REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF BUREAU OF CUSTOMS AND DISTRICT COLLECTOR OF BATAAN,
Petitioners,

-*versus*-

COURT OF TAX APPEALS, FIRST DIVISION AND MT ALPINE MAGNOLIA,
Respondent.

CTA *EB* NO. 1811
(CTA Case No. 9554)

Present:

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

Promulgated:

JAN 2 3 2020
3:57 p.m.

x- x

DECISION

MANAHAN, J.:

Before the Court of Tax Appeals *En Banc* is the instant *Petition for Certiorari (With Very Urgent Prayer for the Issuance of a Temporary Restraining Order And/Or a Writ of Preliminary Injunction)*[1] posted on March 12, 2018 seeking the reversal of the Resolutions of the Court dated November 24, 2017 and

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[1] EB Docket,pp. 1-7.

January 5, 2018 issued by the First Division of this Court (Court in Division) in CTA Case No. 9554 entitled *MT Alpine Magnolia vs. Commissioner of Bureau of Customs and District Collector of Bataan.*

We quote *in toto* the Resolution of the Court dated November 24, 2017 admitting private respondent's Formal Offer of Exhibits/Evidence and the dispositive portion of the Resolution of the Court dated January 5, 2018, thus:

<u>Resolution dated November 24, 2017</u>

> "Acting on petitioner's **Formal Offer of Exhibits/Evidence** filed on October 18, 2017 and a modified copy of the same filed on October 20, 2017, with respondents' **Comment/Opposition (to Petitioner's Formal Offer of Exhibits)** filed on October 30, 2017, this Court hereby **ADMITS Exhibits "P-1" and "P-1-1", "P-1-2", "P-1-3", "P-1-4", "P-1-5", "P-1-10-6", "P-1-10-7", "P-1-10-8", "P-10-9", "P-1-10-10", "P-1-10-11"** (erroneously offered as "P-1-11"), **"P-1-10-12", "P-1-10-13", "P-2" and "P-2-1", "P-2-5", "P-3" and "P-3-1", "P-3-2", "P-3-4", "P-3-5", "P-3-6" and "P-3-6-1", "P-3-7", "P-4" and "P-4-1", "P-4-13", "P-4-14", "P-4-15", and "P-4-16",** subject to this Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case.
>
> Meanwhile, respondent's **Manifestation** filed on November 10, 2017, stating that their comment/opposition dated October 27, 2017 already considered the modified Formal Offer/Evidence, is hereby **NOTED.**
>
> **WHEREFORE,** as previously scheduled, the presentation of respondent's evidence is on **January 18, 2018 at 9:00 a.m.** for the testimony of Mr. Silvestre Martinez."
>
> **SO ORDERED.**

<u>Resolution dated January 5, 2018</u>

> **"WHEREFORE,** respondents' Motion for Reconsideration filed on December 22, 2017 is **DENIED** for lack of merit.
>
> **SO ORDERED."**

PARTIES

Petitioners Commissioner of the Bureau of Customs and District Collector of Bataan are the duly appointed officers of the government tasked to enforce tariff and customs laws. The Commissioner of the Bureau of Customs holds office at the Bureau of Customs Building, South Harbor, Gate 3, Port Area, Manila while the District Collector of Bataan holds office and may be served with court processes at the Old National Road, Lamao, Limay, Bataan.

Public respondent Court of Tax Appeals First Division, being the Court which issued the assailed Resolutions, may be served with legal processes at the Court of Tax Appeals Building, Agham Road, Diliman, Quezon City.

Private respondent MT Alpine Magnolia is an ocean-going tanker vessel registered under the laws of Marshall Islands.

FACTS

On March 24, 2017, private respondent filed a *Petition for Review with Urgent Motion and Prayer for the Immediate Release of MT Alpine Magnolia* with this Court praying for the following:

1. The immediate release of the subject shipping vessel from customs custody;
2. The Petition be given due course;
3. The assailed decision of the Commissioner of Customs be reversed and set aside;
4. The Order of Forfeiture of MT Alpine Magnolia be cancelled and lifted.

On March 27, 2017, private respondent subsequently filed an *Omnibus Motion (for the Immediate Raffle of the Petition for Review and for the Immediate Release of MT Alpine Magnolia from Seizure and Detention)*.[2]

During the hearing held on said motion filed by private respondent, the latter presented its four (4) witnesses who all testified by way of Judicial Affidavits. The Court then gave the

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[2] Annex "E" of the Petition for Certiorari, En Banc Docket, Volume I, pp. 86- 92.

private respondent until April 11, 2017 to file its Formal Offer of Evidence.[3]

On April 7, 2017, private respondent filed its Formal Offer of Exhibits/Evidence in support of its Motion to Release MT Alpine Magnolia.

On April 17, 2017, petitioners filed their Comment on private respondent's Formal Offer of Exhibits/Evidence.

During the trial of the main case, private respondent again filed its Formal Offer of Exhibits/Evidence on October 18, 2017.

On November 24, 2017, the Court in Division issued the first assailed Resolution admitting all of private respondent's exhibits, subject to the Court's "final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case."

On December 22, 2017, petitioners filed a Motion for Reconsideration of the Resolution of the Court dated November 24, 2017.

On January 5, 2018, the Court issued the second assailed Resolution denying petitioners' Motion for Reconsideration and upholding the admission of private respondent's evidence in its Resolution dated November 24, 2017.

Hence, this *Petition for Certiorari with Very Urgent Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction)* ("Petition for Certiorari") docketed as CTA *EB* No. 1811.

On March 27, 2018, the Court ordered respondents to file their Comment to the Petition for Certiorari within ten (10) days from notice.

On April 16, 2018, private respondent filed its *Comment/Opposition (Re: Petition for Certiorari dated 7 March 2018) with very urgent Application/Prayer for Soonest Resolution* where the issue of lack of jurisdiction of the Court *En Banc* was preliminarily raised. Private respondent averred therein that petitioners availed of the wrong remedy on the ground that the

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[3] Order of the Court dated April 4, 2017, En Banc Docket, Volume I, pp. 94-96.

Court *En Banc* has no jurisdiction over a Petition for Certiorari against an interlocutory ruling of the Court in Division. Private respondent further argued that the Petition for Certiorari should have been filed as an original action under Rule 65 of the Revised Rules of Court, before the Supreme Court and not the Court *En Banc*.

On May 9, 2018, the Court *En Banc* issued a Resolution directing petitioners to file their Reply to private respondent's Comment/Opposition.

On May 31, 2018, petitioners filed their *Reply* insisting that the Court has jurisdiction to take cognizance of its Petition for Certiorari contrary to the claim of private respondent. Its argument in favor of the Court's jurisdiction stems mainly from its theory that under the "doctrine of hierarchy of courts", a petitioner does not enjoy unrestricted freedom to choose the court forum, such as directly resorting to the Supreme Court. Citing a Supreme Court decision, petitioners maintain that this doctrine was designed to restrain parties from directly resorting to the Supreme Court when relief may be obtained before the lower courts. The rationale behind is to prevent the congestion of the Supreme Court's dockets thereby easing the High Court's burden of dealing with cases that may be resolved by the lower courts.

On June 19, 2018, private respondent filed its *Rejoinder (Re: Petitioner's Reply dated 28 May 2018)* contravening petitioners reliance on the "doctrine of hierarchy of courts" because the CTA *En Banc* is not a separate court from the CTA Division, hence, there can be no hierarchy within a collegial court between its divisions and the Court *En Banc*. Further, the aforesaid doctrine is not an iron-clad rule according to private respondent and therefore, is subject to the peculiarities inherent in each particular case. Lastly, private respondent invokes the well-settled rule that jurisdiction is conferred by law or by the Constitution and cannot be inferred from lack of prohibition to file a petition for certiorari.

On July 25, 2018, the Court *En Banc* issued a Resolution which tackled the *sole* issue of jurisdiction as raised by private respondent on the Petition for Certiorari filed by petitioners and as argued upon by both parties in the aforesaid Comment/Opposition, Reply and Rejoinder.

In the Resolution dated July 25, 2018, the Court *En Banc* ruled in favor of acquiring jurisdiction over the Petition for Certiorari filed by petitioners. We quote below the pertinent portions for emphasis:

> "We rule for petitioners. Contrary to the stance of private respondent, this Court has jurisdiction to take cognizance of the instant Petition for Certiorari, which prays for the issuance of the extraordinary writ of *certiorari* against non-appealable interlocutory orders issued by the CTA Division.
>
> The jurisdiction of the CTA *En Banc* is conferred by Republic Act ("R.A") No. 1125, as amended by R.A. No. 9282. xxx xxx
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> xxx xxx xxx
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> From the above provisions, it is without any doubt that the CTA *En Banc* has the exclusive appellate jurisdiction to review by appeal the decisions, resolutions, or orders of the CTA Division. In other words, the CTA *En Banc* as the higher court over the CTA Division, has the power to review and change the outcome of the latter's decisions, resolutions, or orders. The question is does this appellate jurisdiction of the CTA *En Banc* over the CTA Division include the authority to issue, *inter alia*, a writ of *certiorari*.
>
> **We answer in the affirmative.**
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> Rule 65 of the Rules of Court provides the remedy against an interlocutory order not subject of an appeal provided that the same is rendered without or in excess of jurisdiction.
>
> xxx xxx xxx
>
> **WHEREFORE**, Private Respondent's prayer for summary dismissal of the Petition for Certiorari is **DENIED. The Court *En Banc* has jurisdiction.**" (emphasis supplied)

In the same Resolution, the Court required both parties to submit simultaneously their respective memoranda within thirty (30) days from notice.

On September 20, 2018, private respondent filed a *Motion for Reconsideration (Re: Resolution dated 25 July 2018)* challenging the assumption of jurisdiction by the Court *En Banc*.

Private respondent filed a Memorandum (*Ad Cautelam*) on September 20, 2018 in compliance with the Resolution of the Court dated July 25, 2018.[4]

The Motion for Reconsideration filed by private respondent was denied by the Court in a Resolution dated January 23, 2019 on the ground that private respondent did not raise any new arguments that would merit a reconsideration of the Resolution dated July 25, 2018. This same Resolution submitted the Petition for Certiorari for decision on even date.

ISSUE

The sole issue raised in the Petition for Certiorari is whether or not the Court in Division committed grave abuse of discretion, amounting to lack or excess of jurisdiction, in issuing the assailed Resolutions dated November 24, 2017 and January 5, 2018.

Petitioners' Arguments

In assailing the Court's Resolutions dated November 24, 2017 and January 5, 2018, petitioners contend that the Court in Division acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it admitted all of the evidence presented by the private respondent in support of its application for provisional relief as its evidence for the main action.

Petitioners assert that the Court in Division had no legal basis to admit private respondent's exhibits, including the judicial affidavits of its witnesses without giving them the opportunity to cross-examine said witnesses anew, for the purpose of the main action. Petitioners further argue that the ancillary proceedings on private respondent's motion (for the immediate release of the subject vessel) is distinct and separate from the proceedings of the main action hence the Court should have given them the opportunity to cross-examine the witnesses of private respondent. It is petitioners' contention that the proceedings (in the main action) are entirely different and that the opposing party may insist on conducting a cross examination of the witnesses (again), even if the latter were already presented during the proceedings for the ancillary

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[4] En Banc Docket, Volume III, pp. 1098-1112

remedy because this is an essential element of its right to due process. Petitioners claim that the non-presentation of private respondent's four (4) witnesses for further cross-examination in the main action amounts to a gross violation of their right to due process. In conclusion, petitioners insist that all the evidence submitted by private respondents should be denied admission and not be considered in the resolution of the case.

Private Respondent's Counter-Arguments

Aside from assailing the jurisdiction of the Court *En Banc* over the Petition for Certiorari which was already resolved in the Resolution dated July 25, 2018, private respondent assents to the ruling of the Court in Division in the assailed Resolutions and maintains that petitioners were properly afforded due process as they were given ample opportunity to cross examine the witnesses of private respondent.

Private respondent also opines that petitioners failed to timely raise their objections and/or waived them during trial. According to the private respondent, the records of the case do not show any such objections. In addition, private respondent alleges that petitioners were fully aware that private respondent's witnesses are foreigners or seafarers who may not be readily available to personally appear before the Court, hence, their counsel should have reserved the right to cross-examine its witnesses for purposes of the main case. Unfortunately, private respondent claims that the records of the case do not indicate or reflect such manifestation or reservations.

RULING OF THE COURT

The jurisdiction of the Court over the instant Petition for Certiorari has been settled in the Court's Resolution dated July 25, 2018 so we shall now proceed to resolve the procedural and substantive merits of the Petition and the arguments of petitioners with regard to the assailed Resolutions dated November 24, 2017 and January 5, 2018.

A Petition for Certiorari is governed by Sections 1 and 4 of Rule 65 of the Revised Rules of Court, and we quote:

> **"Rule 65**
> **Certiorari, Prohibition and Mandamus**
>
> Section 1. *Petition for Certiorari.* – When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
>
> The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.
>
> Section 4. *When and where petition filed.* – The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty-day (60) day period shall be counted from notice of the denial of said motion.
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> The petition shall be filed in the Supreme Court, or, if it relates to the acts or omissions of a lower court or of a corporation, board or officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction or in the Sandiganbayan if it is in aid of its appellate jurisdiction. If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable by the Court of Appeals.
>
> No extension of time to file the petition shall be granted except for compelling reason and in no case exceeding fifteen (15) days."

Based on the foregoing provisions, we find that petitioners complied with the procedural requirements for filing a Petition for Certiorari with this Court.

The instant Petition for Certiorari was filed within the sixty (60) day period from receipt of the Resolution (denying the Motion for Reconsideration) by the petitioners on January 10, 2018. Counting 60 days from January 10, 2018, petitioners had until March 11, 2018 within which to file a Petition for

Certiorari. Since March 11, 2018 fell on a Sunday, the petitioners timely filed their Petition for Certiorari on the next working day, Monday, March 12, 2018.

The Petition for Certiorari was also accompanied by the original (assailed) Resolutions of the Court dated November 24, 2017 and January 5, 2018; copies of pleadings and documents relevant thereto and a sworn Verification and Certification of Non-Forum Shopping.

As to the substantive merits of the Petition for Certiorari, we find that the Court in Division did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the Resolutions dated November 24, 2017 and January 5, 2018.

Petitioners assert that the Court in Division committed grave abuse of discretion, amounting to lack or excess of jurisdiction when it admitted all of the evidence presented by private respondent without giving them ample opportunity to prepare and conduct a meaningful cross-examination of private respondent's four (4) witnesses. They claim that while private respondent may opt to adopt the evidence it presented in its application for ancillary relief as its evidence in the main action, the exercise of such option cannot circumscribe their right to cross-examine anew, in the main action, the witnesses of private respondent.

The Court finds petitioners' arguments bereft of merit.

Jurisprudence is replete with cases where the Supreme Court has held that for certiorari to lie, petitioner must prove not merely reversible error, but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of public respondent.[5] In the case of *Leonis Navigation Co., Inc. vs. Villameter,*[6] the Supreme Court clearly distinguished reversible errors of judgment which may the subject of an ordinary appeal and a judgment which borders on grave abuse of discretion amounting to lack or excess of jurisdiction, and we quote:

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[5] PNB vs. Teresita Fe A Gregorio, G.R. No. 194944, September 18, 2017; Leonis Navigation Co., Inc. vs. Villameter, G.R. No. 179169, March 3, 2010.
[6] Id.

> **"A petition for certiorari does not normally include an inquiry into the correctness of its evaluation of evidence. Errors of judgment, as distinguished from errors of jurisdiction, are not within the province of a special civil action for certiorari, which is merely confined to issues of jurisdiction or grave abuse of discretion**. It is, thus, incumbent upon petitioner to satisfactorily establish that the NLRC acted capriciously and whimsically in order that the extraordinary writ of certiorari will lie. **By grave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and it must be shown that the discretion was exercised arbitrarily or despotically."** (emphasis supplied)

In the instant case, petitioners maintain that *certiorari* is the proper remedy because public respondent issued the assailed Resolution (dated November 24, 2017) admitting all of private respondent's evidence without ruling on their opposition thereto and without giving them the opportunity to cross-examine the witnesses presented by private respondent.

The records belie the claim of petitioners.

It is plain to see that the exhibits offered by private respondent in the main case are the same as those exhibits offered to support its Motion for Immediate Release of MT Alpine Magnolia, and which were all admitted in the Court's Resolution dated April 20, 2017. We assent to the wisdom of the ruling of the Court in Division when it resolved the very same issue in its assailed Resolution dated January 5, 2018, and we quote:

> "Contrary to respondents' claim, records show that they were given ample opportunity to cross-examine the witnesses of petitioner during their presentation on April 4, 2017 relative to the aforesaid petitioner's Motion for Immediate Release of MT Alpine Magnolia. Petitioner's witnesses testified in Court by way of their respective Judicial Affidavits and except for petitioner's witness, Mr. Dumpleton Richard William, who was not subjected to cross-examination by respondents' counsel despite the opportunity to do so, the other witnesses of petitioner in the persons of Ms. Alexandra Tsamadou, Captain Jerry Olores and Mr. Nelson A. Romero were subjected to lengthy cross-examination by respondents' counsel. The Court even clarified several points from petitioner's witnesses in line with the mandate of the Judicial Affidavit Rule that "in every case, the court shall take active part in examining the witness to determine his credibility as well as the truth of his testimony and to elicit the answers that it needs for resolving the issues.

> Respondents cannot rightly demand petitioner to present again the latter's witnesses for further cross-examination as the testimonies of said witnesses has already been terminated during the April 4, 2017 hearing, more so, as petitioner opted to rest its case by formally offering the same exhibits as that which were offered and admitted in its Motion for Immediate Release of MT Alpine Magnolia. **Truth to tell, the adoption of the previously offered and admitted exhibits during the proceedings for the ancillary relief as petitioner's exhibits in the main case is the prerogative of petitioner."** (emphasis supplied)

At this point, it is worthy to note that Section 6 of Rule 10 of the Revised Rules of the Court of Tax Appeals (RRCTA) specifically allows the consolidation of the hearing for the suspension of the collection of the tax with the hearing on the merits of the case, thus:

> **"Rule 10**
> **Suspension of Collection of Tax**
>
> Section 6. Hearing of the motion. - The movant shall, upon receipt of the opposition, set the motion for hearing at the next available motion day, and the Court shall give preference to the motion over all other cases, except criminal cases. At the hearing, both parties shall submit their respective evidence. If warranted, the Court may grant the motion if the movant shall deposit with the Court an amount in cash equal to the value of the property or goods under dispute or filing with the Court of an acceptable surety bond in an amount not more than double the disputed amount or value. **However, for the sake of expediency, the Court *motu proprio* or upon motion of the parties, may consolidate the hearing of the motion for the suspension of the collection of the tax with the hearing on the merits of the case."** (emphasis supplied)

Applying the above provision to the instant case, the evidence admitted in the motion for the release of the MT Alpine Magnolia which is an ancillary remedy, may be consolidated in the main case or action. In fact, private respondent, during the pre-trial conference held on September 28, 2017,[7] manifested that it will adopt the testimonies of its four (4) witnesses and this was reflected in the Pre-Trial Order issued by the Court in Division dated January 17, 2018.[8]

It is clear from the above disquisitions and records of this case, that the assailed Resolutions dated November 24, 2017 and January 5, 2018 cannot be characterized as having been

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[7] Court Docket, Volume VI, pp. 2728-2730.
[8] Court Docket, Volume VI., pp. 2880-2895.

issued "arbitrarily" or "despotically" by the Court in Division. No grave abuse of discretion, amounting to a lack or excess of jurisdiction can be imputed in admitting the evidence of private respondent because this was done in compliance with the relevant rules and pursuant to the duty of a party to a case to present evidence necessary to establish his claim or defense by the amount of evidence required by law.[9]

We also find that there was no violation of petitioners' right to due process as they were given the opportunity to cross-examine the witnesses presented by the private respondent during the hearing held on April 4, 2017.[10]

Even assuming, without conceding, that the assailed Resolutions were erroneous, such would be considered as a mere error of judgment and not an error in jurisdiction that would justify the filing of a Petition for Certiorari under Rule 65 of the Revised Rules of Court.

WHEREFORE, premises considered, the *Petition for Certiorari (With Very Urgent Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction)*[11] posted on March 12, 2018 is **DENIED.**

Accordingly, the assailed Resolutions dated November 24, 2017 and January 5, 2018 issued by the Court in Division are hereby **AFFIRMED.**

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[9] Rule 131
Section 1. *Burden of proof.* – Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.
[10] Supra. Footnote No. 3.

WE CONCUR:

- see extended Concurring Opinion

I CONCUR. The present case is MOOT and ACADEMIC
as CTA Case No. 9554 has already been decided on the merits;
aforestated decision is now the subject of an appeal (CTA EB No. 2003)
ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(on leave)
ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(inhibited)
CIELITO N. MINDARO-GRULLA
Associate Justice

(with Separate Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(with Concurring & Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF BUREAU OF CUSTOMS AND DISTRICT COLLECTOR OF BATAAN, *Petitioners,*	**CTA EB NO. 1811** (CTA Case No. 9554)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTANEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
COURT OF TAX APPEALS, FIRST DIVISION AND MT ALPINE MAGNOLIA, *Respondents.*	Promulgated: JAN 23 2020 3:57 p.m.

x - x

CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur with the *ponencia* in denying the *Petition for Certiorari (With Very Urgent Prayer for the Issuance of a Temporary Restraining Order and/or a Writ of Preliminary Injunction),* thereby affirming the assailed Resolutions dated November 24, 2017 and January 5, 2018 issued by the Court in Division.

I wish, however, to expound on my view that the present case has actually been rendered moot and academic as CTA Case No. 9554 has already been decided on the merits. Truth to tell, the assailed Decision of the Court in Division in CTA Case No. 9554 is now the subject of an appeal pending before the Court *En Banc* (CTA EB No. 2003).

The pronouncement in *Irene Villamar-Sandoval vs. Jose Cailipan, et al.*[1] on this very same issue is enlightening:

> "It is well-settled that the remedies of appeal and certiorari are mutually exclusive and not alternative or successive. The simultaneous filing of a petition for certiorari under Rule 65 and an ordinary appeal under Rule 41 of the Revised Rules of Civil Procedure cannot be allowed since one remedy would necessarily cancel out the other. The existence and availability of the right of appeal proscribes resort to certiorari because one of the requirements for availment of the latter is precisely that there should be no appeal.
>
> **Corollary thereto, an appeal renders a pending petition for certiorari superfluous and mandates its dismissal. As held in *Enriquez v. Rivera*:**
>
>> The general rule is that certiorari will not lie as a substitute for an appeal, for relief through a special action like certiorari may only be established when no remedy by appeal lies. The exception to this rule is conceded only "where public welfare and the advancement of public policy so dictate, and the broader interests of justice so require, or where the orders complained of were found to be completely null and void, or that appeal was not considered the appropriate remedy, such as in appeals from orders of preliminary attachment or appointments of receiver." (Fernando v. Vasquez, L- 26417, 30 January 1970; 31 SCRA 288). For example, certiorari maybe available where appeal is inadequate and ineffectual (Romero Sr. v. Court of Appeals, L-29659, 30 July 1971; 40 SCRA 172).
>>
>> None of the exceptional circumstances have been shown to be present in this case; hence the general rule applies in its entirety. **<u>Appeal renders superfluous a pending petition for certiorari, and mandates its dismissal</u>.** In the light of the clear language of Rule 65 (1), this is the only reasonable reconciliation that can be effected between the two concurrent actions: the appeal has to be prosecuted, but at the cost of the petition for certiorari, for the petition has lost its raison d'etre. To persevere in the pursuit of the writ would be to engage in an enterprise which is unnecessary, tautological and frowned upon by the law. (Emphasis and underscoring supplied.)
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> Applying the foregoing principles to the case at bar, it is clear that respondents' January 11, 2011 petition for certiorari was rendered superfluous by their January 22, 2011 appeal.

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[1] G.R. No. 200727, March 4, 2013.

> Although respondents did not err in filing the certiorari petition with the CA on January 11, 2011 – as they only received the RTC's Decision three days after the said date and therefore could not have availed of the remedy of an appeal at that time – the Court observes that respondents should have (a) withdrawn their certiorari petition and instead raised the jurisdictional errors stated therein in their appeal or (b) at the very least, informed the CA's Twenty-First Division of the Decision rendered on the main case and the filing of their Notice of Appeal on January 22, 2011. Prudence should have guided them to pursue either course of action considering the well-entrenched conflict between the remedies of an appeal and a petition for certiorari, of which they should have been well aware of.
>
> Unfortunately, their omission resulted in the CA's issuance of the September 30, 2011 Decision and February 1, 2012 Resolution in the certiorari case which set aside the assailed interlocutory orders, notwithstanding the supervening rendition of a decision on the main case, thus creating an evident procedural impasse.
>
> It should be noted that respondents' petition for certiorari had long become moot by the RTC's January 11, 2011 Decision. **In particular, the grant of the petition for certiorari on mere incidental matters of the proceedings would not accord any practical relief to respondents because a decision had already been rendered on the main case and therefore, may be elevated on appeal.** Lest it be misunderstood, a case becomes moot when no useful purpose can be served in passing upon its merits. As a rule, courts will not determine a moot question in a case in which no practical relief can be granted." (Boldfacing and underscoring supplied)

I submit that the present Petition has been rendered moot when petitioner filed an appeal with the Court *En Banc* assailing the Decision of the Court in Division on the merits of the case. The subsequent appeal constitutes an adequate remedy for petitioner to assail, not only the Decision on the merits, but also the herein assailed Resolutions dated November 24, 2017 and January 5, 2018 issued by the Court in Division. **Suffice it to say that the dismissal of the present Petition on the ground of mootness will not result in a failure of justice as petitioner's grounds in questioning the aforesaid Resolutions will be appropriately addressed when the Court *En Banc* resolves its appeal of the Decision rendered by the Court in Division.**

Thus, considering that the relief prayed for in the present Petition could be addressed in the subsequent appeal in CTA EB No. 2003, the present Petition has become moot and academic.

Anent the matter on the Court *En Banc's* jurisdiction over interlocutory orders of the Court in Division, it is my view that the Court *En Banc* has jurisdiction to issue writs of certiorari against orders or resolutions of the Court in Division, under Rule 65 of the Rules of Court.

The pronouncement of the Supreme Court in *The City of Manila vs. Hon. Grecia-Cuerdo*[2] anent the Court of Tax Appeals' (CTA) jurisdiction to issue writs of certiorari cannot be any clearer, *viz.*:

> "Indeed, **in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of certiorari. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.**
>
> Xxx. This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that '**a court may issue a writ of certiorari in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court**.' The rulings in *J.M. Tuason and De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.
>
> Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.
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> **Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction.** These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process." (Boldfacing supplied)

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[2] G.R. No. 175723 February 4, 2014.

In the more recent case of *Philippine Ports Authority vs. The City of Davao, et al.*,[3] the Supreme Court reiterated the doctrine laid down in *Grecia-Cuerdo*, *viz.*:

> "In *City of Manila v. Grecia-Cuerdo*, this Court expressly recognized the Court of Tax Appeals' power to determine whether or not there has been grave abuse of discretion in cases falling within its **exclusive appellate jurisdiction** and its power to issue writs of *certiorari*." (Boldfacing supplied)

The **appellate jurisdiction** of the Court *En Banc* is specified in Section 2, Rule 4 of the Revised Rules of the CTA (RRCTA), *viz.*:

> **"SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court en banc shall exercise **exclusive appellate jurisdiction** to review by appeal the following:
>
> (a) **Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over**:
>
> (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;
>
> (2) Local tax cases decided by the Regional Trial Courts in the exercise of their original jurisdiction; and
>
> (3) Tax collection cases decided by the Regional Trial Courts in the exercise of their original jurisdiction involving final and executory assessments for taxes, fees, charges and penalties, where the principal amount of taxes and penalties claimed is less than one million pesos;
>
> xxx." (Boldfacing and underscoring supplied)

The grant of appellate jurisdiction to the Court *En Banc* over decisions or resolutions on motions for reconsideration or new trial of the Court in Division undeniably carries with it the power to issue a writ of certiorari, when necessary, in aid of such appellate jurisdiction.

Following the doctrine laid down in *Grecia-Cuerdo*, in order for the Court *En Banc* to have a complete supervision over the acts of the Court in Division, the supervisory power or jurisdiction of the Court *En Banc* to issue a writ of certiorari in aid of its appellate

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[3] G.R. No. 190324, June 6, 2018.

jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the Court in Division. **Truth to tell, the authority of the Court *En Banc* to take cognizance of petitions for certiorari questioning interlocutory orders or resolutions issued by a Court in Division is inherent in the exercise of its appellate jurisdiction over their decisions or resolutions on motions for reconsideration or new trial.**

I am not unaware of *Commissioner of Internal Revenue vs. Kepco Ilijan Corporation*[4] where the Supreme Court declared that the CTA *En Banc* has no certiorari jurisdiction over interlocutory orders or resolutions of the CTA in Division. With due respect, however, such pronouncement is a mere *obiter dictum*, the fundamental doctrine involved in that case being whether the CTA has jurisdiction over an annulment of judgment as an independent action. Said the Supreme Court:

> "Prefatorily, we **first pass upon the issue of whether the CTA *En Banc* has jurisdiction to take cognizance of the petition for annulment of judgment** filed by petitioner.
>
> Annulment of judgment, as provided for in Rule 47 of the Rules of Court, is based only on the grounds of extrinsic fraud and lack of jurisdiction. It is a recourse that presupposes the filing of a separate and original action for the purpose of annulling or avoiding a decision in another case. **Annulment is a remedy in law independent of the case where the judgment sought to be annulled is rendered. It is unlike a motion for reconsideration, appeal or even a petition for relief from judgment, because annulment is not a continuation or progression of the same case, as in fact the case it seeks to annul is already final and executory**. Rather, it is an extraordinary remedy that is equitable in character and is permitted only in exceptional cases.
>
> **Annulment of judgment involves the exercise of original jurisdiction**, as expressly conferred on the Court of Appeals by Batas Pambansa Bilang *(BP Blg.)* 129, Section 9(2). It also implies power by a superior court over a subordinate one, as provided for in Rule 47 of the Rules of Court, wherein the appellate court may annul a decision of the regional trial court, or the latter court may annul a decision of the municipal or metropolitan trial court.
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> But **the law and the rules are silent when it comes to a situation similar to the case at bar, in which a court, in this case the Court of Tax Appeals, is called upon to annul its own judgment**. More specifically, in the case at bar, the CTA sitting *en*

[4] G.R. No. 199422, June 21, 2016.

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> *banc* is being asked to annul a decision of one of its divisions. However, the laws creating the CTA and expanding its jurisdiction (RA Nos. 1125 and 9282) and the court's own rules of procedure (the Revised Rules of the CTA) do not provide for such a scenario.
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> Xxx, the Revised Rules of the CTA and even the Rules of Court which apply suppletorily thereto **provide for no instance in which the *en banc* may reverse, annul or void a *final* decision of a division. Verily, the Revised Rules of the CTA provide for no instance of an annulment of judgment at all**. Xxx.
>
> xxx
>
> Hence, the next query is: Did the CTA *En Banc* correctly deny the petition for annulment of judgment filed by petitioner?
>
> As earlier discussed, the petition designated as one for annulment of judgment (following Rule 47) was legally and procedurally infirm and, thus, was soundly dismissed by the CTA *En Banc* on such ground. Also, the CTA could not have treated the petition as an appeal or a continuation of the case before the CTA First Division because the latter's decision had become final and executory and, thus, no longer subject to an appeal." (Boldfacing and underscoring supplied)

In other words, the Supreme Court, in *Kepco,* emphasized that **annulment of judgment is a remedy in law independent of the case where the judgment sought to be annulled is rendered**. It is unlike a motion for reconsideration, appeal or even a petition for relief from judgment because **annulment of judgment is not a continuation or progression of the case where the judgment sought to be annulled was rendered.** Interestingly, the Supreme Court, by way of *obiter dictum*, made an illustration of the collegial courts' adjudicatory relationship between the Court of Appeals *En Banc* and the Court of Appeals Division as well as between the Supreme Court *En Banc* and the Supreme Court Division, thus:

> "It is the same situation among other collegial courts. To illustrate, the Supreme Court or the Court of Appeals may sit and adjudicate cases in divisions consisting of only a number of members, and such adjudication is already regarded .as the decision of the Court itself. It is provided for in the Constitution, Article VIII, Section 4(1) and BP Blg. 129, Section 4, respectively. The divisions are not considered separate and distinct courts but are divisions of one and the same court; there is no hierarchy of courts within the Supreme Court and the Court of Appeals, for they each remain as one court notwithstanding that they also work in divisions. **The Supreme Court sitting *en banc* is not an appellate court *vis-a-vis* its divisions, and it exercises no**

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> **appellate jurisdiction over the latter. As for the Court of Appeals *en banc,* it sits as such only for the purpose of exercising administrative, ceremonial, or other non-adjudicatory functions**." (Boldfacing supplied)

At once glaring is the fact that neither the Constitution nor the law or jurisprudence grants appellate jurisdiction to the Court of Appeals *En Banc* over decisions of the Court of Appeals in Division, in the same vein that no appellate jurisdiction is granted to the Supreme Court *En Banc* over decisions of the Supreme Court in Division. **The legal and procedural scenarios are totally different in the case of the CTA *En Banc*, which, as afore-discussed, is clearly vested by law with appellate jurisdiction over decisions of the CTA in Division.**

In fine, I submit that CTA *En Banc* has jurisdiction to issue writs of certiorari in aid of its exclusive appellate jurisdiction to review, by appeal, those cases expressly enumerated in Section 2, Rule 4 of the RRCTA.

All told, I CONCUR in the *ponencia*.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF BUREAU OF CUSTOMS AND DISTRICT COLLECTOR OF BATAAN,
Petitioners,

- versus -

COURT OF TAX APPEALS, FIRST DIVISION AND MT ALPINE MAGNOLIA,
Respondents.

CTA EB NO. 1811
(CTA Case No. 9554)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
JAN 23 2020
3:57 p.m.

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SEPARATE OPINION

RINGPIS-LIBAN, *J.*:

I concur with the *ponente* that the Court in Division did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in issuing the Assailed Resolutions dated November 24, 2017 and January 05, 2018. Certain view however, distinct to the *ponencia* prompt me to write this Separate Opinion.

With all due respect, it is my humble opinion that the promulgation of the Decision and Resolution in CTA Case No. 9554 on October 22, 2018 and January 07, 2019, respectively, did not render the instant Petition for Certiorari moot and academic.

When a court or tribunal renders a decision, resolution or order tainted with grave abuse of discretion, any person who feels injured by the said decision, resolution or order can question the court or tribunal's disposition *via* certiorari under Rule 65 of the Rules of Court. Rule 65, Section 1 states:

> "Section 1. *Petition for certiorari.* - **When any tribunal, board or officer exercising judicial or quasi-judicial functions <u>has acted</u> without or in excess of its or his jurisdiction, or <u>with grave abuse of discretion amounting to lack or excess of jurisdiction</u>**, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require."[1]

The purpose of a writ of *certiorari*, as stated above, is to keep an inferior court within the bounds of its jurisdiction, or to prevent an inferior court from committing such grave abuse of discretion amounting to excess of jurisdiction, or to relieve parties from arbitrary acts of courts.[2] In other words, *certiorari* is intended to correct an act performed by the court or tribunal complained of.[3]

A case is considered moot and academic if it ceases to present a justiciable controversy by virtue of supervening events, so that an adjudication of the case or a declaration on the issue would be of no practical value or use.[4] In such instance, there is no actual substantial relief which a petitioner would be entitled to, and which would be negated by the dismissal of the petition. Courts generally decline jurisdiction over such case or dismiss it on the ground of mootness. This is because the judgment will not serve any useful purpose or have any practical legal effect because, in the nature of things, it cannot be enforced.[5]

The "mootness" principle however does not apply in the case at bar. The instant Petition for Certiorari was filed for the purpose of questioning the legal basis for the issuance of the Assailed Resolutions. On the other hand, the Decision and Resolution (on the Motion for Reconsideration) in CTA Case No. 9554 addresses a different issue (*i.e.,* whether or not the forfeiture of MT Magnolia was valid). Hence, the latter's promulgation did not tackle or pass upon the legality of the Assailed Resolutions.

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1 *Emphasis and underscoring supplied.*

2 Marvin Cruz and Francisco Cruz, in his capacity as Bondsman v. People of the Philippines, G.R. No. 224974, July 03, 2017 *citing* Spouses Humberto P. Delos Santos and Carmencita M. Delos Santos v. Metropolitan Bank and Trust Company, G.R. No. 153852, October 24, 2012.

3 Regalado, Florenz D., Remedial Law Compendium, Vol. 1, 9th Revised Edition, p. 780.

4 Hon. Kim S. Jacinto-Henares, in her official capacity as Commissioner of the Bureau of Internal Revenue v. St. Paul College of Makati, G.R. No. 215383, March 08, 2017 *citing* Timbol v. Commission on Elections, 751 Phil. 456 (2015); Carpio v. Court of Appeals, 705 Phil. 153 (2013) *citing* Osmena III v. Social Security System of the Philippines, 559 Phil. 723 (2007); Abdul v. Sandiganbayan, 722 Phil. 485 (2013).

5 Peñafrancia Sugar Mill, Inc. v. Sugar Regulatory Administration, G.R. No. 208660, March 05, 2014 *citing* Carpio v. Court of Appeals, 705 Phil. 153 (2013) and Philippine Savings Bank (PSBANK) v. Senate Impeachment Court, G.R. No. 200238, November 20, 2012.

Additionally, if the Court *En Banc* granted the instant Petition for Certiorari and ruled that there was grave abuse of discretion amounting to lack or excess of jurisdiction in the issuance of the Assailed Resolutions, this Court has the authority and power to nullify the decision promulgated in CTA Case No. 9554 and re-open the case for trial.

From all the foregoing, I vote for the **DENIAL** of the "Petition for Certiorari (With Very Urgent Prayer for the Issuance of Temporary Restraining Order and/or a Writ of Preliminary Injunction) filed by the Petitioners.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF BUREAU OF CUSTOMS AND DISTRICT COLLECTOR OF BATAAN,
Petitioner,

CTA EB NO. 1811
(CTA CASE NO. 9554)

Present:

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

- versus -

COURT OF TAX APPEALS, FIRST DIVISION AND MT ALPINE MAGNOLIA,
Respondents.

Promulgated:
JAN 2 3 2020
3:57 p.m.

x - x

CONCURRING AND DISSENTING OPINION

Bacorro-Villena, J.

I concur in the dismissal of the Petition for *Certiorari*[1], seeking the reversal of the 24 November 2017 and 05 January 2018 Resolutions of the First Division of this Court in CTA Case No. 9554, entitled *MT Alpine Magnolia v. Commissioner of Bureau of Customs and District*

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[1] With Very Urgent Prayer for the Issuance of Temporary Restraining Order And/Or a Writ of Preliminary Injunction.

Collector of Bataan. However, with all due respect, I take exception from the *ratio* relied upon in the *ponencia*.

Taking into mind the various relevant jurisprudence relating to the Court *En Banc's* jurisdiction to entertain a petition for *certiorari* under Rule 65 of the Rules of Court, at least insofar as it is directed against the interlocutory orders of its divisions, I herein respectfully state the bases of my dissenting opinion on the matter.

The power of the Court of Tax Appeals (**CTA**) *En Banc* to review interlocutory orders of its divisions has already been decided in the *Commissioner of Internal Revenue v. Court of Tax Appeals and CBK Power Company Limited*[2] (**CBK**) wherein the Supreme Court categorically held that "**the CTA En Banc has jurisdiction over final order or judgment but not over interlocutory orders issued by the CTA in division**".

In herein case, the subject of the present Petition for *Certiorari* are interlocutory orders of the Court's First Division. In particular, the Resolutions of 24 November 2018 and 5 January 2019, respectively, on petitioner's formal offer of evidence.

In explaining its view, the Supreme Court in *CBK* discussed the suppletory application of Rule 41[3] of the Rules of Court to the CTA's jurisdiction, to wit:

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2 G.R. Nos. 203054-55, 29 15 July 2015.

3 Section 1. Subject of appeal.
An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

No appeal may be taken from:

(a) An order denying a motion for new trial or reconsideration;
(b) An order denying a petition for relief or any similar motion seeking relief from judgment;
(c) An interlocutory order;
(d) An order disallowing or dismissing an appeal;
(e) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress, or any other ground vitiating consent;
(f) An order of execution;
(g) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
(h) An order dismissing an action without prejudice.

In all the above instances where the judgment or final order is not appealable, the aggrieved party may file an appropriate special civil action under Rule 65.

> ...
>
> Given the foregoing, the petition for review to be filed with the CTA *en banc* as the mode for appealing a decision, resolution, or order of the CTA Division, under Section 18 of Republic Act No. 1125, as amended, is not a totally new remedy, unique to the CTA, with a special application or use therein. To the contrary, the CTA merely adopts the procedure for petitions for review and appeals long established and practiced in other Philippine courts. Accordingly, doctrines, principles, rules, and precedents laid down in jurisprudence by this Court as regards petitions for review and appeals in courts of general jurisdiction should likewise bind the CTA, and it cannot depart therefrom.
>
> ...
>
> According to Section 1, Rule 41 of the Revised Rules of Court, governing appeals from the Regional Trial Courts (RTCs) to the Court of Appeals, an appeal may be taken only from a judgment or final order that completely disposes of the case or of a matter therein when declared by the Rules to be appealable. Said provision, thus, explicitly states that no appeal may be taken from an interlocutory order. <u>**It is, therefore, clear that the CTA *en banc* has jurisdiction over final order or judgment but not over interlocutory orders issued by the CTA in division**</u>. [4]
>
> ...

Additionally, in *Agnes Coeli Bugaoisan v. OWI Group Manila and Morris Corporation*[5] (***Bugaoisan***), the Supreme Court explained the function of a writ of *certiorari* in this wise:

> ...
>
> A writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. **It cannot be used for any other purpose, as its function is limited to keeping <u>the inferior court</u> within the bounds of its jurisdiction.**
>
> **The supervisory jurisdiction of a court over the issuance of a writ of *certiorari* <u>cannot</u> be exercised for the purpose of reviewing the intrinsic correctness of a judgment of the <u>lower</u> <u>court</u>**...[6]
>
> ...

...

4 Supra at Note 2; emphasis and underscoring supplied.
5 G.R. No. 226208, 07 February 2018.
6 Emphasis and underscoring supplied.

Also, the case of *Marvin Cruz et al. v. People of the Philippines*[7] (Cruz) described a petition for certiorari as "**a remedy specifically [aimed] to keep lower courts and tribunals within the bounds of their jurisdiction**".

Furthermore, even in the case of *The City of Manila et al. v. Hon. Caridad H. Grecia-Cuerdo*[8], where the power of the CTA to issue a writ of *certiorari* was affirmed, the Supreme Court categorically stated that, "a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, **the final orders or decisions of the lower court**."[9] It is worthy to note at this point that the ruling in this case came prior to the Supreme Court's decision in the case of *CBK*.

Based on these principles and consistent with the jurisprudential declaration above, it appears that a writ of *certiorari* can only be issued by a court against the orders of an inferior court or tribunal. **The CTA in Division is not, however, a lower court in relation to the CTA *En Banc*.**

In *Landbank of the Philippines v. Federico Suntay*[10] (***Landbank***), the Supreme Court declared:

> ...
> **The actions taken and the decisions rendered by any of the divisions are those of the Court itself, considering that the divisions are not considered separate and distinct courts but as divisions of one and the same court.**[11]
> ...

While, in *Commissioner of Internal Revenue v. Kepco Ilijan Corporation*[12] (**Kepco**), the Supreme Court held that the foregoing principle is likewise applicable to other collegiate courts such as the Court of Tax Appeals. *Kepco* tackled an issue analogous to that presented before us now. In the said case, petitioner sought the reversal of the CTA *En Banc*'s resolution denying the Commissioner of

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7 G.R. No. 224974, 03 July 2017.
8 G.R. No. 175723, 04 February 2014.
9 Emphasis and underscoring supplied.
10 G.R. No. 188376, 14 December 2011.
11 Emphasis supplied.
12 G.R. No. 199422, 21 June 2016.

Internal Revenue's (**CIR's**) Petition for Annulment of Judgment of the CTA First Division's decision on the ground of lack of jurisdiction. The Supreme Court in upholding this Court's actions ruled thusly:

> ...
> Thus, it appears contrary to these features that a collegial court, sitting *en banc*, may be called upon to annul a decision of one of its divisions which had become final and executory, for it is tantamount to allowing a court to annul its own judgment and acknowledging that a hierarchy exists within such court...
>
> Thus, the Revised Rules of the CTA and even the Rules of Court which apply suppletorily thereto provide for no instance in which the *en banc* may reverse, annul or void a *final decision* of a division.
> ...

Given the doctrine laid down in *Kepco*, I see no reason why We should treat a petition for *certiorari* against the Court in Division in the same way the Supreme Court treated a petition for annulment of judgment in *Kepco*. Similar to a petition for annulment of judgment, a petition for *certiorari* requires the exercise of a court's original jurisdiction as it is an action independent from a previous case wherein the assailed order or resolution was issued. The petition likewise calls for a higher court to correct errors of jurisdiction committed by an inferior court or body.

Taking into account the settled jurisprudence and principles, to my mind, the CTA *En Banc's* lack of jurisdiction over petitions for *certiorari* is more than clear given the pronouncements of the Supreme Court on the province of a writ of *certiorari* as discussed above.

It is, therefore, my humble conclusion that the present Petition for *Certiorari* filed by petitioner Commissioner of Bureau of Customs and District Collector of Bataan should be denied for lack of jurisdiction.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice