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

## FIRST DIVISION

**ALARIC VIVENCIO C. DE ANDRES,**
Petitioner-Appellant,

**- versus -**

**SPOUSES ATANACIO S. CRISTOBAL AND ISABEL B. CRISTOBAL.**
Oppositors-Appellees.

**CTA AC No. 178**

***Members:***

**DEL ROSARIO,** P.J.,
**UY,** and
**MINDARO-GRULLA,** JJ.

**Promulgated:**

MAR 30 2017 3:08 pm

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## RESOLUTION

***UY, J.:***

For resolution is petitioner-appellant's "Motion to Admit Petition for Review"[1] with attached "Petition for Review"[2] filed on December 19, 2016, with oppositors-appellees' "Comment (on the Motion to Admit Petition for Review dated December 15, 2016)"[3] filed on March 9, 2017.

In the said Motion, petitioner prays that "this Court admit and consider this Petition for Review with the further request that the Notice of Appeal earlier filed and granted, together with the accompanying records, should it reach this Honorable Court, be consolidated herewith."[4]

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[1] Docket, pp. 8 to 11.
[2] Docket, pp. 17 to 48.
[3] Docket, pp. 286 to 290.
[4] Docket, p. 9.

In his Motion, petitioner-appellant avers that:

"1. On October 7, 2016, **petitioner** filed his **NOTICE OF APPEAL** dated 5 October 2016 with the Regional Trial Court, Branch 100, Quezon City, giving Notice that he is appealing to the **Court of Tax Appeals** from the Decision dated 28 June 2016, a copy of which was received on 19 July 2016 and the Order dated 20 September 2016 denying his Motion for Reconsideration of the Decision, a copy of which was received on 28 September 2016.

2. Having been filed within the reglementary period and the appropriate fees having been paid, the said Notice of Appeal was given due course by the Court. However, in the Order dated 17 October 2016, the Honorable Court mistakenly forwarded the records of the above entitled case on 11 November 2016 to the Court of Appeals, instead of Court of Tax Appeals.

3. Hence, upon learning of the said mistake of the court, Petitioner filed an ***EX-PARTE*** **MANIFESTATION AND MOTION** dated 17 November 2016 respectfully requesting the Honorable Court to withdraw the records from the Court of Appeals and transmit it instead to the Court of Tax Appeals.

4. Subsequently, however, having been appraised that the proper mode of appeal to the Court of Tax Appeals is a **Petition for Review** and not a Notice of Appeal, Petitioner-Appellant now most respectfully submits to this Honorable Court of Tax Appeals this **Petition for Review."**

In their Comment, respondents counter that:

1. The Court of Tax Appeals has no jurisdiction to review the Decision of the RTC, as petition before the lower court is a land registration case entitled "Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and Issuance of Writ of Possession," and not for collection or assessment of local taxes.

2. The Petition for Review is not verified and does not contain a certification against forum shopping as required in A.M. No. 05-11-07-CTA.

## THE COURT'S RULING

Petitioner-appellant's Motion lacks merit.

***This Court has no jurisdiction over the case.***

One of the limitations to the jurisdiction of this Court over appealed cases is stated in Section 7 (a) (3) of R.A. No. 1125, as amended, in relation to Section 3 of Rule 4 of the Revised Rules of the Court of Tax Appeals, which provides:

> "**<u>Republic Act No. 1125, as amended</u>**
>
> **Section 7.** ***Jurisdiction.*** – The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> x x x x
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;
>
> x x x x
>
> **<u>Revised Rules of the Court of Tax Appeals</u>**
>
> **Section 3.** ***Cases within the jurisdiction of the Court in Division.*** – The Court in Division shall exercise:
>
> **x x x x**
>
> (3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;
>
> x x x x."

Based on the foregoing provisions, this Court has exclusive appellate jurisdiction over the decisions, resolutions or orders of the Regional Trial Courts in *local tax cases* decided or resolved by them in the exercise of their original jurisdiction.

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To the mind of this Court, local tax cases concerns the imposition of taxes by the local government, and generally involves the assessment, collection or refund thereof. Necessarily, this means that the action is directed against the local government as a public respondent, instead of a private party.

A perusal of the Petition[5] filed before the Regional Trial Court, Branch 100, Quezon City, in the case of "*In Re: Petition for Confirmation of Final Bill of Sale and Entry of New Certificate of Title and Issuance of Writ of Possession, Alaric Vivencio C. De Andres, Petitioner*" docketed as R-QZN-13-05546-LR), shows that it cannot be classified as a local tax case.

For easy reference, the reliefs prayed for by the petitioner-appellant in the said Petition are as follows:

> "**WHEREFORE**, premises considered, invoking the provisions of Section 75 of P.D. 1529 and Republic Act No. 7160, it is respectfully prayed of this Honorable Court that a Decision be rendered:
>
> 1) ORDERING that ownership of the property covered under Transfer Certificate of Title No. RT-121506 of the Registry of Deeds of Quezon City be confirmed in favor of petitioner, and;
>
> 2) for the purposes of the entry of a new Transfer Certificate of Title in favor of petitioner, DECLARING the Owner's Duplicate Copy of Transfer Certificate of Title No. RT-121506 of the Registry of Deeds of Quezon City, still in the possession of its former owner, NULL and VOID;
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> 3) ORDERING further, the Register of Deeds of Quezon City, after payment of the fees prescribed by law, to admit the registration of the Final Bill of Sale (Annex "D" hereof) thereby cancelling Transfer Certificate of Title RT-121506, in the names of Sps. Anatacio S. Cristobal & Isabel S. Cristobal and issuing in its stead a new Transfer Certificate of Title in the name of petitioner, and finally;
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> 4) ISSUING a writ of possession against Sps. Anatacio S. Cristobal & Isabel S. Cristobal, their assigns

[5] Docket, pp. 69 to 72.

or any other third party claimants/possessors occupying the subject premises.

Petitioner prays for other relief and remedies just and equitable under the premises."

Based on the foregoing, it is clear that this cannot be denominated as a local tax case, considering that: 1) the reliefs prayed for by the petitioner-appellant are not directed against the local government; 2) the subject matter of the case does not involve the assessment, collection, or refund of a local tax; and 3) it does not even involve a remedy provided for under the Local Government Code.

***The Petition for Review was filed out of time.***

Assuming *arguendo* that this Court has jurisdiction over this case, petitioner-appellant's Petition for Review must still fail for being filed out of time.

The period for the filing of an appeal with the Court of Tax Appeals can be found in Section 11 of R.A. No. 1125, as amended, in relation to Sections 3 (a) and 4 (a) of Rule 8 of the Revised Rules of the Court of Tax Appeals, provides:

"**Republic Act No. 1125, as amended**

**Section 11.** ***Who May Appeal; Mode of Appeal; Effect of Appeal.*** – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: x x x.

x x x x

__Revised Rules of the Court of Tax Appeals__

**RULE 8 – PROCEDURE IN CIVIL CASES**

**Section 3.** ***Who may appeal; period to file petition. –***

(a) A party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty (30) days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments x x x.

**x x x x**

**Section 4.** ***Where to appeal; mode of appeal. –***

(a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal.

x x x x."

Based on the foregoing provisions, a party litigant must file a Petition for Review before this Court within thirty (30) days after receipt of a copy of the decision or ruling appealed from.

In this case, petitioner-appellant stated that he received a copy of the Decision dated June 28, 2016 on July 19, 2016, and the Order dated September 20, 2016 on September 28, 2016. Thus, petitioner-appellant had thirty (30) days from September 28, 2016, or until October 28, 2016, within which to file his Petition for Review before this Court.[6]

Records show, however, that petitioner-appellant was only able to file his "Motion to Admit Petition for Review" with attached "Petition for Review" on December 19, 2016, which is beyond the period allowed by law. In the said Motion, counsel for the petitioner-appellant prays for the admission of its Petition for Review, after candidly admitting that he availed of the wrong remedy, by filing a Notice of Appeal with the Regional Trial Court of Quezon City, instead of a Petition for Review before this Court.

We are not swayed.

Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory. Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court — not even the Supreme Court — has the power to revise, review, change or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law.[7]

Regrettably for the petitioner-appellant, the assailed Decision and Order in this case has now become final and executory for availing of the wrong statutory remedy and for failing to file its action before the proper court within the reglementary period provided by law.

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[6] Docket, p. 8.
[7] *Team Pacific Corporation vs. Josephine Daza, etc.*, G.R. No. 167732, July 11, 2012, citing *Zamboanga Forest Managers Corp. vs. Pacific Timber and Supply Co.*, G.R. No. 173342, October 13, 2010.

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***Petitioner failed to submit the requisite Verification, Certificate of Non-Forum Shopping, and the duplicate originals or certified true copies of the assailed decision and resolution.***

Finally, this Court notes that the Petition for Review likewise suffers from another infirmity, which is petitioner's failure to comply with Section 11 of R.A. No. 1125, as amended, in relation to Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals.

Under the said rule, a Petition for Review should: 1) be verified, 2) contain a certification against forum shopping, and 3) have a duplicate original or certified true copy of the decision and resolution appealed from attached thereto.

In this case, however, a perusal of the Petition for Review shows that petitioner failed to comply with the foregoing requirements, as he neglected to submit the requisite verification and certificate against forum shopping, and attached mere photocopies of the assailed Decision and resolution of the court *a quo.*

Unfortunately for the petitioner, this failure to comply with the foregoing requirements is not merely a formal requirement, and is in fact, in itself, a sufficient ground for dismissal under Section 3, Rule 42 of the 1997 Rules of Civil Procedure.

**WHEREFORE**, premises considered, the Motion to Admit Petition for Review is **DENIED** for lack of merit and the Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

**SO ORDERED.**

**ERLINDA P. UY**
Associate Justice

WE CONCUR:

**ROMAN G. DEL ROSARIO**
Presiding Justice

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice