

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE CTA SCA Case No. 0007
PHILIPPINES,

Petitioner,

Members:

MANAHAN, *Chairperson,*

REYES-FAJARDO, and

ANGELES, II.

- versus -

HON. REGIONAL TRIAL
COURT OF GUAGUA
PAMPANGA, Branch 50, and
MARK BRYAN CHAN,

Respondents.

Promulgated:

JUL 26 2024

2:48 p.m.

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DECISION

REYES-FAJARDO, I:

Before the Court is a Petition for *Certiorari*¹ filed by the People of the Philippines, through the Bureau of Internal Revenue (BIR) deputized special prosecutor, assailing the Orders dated December 15, 2022² and February 10, 2023³ (Assailed Orders), both rendered by the Regional Trial Court, Branch 50, Guagua, Pampanga (RTC) in Criminal Case No. G-20-15886. In the Assailed Orders, the RTC denied the prosecution's Motion for Leave to Admit Attached Amended Judicial Affidavit and the admission of said Amended Judicial Affidavit.

FACTS

The present controversy emanates from the trial court proceedings relative to Criminal Case No. G-20-15886, where herein private respondent Mark Bryan Chan was prosecuted for violation of Section 265(c)⁴ of the National Internal Revenue Code of 1997, as amended (Tax Code).

¹ Docket, pp. 5-39.

² Signed by Presiding Judge Amor M. Dimatatac-Romero. Docket, pp. 45-46.

³ Signed by Presiding Judge Amor M. Dimatatac-Romero. Docket, p. 47.

⁴ SECTION 265. Offenses Relating to Stamps. — Any person who commits any of the acts enumerated hereunder shall, upon conviction thereof, be punished by a fine of not less than

During arraignment, private respondent pleaded “not guilty” to the offense charged against him. The case was set for initial trial on the following dates: **September 16 and 30, 2021, October 14 and 28, 2021,** and November 25, 2021.⁵

Prosecution witness Angelito B. Burgos executed a Judicial Affidavit dated and signed by the affiant on September 10, 2021⁶ (*Original Judicial Affidavit*). On **September 16, 2021**, or the first hearing date set in the Pre-Trial Order, the prosecution submitted this Judicial Affidavit to the Court, in lieu of the witness’ direct examination.⁷ Private respondent, through counsel, received a copy of this Judicial Affidavit on even date.⁸

Upon the trial court’s directive, initial trial was reset to **October 28, 2021 and November 25, 2021**.⁹

Thereafter, in a *Motion*¹⁰ dated **October 18, 2021**, petitioner sought for leave of court to admit Angelito B. Burgos’s *Amended Judicial Affidavit*.¹¹ This was dated and signed by the affiant on **September 10, 2021**, and subscribed and sworn to before the notary public on **October 19, 2021**.¹²

During the hearing set on **October 28, 2021**, Angelito B. Burgos was called to the witness stand. He identified his Amended Judicial Affidavit, as well as his signature and the documents attached thereon. Initial cross-examination took place during the hearing set on **June 16, 2022**.¹³

Twenty thousand pesos (P20,000) but not more than Fifty thousand pesos (P50,000) and suffer imprisonment of not less than four (4) years but not more than eight (8) years: x x x (c) Possessing false, counterfeit, restored or altered stamps, labels or tags or causing the commission of any such offense by another x x x

⁵ Continuation of Pre-Trial Order, Docket, p. 68.

⁶ Docket, pp. 69-86.

⁷ The RTC Order dated September 16, 2021 states: “Due to time constraints, the Judicial Affidavit is only filed in Court today and to give time to the opposing counsel to peruse the same, he moved for the resetting of today’s hearing.” Docket, p. 97.

⁸ Annex 1 of private respondent, Docket, p. 226.

⁹ Per RTC Order dated September 16, 2021, Docket, p. 97.

¹⁰ Docket, pp. 99-102.

¹¹ Docket, pp. 103-118.

¹² Docket, p. 118.

¹³ Per Transcript of Stenographic Notes (TSN) of the hearing on June 16, 2022, Docket, pp. 124-138.

In a *Comment/Opposition*¹⁴ dated July 4, 2022, private respondent countered the admission of the above-mentioned Amended Judicial Affidavit. Petitioner also filed a Reply¹⁵ to said Comment/Opposition.

In the Assailed Order dated December 15, 2022, the RTC denied petitioner's Motion for Leave to Admit Attached Amended Judicial Affidavit and the admission of said Amended Judicial Affidavit. The trial court explained as follows:

The admission of the amended Judicial Affidavit would run counter to the provisions of the Judicial Affidavit Rule and is tantamount to curing the defects made by the witnesses (sic) during his direct examination and partial cross-examination. Any amendment to the Judicial Affidavit should have been made prior to the presentation of the witness and not after the direct examination has already been terminated.

The trial court denied petitioner's subsequent Motion for Reconsideration.¹⁶

Hence, the present petition.

Petitioner's Arguments

Petitioner avers the RTC committed grave abuse of discretion when it refused to admit the subject Amended Judicial Affidavit; thus, the Assailed Orders must be set aside.

In particular, the RTC's denial (a) of the Motion for Leave to Admit Attached Amended Judicial Affidavit and (b) of the admission of the Amended Judicial Affidavit is tainted with grave abuse for the following reasons:

First, there was no violation of the Judicial Affidavit Rule. After the initial hearings dates were reset, witness Angelito B. Burgos was set to be called to the witness stand on October 28, 2021. Before said date, petitioner submitted the Amended Judicial Affidavit to the court and served the same to private respondent. The Original Judicial

¹⁴ Docket, pp. 156-162.

¹⁵ Docket, pp. 162-169.

¹⁶ Docket, pp. 170-175.

Affidavit dated September 10, 2021 was never identified or testified on; petitioner began and concluded the presentation of the witness' testimony with the Amended Judicial Affidavit dated October 19, 2021.¹⁷

Second, the denial of the Amended Judicial Affidavit's admission into evidence was a violation of petitioner's right to due process.¹⁸

Third, there was no violation of private respondent's right to due process. The amendment only sought to correct mostly clerical errors and intended for consistency.¹⁹ Furthermore, private respondent, through counsel, was given the opportunity to cross examine the witness relative to the contents of the Amended Judicial Affidavit.²⁰

Fourth, private respondent cannot now object to the admission of the Amended Judicial Affidavit when he did not interpose a timely objection thereto.²¹ Counsel for private respondent was present during the hearing held on October 28, 2021, when the witness was presented and, thus, testified on the contents of the Amended Judicial Affidavit.²²

Fifth, the RTC cannot reject petitioner's Motion for Leave of Court to Admit Attached Amended Judicial Affidavit; the RTC is regarded to have already admitted the Amended Judicial Affidavit when the direct examination of the subject witness proceeded during the hearing held on October 28, 2021.²³

Sixth, the RTC bent the rules to suit the convenience of the private respondent and to cover up errors in his cross examination of petitioner's witness.²⁴

Respondent's Arguments

Respondent counters that the amendments introduced by petitioner are substantial and, thus, prejudicial to the due process

¹⁷ Docket, p. 21.

¹⁸ Docket, p. 22.

¹⁹ Docket, pp. 22,

²⁰ Docket, p. 29.

²¹ Docket, p. 25.

²² Docket, p. 24.

²³ Docket, p. 24.

²⁴ Docket, p. 37.

rights of the accused.²⁵ In addition, the Original Judicial Affidavit dated September 10, 2021, which was submitted to the RTC on September 16, 2021, already forms part of the case records. Any amendment or supplement thereto shall require leave of court.²⁶ As of the hearing held on October 28, 2021, during which petitioner presented its witness Angelito B. Burgos, the trial court had not yet resolved petitioner's Motion for Leave to Admit Attached Amended Judicial Affidavit. Thus, when petitioner presented the witness with a different Judicial Affidavit, it substituted a court record without the RTC's permission.²⁷

ISSUES

Based on the parties' submissions, We restate the issues as follows:

1. Whether or not the trial court's refusal to admit the Amended Judicial Affidavit is the proper subject of *certiorari* proceedings; and
2. Whether or not the trial court gravely abused its discretion when it refused to admit the Amended Judicial Affidavit.

OUR RULING

The Petition for *Certiorari* is unmeritorious.

The RTC's refusal to admit the Amended Judicial Affidavit is not a proper subject of a Rule 65 Petition.

Certiorari proceedings *via* Rule 65 shall be effective only in correcting alleged **errors of jurisdiction** committed by the lower court or tribunal. "It does not include correction of public respondent's evaluation of the evidence and factual findings thereon."²⁸ When the

²⁵ Docket, p. 211.

²⁶ Docket, p. 216.

²⁷ Docket, p. 216.

²⁸ *Espinosa v. Sandiganbayan*, G.R. Nos. 191834, 191900 & 191951, March 4, 2020, citing *Microsoft Corp. v. Best Deal Computer Center Corp.*, G.R. No. 148029, September 24, 2002, 438 PHIL 408-417.



petitioner tends to question the wisdom or legal soundness of the adverse decision—**not the jurisdiction of the court to render said decision**—the same is beyond the province of a special civil action for certiorari.²⁹ A Rule 65 petition is not a “procedural remedy ‘to correct mistakes in the judge’s findings and conclusions or to cure erroneous conclusions of law and fact.’”³⁰

It is clear that petitioner disagrees with the trial court’s application of procedural rules and appreciation of facts in its refusal to admit the subject Amended Judicial Affidavit. However, for as long as the RTC’s ruling relative to the subject Amended Judicial Affidavit was correct, its ruling was rendered in the exercise of its jurisdiction; this is not reviewable *via certiorari*.

The remedy of *certiorari* is available only when there is **no other plain, speedy, and adequate remedy** in the course of law.³¹ Under the Judicial Affidavit Rule,³² the party whose judicial affidavit, or any portion thereof, was denied admission, is allowed to have the same attached to or made part of the record *via* a tender of excluded evidence,³³ viz.:

SECTION 6. *Offer of and Objections to Testimony in Judicial Affidavit.* — The party presenting the judicial affidavit of his witness in place of direct testimony shall state the purpose of such testimony at the start of the presentation of the witness. The adverse party may move to disqualify the witness or to strike out his affidavit or any of the answers found in it on ground of inadmissibility. **The court shall promptly rule on the motion and, if granted, shall cause the marking of any excluded answer by placing it in brackets under the initials of an authorized court personnel, without prejudice to a tender of excluded evidence under Section 40 of Rule 132 of the Rules of Court.**

²⁹ *Espinosa v. Sandiganbayan*, G.R. Nos. 191834, 191900 & 191951, March 4, 2020, citing *People v. Court of Appeals*, G.R. No. 142051, February 24, 2004, 468 PHIL 1-14.

³⁰ *Jalandoni v. Office of the Ombudsman*, G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, May 10, 2021.

³¹ Section 1, Rule 65, Rules of Court.

³² A.M. No. 12-8-8-SC (Resolution), September 4, 2012]

³³ Section 40, Rule 132 of the Rules of Court, as amended, provides, “If documents or things offered in evidence are excluded by the court, the offeror may have the same attached to or made part of the record. If the evidence excluded is oral, the offeror may state for the record the name and other personal circumstances of the witness and the substance of the proposed testimony.”

The availability of an alternative remedy (e.g., tender of excluded evidence) to the denial of the subject judicial affidavit's admission bars resort to *certiorari* proceedings.

Significantly, while *certiorari* is, in general, recognized as a remedy to adverse interlocutory orders, it does not follow that all interlocutory orders are reviewable *via* rule 65. For instance, a denial of a demurrer to evidence—an interlocutory order—cannot be corrected by a writ of *certiorari*. The aggrieved party's recourse is to proceed to trial and appeal the judgment thereafter. The Supreme Court discussed this in *Jalandoni v. Office of the Ombudsman, viz.*:³⁴

The denial of the Motions for Leave to File Demurrer to Evidence is not reviewable by *certiorari*. Resolving these Motions is best left to the trial court's sound discretion. As their Motions have been denied, petitioners' recourse is to proceed to trial and there raise their claims and contentions on the prosecution's evidence — not in these Petitions.

In the same vein, the appropriate remedy remains to be to tender the excluded judicial affidavit or a portion thereof, proceed to trial, and await judgment on the merits. Thereafter, if the ruling is still adverse, the aggrieved party may appeal the case thereafter, including the matter of the judicial affidavit's exclusion from evidence.

There was no grave abuse of discretion in the RTC's refusal to admit the Amended Judicial Affidavit

The court's acceptance of an amendment is not a matter of right. To be clear, while parties are given the opportunity to submit an amended or supplemental affidavit to replace that previously filed, this shall be allowed upon the court's sole discretion. Section 10(c) of the Judicial Affidavit Rule³⁵ provides:

The court shall not admit as evidence judicial affidavits that do not conform to the content requirements of Section 3 and the attestation requirement of Section 4 above. The court **may**, however, allow only once the subsequent submission of the compliant replacement affidavits before the hearing or trial **provided the delay**

³⁴ G.R. Nos. 211751, 217212-80, 244467-535 & 245546-614, [May 10, 2021]

³⁵ A.M. No. 12-8-8-SC (Resolution), September 4, 2012.



is for a valid reason and would not unduly prejudice the opposing party and provided further, that public or private counsel responsible for their preparation and submission pays a fine of not less than P1,000.00 nor more than P5,000.00, at the discretion of the court.

The exercise of the trial court's discretion cannot be interfered with unless tainted by grave abuse of discretion.³⁶ To be overturned, it must be demonstrated that the assailed ruling was attended by "a capricious and whimsical exercise of judgment tantamount to lack or excess of jurisdiction, a blatant abuse of authority so grave and so severe as to deprive the court of its very power to dispense justice, or an exercise of power in an arbitrary and despotic manner, due to passion, prejudice or personal hostility, so patent and gross as to amount to an evasion or to a unilateral refusal to perform the duty enjoined or to act in contemplation of the law."³⁷

We do not find any such infraction here on the part of the trial court. The Assailed Orders cannot be regarded as irregular inasmuch as the RTC's refusal to admit the Amended Judicial Affidavit was made in accordance with the Judicial Affidavit Rule. Besides, the trial court's denial of the Amended Judicial Affidavit, when it was sought to be admitted after direct and cross-examination, is consistent with the relevant rules and due process of the law. There is no arbitrariness in the exercise of its authority. Now, whether the legal basis and reasons cited were applied correctly is a matter that is beyond the scope of *certiorari* proceedings.

WHEREFORE, in light of the foregoing considerations, the Petition for *Certiorari* is **DISMISSED** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

³⁶ *Nicolas v. Sandiganbayan*, G.R. Nos. 175930-31 & 176010-11, February 11, 2008, 568 PHIL 297-321.

³⁷ *Bureau of Internal Revenue v. Court of Appeals*, G.R. No. 197590, November 24, 2014, 747 PHIL 772-791.

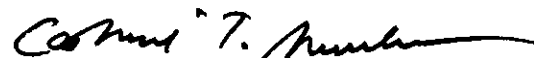
WE CONCUR:


CATHERINE T. MANAHAN
Associate Justice


HENRY S. ANGELES
Associate Justice

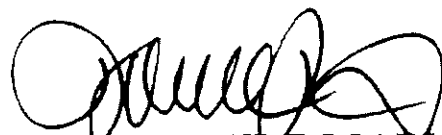
ATTESTATION

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.


CATHERINE T. MANAHAN
Chairperson
Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Third 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's Division.


ROMAN G. DEL ROSARIO
Presiding Justice