petition for review. No further extension shall be granted except for the most compelling reason.

As admitted, petitioner received the Resolution dated December 7, 2018 which denied its Motion for Reconsideration on December 20, 2018. Thus, it had fifteen (15) days or until January 4, 2019 to file its petition for review with the Court *En Banc*. Evidently, its Petition for Review was filed out of time on January 18, 2019.

Petitioner's motion for extension cannot also save the day for petitioner as it was filed when there was no more period to extend.

Basic is the rule in remedial law that a motion for extension of time to file a pleading must be filed <u>before</u> the expiration of the period sought to be extended. The court's discretion to grant a motion for extension is conditioned upon such motion's timeliness, the passing of which renders the court <u>powerless</u> to entertain or grant it. Since the motion for extension was filed after the lapse of the prescribed period, there was no more period to extend.[3]

In a last-ditch effort to seek justification for this procedural lapse, petitioner invokes liberality and avers that its counsel was indisposed from December 20, 2018 to January 6, 2019 due to a medical condition requiring confinement in the hospital and rest thereafter.

Note that procedural rules exist to be followed, not to be trifled with, and thus, may be relaxed only for the most persuasive reasons.[4]

Petitioner's explanation failed to justify its belated filing of its motion for extension and petition for review.

---

[3] Philippine National Bank vs. Deang Marketing Corporation and Berlita Deang, G.R. No. 177931, December 08, 2008; Reynaldo Posiquit @ "Chew" vs. People of the Philippines, G.R. No. 193943, January 16, 2012.

[4] Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue, G.R. No. 201530 and Commissioner of Internal Revenue vs. Asiatrust Development Bank, Inc., G.R. No. 201680-81, April 19, 2017.

As indicated in its pleadings, petitioner is being represented by the biggest law office of the land - the Office of the Solicitor General (OSG), which has numerous lawyers who could take over the responsibility when the handling lawyer is indisposed. Unfortunately, counsel allowed the prescribed period to lapse without taking any remedial or precautionary measure to protect its client's interest. To be sure, a one-page motion for extension of time stating the reason thereof is sufficient if seasonably filed. In this case, the request for extension was lodged when there was no more period to extend. As a consequence, the Petition for Review was filed out of time depriving this Court of jurisdiction to entertain the same.

The Supreme Court once said that the "duty rests on every counsel to see to adopt and strictly maintain a system that will efficiently take into account all court notices sent to him.[5] We hold that an attorney owes it to himself and to his clients to adopt an efficient and orderly system of receiving and attending promptly to all judicial notices".[6]

It must also be stressed that obedience to the requirements of procedural rules is needed if we are to expect fair results therefrom, and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[7]

With the late filing of its Motion for Extension of Time to File Petition for Review, and the subsequent filing of the Petition for Review out of time, render the present petition dismissible on jurisdictional ground.

Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits. Needless to state, to obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of

---

[5] Henry L. Sy vs. Local Government of Quezon City, G.R. No. 202690, June 05, 2013.
[6] Ricardo B. Gonzales vs. Court of Appeals and the Heirs of Consolacion C. De Guzman, G.R. No. 129090, April 30, 2003.
[7] Rolando Clavecilla vs. Teresito Quitain and Rico Quitain, et al., G.R. NO. 147989, February 20, 2006.

jurisdiction, although not raised by the parties. As a corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.[8]

WHEREFORE, the Motion for Extension of Time to File Petition for Review filed on January 7, 2019 is **DENIED**, for having been filed out of time.

Consequently, the Petition for Review filed on January 18, 2019 is hereby **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

---

[8] AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 185969, November 19, 2014