

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

EN BANC

COMMISSIONER INTERNAL REVENUE,	OF	CTA EB NO. 2159 (CTA Case No. 8688)
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Petitioner,

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

-versus-

MISSOURI SQUARE, INC.,	Promulgated:	JUN 30 2020
Respondent.		

X-----X
3:17 p.m.

RESOLUTION

For resolution is the petitioner's Motion for Reconsideration (Resolution dated December 20, 2019),¹ with respondent's Opposition (To Petitioner's Motion for Reconsideration to Admit Petition for Review dated 17 January 2020).²

The motion prays that, in the interest of justice and equity, the Court take a second look at the case and reconsider the Resolution, which denied petitioner's Motion to Admit Petition for Review filed on November 18, 2019 for lack of merit. Specifically, counsel for petitioner states that, because of an emergency leave to attend to the burial of a family member, she was unable to file the petition within the period granted.³

While the counsel's reason appears valid, certain factors prevent the Court from reconsidering its December 20, 2019 Resolution.

First, the counsel whose unfortunate circumstance allegedly occasioned the late filing of the petition is but one member of the team

¹ *Rollo*, pp. 58-61.

² *Id.* at pp. 64-73.

³ *Id.* at p. 58.

responsible for the case. The other two members could have assumed the filing of the petition given the importance of the case and the fifteen-day extension already granted by the Court.

More significantly, as stated in the previous Resolution, the perfection of an appeal in the manner and within the period permitted by law is not only *mandatory*, but *jurisdictional*, and the failure to perfect that appeal renders the judgment of the court final and executory.⁴ The timeliness of an appeal is a *jurisdictional caveat* that cannot be trifled with⁵ and is not a mere technicality.

In *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*,⁶ the Supreme Court upheld the dismissal of a petition under Rule 43 due to late filing, thus:

“It bears emphasizing that the dismissal of the petition for review and the denial of the amended petition were premised rather on: (1) the late filing of the original petition for review by the CIR; (2) the absence of a motion for reconsideration of the January 29, 2002 Resolution; and (3) lack of authority of Atty. Alberto R. Bomediano, Jr., legal officer of the BIR Region 8, Makati City, to pursue the case on behalf of petitioner CIR.

It has been ruled that **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, We declare that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.

Public policy and sound practice demand that judgments of courts should become final and irrevocable at some definite time fixed by law. Such rules are necessary incidents to the proper, efficient and orderly discharge of judicial functions. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner also have the correlative right to enjoy the fruits of his victory. Failure to meet the requirements of an appeal deprives the appellate court of jurisdiction to entertain any appeal. Undeniably, there are exceptions to this rule. Petitioner, however, did not present any circumstances that would justify the relaxation of said rule.

It need not be overemphasized that it is the responsibility of the counsel to check and keep track of the period of time left to file an appeal. He cannot escape from the inflexible observance of this rule which is jurisdictional. The rules, particularly on the statutory requirement for perfecting an appeal within the reglementary period provided, must be strictly followed. If an appeal is not taken within the period prescribed therefor, the judgment becomes final and the court loses all jurisdiction over the case.”

⁴ *Ricardo Medina, Sr. v. The Honorable Court of Appeals, et al.*, G.R. No. 76707, February 6, 1990.

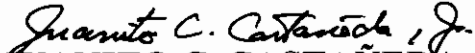
⁵ *Bank of America, NT & SA v. Hon. Nicolas A. Gerochi, Jr., et al.*, G.R. No. 73210, February 10, 1994.

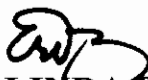
⁶ G.R. No. 167606, August 11, 2010.

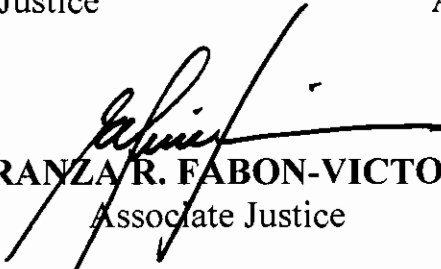
WHEREFORE, premises considered, petitioner's motion is **DENIED** for lack of merit.

SO ORDERED.

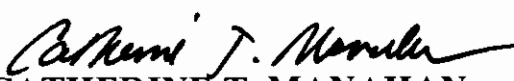

ROMAN G. DEL ROSARIO
Presiding Justice


JUANITO C. CASTAÑEDA, JR.
Associate Justice

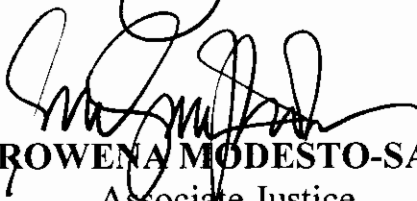

ERLINDA P. UY
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice