Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PHILIPPINE AMUSEMENT AND GAMING CORPORATION,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE, COMMISSIONER OF INTERNAL REVENUE, and REGIONAL DIRECTOR, REVENUE REGION No. 6,
Respondents.

G.R. No. 208731

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:
27 JAN 2016

x - x

DECISION

CARPIO, *J.*:

The Case

G.R. No. 208731 is a petition for review[1] assailing the Decision[2] promulgated on 18 February 2013 as well as the Resolution[3] promulgated on 23 July 2013 by the Court of Tax Appeals En Banc (CTA En Banc) in CTA EB No. 844. The CTA EB affirmed the Decision dated 6 July 2011[4] and

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1 Under Rule 45 of the 1997 Rules of Civil Procedure and Rule 16 of the Revised Rules of the Court of Tax Appeals.

2 *Rollo*, pp. 39-46. Penned by Associate Justice Amelia R. Cotangco-Manalastas, with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla concurring.

3 Id. at 49-54. Penned by Associate Justice Amelia R. Cotangco-Manalastas, with Associate Justices Roman G. Del Rosario, Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, and Ma. Belen M. Ringpis-Liban concurring. Associate Justice Cielito N. Mindaro-Grulla was on leave.

4 Id. at 149-169. Penned by Associate Justice Esperanza R. Fabon-Victorino, with Presiding Justice Ernesto D. Acosta and Associate Justice Erlinda P. Uy concurring.

Resolution[5] dated 13 October 2011 of the Court of Tax Appeals' First Division (CTA 1st Division) in CTA Case No. 7880.

In its 6 July 2011 Decision, the CTA 1st Division ruled in favor of the Bureau of Internal Revenue (BIR), Commissioner of Internal Revenue (CIR), and the Regional Director of Revenue Region No. 6 (collectively, respondents) and against petitioner Philippine Amusement and Gaming Corporation (PAGCOR). The CTA 1st Division dismissed PAGCOR's petition for review seeking the cancellation of the Final Assessment Notice (FAN) dated 14 January 2008 which respondents issued for alleged deficiency fringe benefits tax in 2004. The CTA 1st Division ruled that PAGCOR's petition was filed out of time.

The Facts

The CTA 1st Division recited the facts as follows:

> [PAGCOR] claims that it is a duly organized government-owned and controlled corporation existing under and by virtue of Presidential Decree No. 1869, as amended, with business address at the 6th Floor, Hyatt Hotel and Casino, Pedro Gil corner M.H. Del Pilar Streets, Malate, Manila. It was created to regulate, establish and operate clubs and casinos for amusement and recreation, including sports gaming pools, and such other forms of amusement and recreation.
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> Respondent [CIR], on the other hand, is the Head of the [BIR] with authority, among others, to resolve protests on assessments issued by her office or her authorized representatives. She holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.
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> [PAGCOR] provides a car plan program to its qualified officers under which sixty percent (60%) of the car plan availment is shouldered by PAGCOR and the remaining forty percent (40%) for the account of the officer, payable in five (5) years.
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> On October 10, 2007, [PAGCOR] received a Post Reporting Notice dated September 28, 2007 from BIR Regional Director Alfredo Misajon [RD Misajon] of Revenue Region 6, Revenue District No. 33, for an informal conference to discuss the result of its investigation on [PAGCOR's] internal revenue taxes in 2004. The Post Reporting Notice shows that [PAGCOR] has deficiencies on Value Added Tax (VAT), Withholding Tax on VAT (WTV), Expanded Withholding Tax (EWT), and Fringe Benefits Tax (FBT).
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> Subsequently, the BIR abandoned the claim for deficiency assessments on VAT, WTV and EWT in the Letter to [PAGCOR] dated November 23, 2007 in view of the principles laid down in *Commissioner of Internal Revenue vs. Acesite Hotel Corporation* [G.R. No. 147295]

[5] Id. at 199-204. Penned by Associate Justice Esperanza R. Fabon-Victorino, with Presiding Justice Ernesto D. Acosta and Associate Justice Erlinda P. Uy concurring.

> exempting [PAGCOR] and its contractors from VAT. However, the assessment on deficiency FBT subsists and remains due to date.
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> On January 17, 2008, [PAGCOR] received a Final Assessment Notice [FAN] dated January 14, 2008, with demand for payment of deficiency FBT for taxable year 2004 in the amount of ₱48,589,507.65.
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> On January 24, 2008, [PAGCOR] filed a protest to the FAN addressed to [RD Misajon] of Revenue Region No. 6 of the BIR.
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> On August 14, 2008, [PAGCOR] elevated its protest to respondent CIR in a Letter dated August 13, 2008, there being no action taken thereon as of that date.
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> In a Letter dated September 23, 2008 received on September 25, 2008, [PAGCOR] was informed that the Legal Division of Revenue Region No. 6 sustained Revenue Officer Ma. Elena Llantada on the imposition of FBT against it based on the provisions of Revenue Regulations (RR) No. 3-98 and that its protest was forwarded to the Assessment Division for further action.
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> On November 19, 2008, [PAGCOR] received a letter from the OIC-Regional Director, Revenue Region No. 6 (Manila), stating that its letter protest was referred to Revenue District Office No. 33 for appropriate action.
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> On March 11, 2009, [PAGCOR] filed the instant Petition for Review alleging respondents' inaction in its protest on the disputed deficiency FBT.[6]

The CTA 1st Division's Ruling

The CTA 1st Division issued the assailed decision dated 6 July 2011 and ruled in favor of respondents. The CTA 1st Division ruled that RD Misajon's issuance of the FAN was a valid delegation of authority, and PAGCOR's administrative protest was validly and seasonably filed on 24 January 2008. The petition for review filed with the CTA 1st Division, however, was filed out of time. The CTA 1st Division stated:

> As earlier stated, [PAGCOR] timely filed its administrative protest on January 24, 2008. In accordance with Section 228 of the Tax Code, respondent CIR or her duly authorized representative had 180 days or until July 22, 2008 to act on the protest. After the expiration of the 180-day period without action on the protest, as in the instant case, the taxpayer, specifically [PAGCOR], had 30 days or until August 21, 2008 to assail the non-determination of its protest.
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> Clearly, the conclusion that the instant Petition for Review was filed beyond the reglementary period for appeal on March 11, 2009, effectively depriving the Court of jurisdiction over the petition, is inescapable.

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6 Id. at 150-153.

> And as provided in Section 228 of the NIRC, the failure of [PAGCOR] to appeal from an assessment on time rendered the same final, executory and demandable. Consequently, [PAGCOR] is already precluded from disputing the correctness of the assessment. The failure to comply with the 30-day statutory period would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the correctness of the assessment.
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> Even assuming *in gratia argumenti* that the [CTA] has jurisdiction over the case as claimed by [PAGCOR], the petition must still fail on the ground that [PAGCOR] is not exempt from payment of the assessed FBT under its charter.
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> x x x x
>
> Since the car plan provided by [PAGCOR] partakes of the nature of a personal expense attributable to its employees, it shall be treated as taxable fringe benefit of its employees, whether or not the same is duly receipted in the name of the employer. Therefore, [PAGCOR's] obligation as an agent of the government to withhold and remit the final tax on the fringe benefit received by its employees is personal and direct. The government's cause of action against [PAGCOR] is not for the collection of income tax, for which [PAGCOR] is exempted, but for the enforcement of the withholding provision of the 1997 NIRC, compliance of which is imposed on [PAGCOR] as the withholding agent, and not upon its employees. Consequently, [PAGCOR's] non-compliance with said obligation to withhold makes it personally liable for the tax arising from the breach of its legal duty.[7]

PAGCOR filed a motion for reconsideration, dated 26 July 2011, of the 6 July 2011 Decision of the CTA 1st Division. The CIR filed a comment,[8] and asked that PAGCOR be ordered to pay ₱48,589,507.65 representing deficiency fringe benefits tax for taxable year 2004 plus 25% surcharge and 20% delinquency interest from late payment beyond 15 February 2008 until fully paid, pursuant to Sections 248 and 249 of the National Internal Revenue Code (NIRC) of 1997.

In the meantime, the CIR sent PAGCOR a letter dated 18 July 2011.[9] The letter stated that PAGCOR should be subjected to the issuance of a Warrant of Distraint and/or Levy and a Warrant of Garnishment because of its failure to pay its outstanding delinquent account in the amount of ₱46,589,507.65, which included surcharge and interest. Settlement of the tax liability is necessary to obviate the issuance of a Warrant of Distraint and/or Levy and a Warrant of Garnishment.

Subsequently, PAGCOR filed a reply dated 28 September 2011 to ask that an order be issued directing respondents to hold in abeyance the execution of the Warrant of Distraint and/or Levy and the Warrant of

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7 Id. at 161-168.

8 Id. at 181-186.

9 Stamped received by PAGCOR on 26 July 2011. Id. at 205.

Garnishment, as well as to suspend the collection of tax insofar as the 2004 assessment is concerned. PAGCOR also asked for exemption from filing a bond or depositing the amount claimed by respondents.[10]

PAGCOR filed a petition for review with urgent motion to suspend tax collection[11] with the CTA En Banc on 23 November 2011.

The CTA En Banc's Ruling

The CTA En Banc dismissed PAGCOR's petition for review and affirmed the CTA 1st Division's Decision and Resolution. The CTA En Banc ruled that the protest filed before the RD is a valid protest; hence, it was superfluous for PAGCOR to raise the protest before the CIR. When PAGCOR filed its administrative protest on 24 January 2008, the CIR or her duly authorized representative had 180 days or until 22 July 2008 to act on the protest. After the expiration of the 180 days, PAGCOR had 30 days or until 21 August 2008 to assail before the CTA the non-determination of its protest.

Moreover, Section 223 of the NIRC merely suspends the period within which the BIR can make assessments on a certain taxpayer. A taxpayer's request for reinvestigation only happens upon the BIR's issuance of an assessment within the three-year prescriptive period. The reinvestigation of the assessment suspends the prescriptive period for either a revised assessment or a retained assessment.

PAGCOR filed its Motion for Reconsideration on 22 March 2013, while respondents filed their Comment/Opposition on 3 June 2013.

The CTA En Banc denied PAGCOR's motion in a Resolution[12] dated 23 July 2013.

PAGCOR filed the present petition for review on 14 October 2013. Respondents filed their comment through the Office of the Solicitor General on 20 March 2014. On 23 April 2014, this Court required PAGCOR to file a reply to the comment within 10 days from notice. This period expired on 26 June 2014. On 15 September 2014, this Court issued another resolution denying PAGCOR's petition for failure to comply with its lawful order without any valid cause. On 31 October 2014, PAGCOR filed a motion for reconsideration of the Court's 15 September 2014 Resolution. We granted PAGCOR's motion in a Resolution dated 10 December 2014.

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10 Id. at 187-198.
11 Id. at 221-260.
12 Id. at 49-54.

The Issues

PAGCOR presented the following issues in its petition:

1. Whether or not the CTA En Banc gravely erred in affirming the CTA 1st Division's Decision dismissing the Petition for Review for having been filed out of time.

2. Whether or not the CTA En Banc seriously erred when it affirmed the CTA 1st Division's failure to decide the case on substantive matters, i.e., the full import of PAGCOR's tax exemption under its charter which necessarily includes its exemption from the fringe benefits tax (FBT).

   2.1 Assuming that PAGCOR is not exempt from the FBT, whether or not the car plan extended to its officers inured to its benefit and it is required or necessary in the conduct of its business.

   2.2 Assuming that PAGCOR is subject to the alleged deficiency FBT, whether or not it is only liable for the basic tax, i.e., excluding surcharge and interest.[13]

In their Comment,[14] respondents argue that the CTA properly dismissed PAGCOR's petition because it was filed beyond the periods provided by law.

The Court's Ruling

The petition has no merit. The CTA En Banc and 1st Division were correct in dismissing PAGCOR's petition. However, as we shall explain below, the dismissal should be on the ground of premature, rather than late, filing.

Timeliness of PAGCOR's Petition before the CTA

The CTA 1st Division and CTA En Banc both established that PAGCOR received a FAN on 17 January 2008, filed its protest to the FAN addressed to RD Misajon on 24 January 2008, filed yet another protest addressed to the CIR on 14 August 2008, and then filed a petition before the CTA on 11 March 2009. There was no action on PAGCOR's protests filed on 24 January 2008 and 14 August 2008. PAGCOR would like this Court to rule that its protest before the CIR starts a new period from which to determine the last day to file its petition before the CTA.

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13 Id. at 16.

14 Id. at 365-A-373.

The CIR, on the other hand, denied PAGCOR's claims of exemption with the issuance of its 18 July 2011 letter. The letter asked PAGCOR to settle its obligation of ₱46,589,507.65, which consisted of tax, surcharge and interest. PAGCOR's failure to settle its obligation would result in the issuance of a Warrant of Distraint and/or Levy and a Warrant of Garnishment.

The relevant portions of Section 228 of the NIRC of 1997 provide:

> SEC. 228. *Protesting of Assessment.* - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: x x x.
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> x x x x
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations.
>
> Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
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> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Section 3.1.5 of Revenue Regulations No. 12-99, implementing Section 228 above, provides:

> 3.1.5. Disputed Assessment. - The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof. x x x.
>
> x x x x
>
> If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable.

> If the protest is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable.
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> In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final executory and demandable: Provided, however, that if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory and demandable, in which case, the protest shall be decided by the Commissioner.
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> If the Commissioner or his duly authorized representative fails to act on the taxpayer's protest within one hundred eighty (180) days from date of submission, by the taxpayer, of the required documents in support of his protest, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the said 180-day period, otherwise the assessment shall become final, executory and demandable.

Following the *verba legis* doctrine, the law must be applied exactly as worded since it is clear, plain, and unequivocal.[15] A textual reading of Section 3.1.5 gives a protesting taxpayer like PAGCOR only three options:

1. If the protest is wholly or partially denied by the CIR ***or*** his authorized representative, then the taxpayer may appeal to the CTA within 30 days from receipt of the whole or partial denial of the protest.

2. If the protest is wholly or partially denied by the CIR's authorized representative, then the taxpayer may appeal to the CIR within 30 days from receipt of the whole or partial denial of the protest.

3. If the CIR or his authorized representative failed to act upon the protest within 180 days from submission of the required supporting documents, then the taxpayer may appeal to the CTA within 30 days from the lapse of the 180-day period.

To further clarify the three options: A whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. A whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA. There is no mention of an appeal to the CIR from the failure to act by the CIR's authorized representative.

PAGCOR did not wait for the RD or the CIR's decision on its protest. PAGCOR made separate ***and*** successive filings before the RD and the CIR

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[15] *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. No. 187485, 12 February 2013, 690 SCRA 336.

before it filed its petition with the CTA. We shall illustrate below how PAGCOR failed to follow the clear directive of Section 228 and Section 3.1.5.

PAGCOR's protest to the RD on 24 January 2008 was filed within the 30-day period prescribed in Section 228 and Section 3.1.5. The RD did not release any decision on PAGCOR's protest; thus, PAGCOR was unable to make use of the first option as described above to justify an appeal to the CTA. The effect of the lack of decision from the RD is the same, whether we consider PAGCOR's April 2008 submission of documents[16] or not.

Under the third option described above, even if we grant leeway to PAGCOR and consider its unspecified April 2008 submission, PAGCOR still should have waited for the RD's decision until 27 October 2008, or 180 days from 30 April 2008. PAGCOR then had 30 days from 27 October 2008, or until 26 November 2008, to file its petition before the CTA. PAGCOR, however, did not make use of the third option. PAGCOR did not file a petition before the CTA on or before 26 November 2008.

Under the second option, PAGCOR ought to have waited for the RD's whole or partial denial of its protest before it filed an appeal before the CIR. PAGCOR rendered the second option moot when it formulated its own rule and chose to ignore the clear text of Section 3.1.5. PAGCOR "elevated an appeal" to the CIR on 13 August 2008 ***without*** any decision from the RD, then filed a petition before the CTA on 11 March 2009. A textual reading of Section 228 and Section 3.1.5 will readily show that neither Section 228 nor Section 3.1.5 provides for the remedy of an appeal to the CIR in case of the RD's failure to act. The third option states that the remedy for failure to act by the CIR or his authorized representative is to file an appeal to the CTA within 30 days after the lapse of 180 days from the submission of the required supporting documents. PAGCOR clearly failed to do this.

If we consider, for the sake of argument, PAGCOR's submission before the CIR as a separate protest and not as an appeal, then such protest should be denied for having been filed out of time. PAGCOR only had 30 days from 17 January 2008 within which to file its protest. This period ended on 16 February 2008. PAGCOR filed its submission before the CIR on 13 August 2008.

When PAGCOR filed its petition before the CTA, it is clear that PAGCOR failed to make use of any of the three options described above. A

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[16] See *Commissioner of Internal Revenue v. First Express Pawnshop Co., Inc.*, 607 Phil. 227, 248-249 (2009), where we stated that: "Section 228 of the Tax Code provides the remedy to dispute a tax assessment within a certain period of time. It states that an assessment may be protested by filing a request for reconsideration or reinvestigation within 30 days from receipt of the assessment by the taxpayer. Within 60 days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final."

petition before the CTA may only be made after a whole or partial denial of the protest by the CIR or the CIR's authorized representative. When PAGCOR filed its petition before the CTA on 11 March 2009, there was still no denial of PAGCOR's protest by either the RD or the CIR. Therefore, under the first option, PAGCOR's petition before the CTA had no cause of action because it was prematurely filed. The CIR made an unequivocal denial of PAGCOR's protest only on 18 July 2011, when the CIR sought to collect from PAGCOR the amount of ₱46,589,507.65. The CIR's denial further puts PAGCOR in a bind, because it can no longer amend its petition before the CTA.[17]

> It thus follows that a complaint whose cause of action has not yet accrued cannot be cured or remedied by an amended or supplemental pleading alleging the existence or accrual of a cause of action while the case is pending. Such an action is prematurely brought and is, therefore, a groundless suit, which should be dismissed by the court upon proper motion seasonably filed by the defendant. The underlying reason for this rule is that a person should not be summoned before the public tribunals to answer for complaints which are [premature]. As this Court eloquently said in *Surigao Mine Exploration Co., Inc. v. Harris*:
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> > It is a rule of law to which there is, perhaps, no exception, either at law or in equity, that to recover at all *there must be some cause of action at the commencement of the suit.* As observed by counsel for appellees, there are reasons of public policy why there should be no needless haste in bringing up litigation, and why people who are in no default and against whom there is yet no cause of action should not be summoned before the public tribunals to answer complaints which are groundless. We say groundless because if the action is [premature], it should not be entertained, and an action prematurely brought is a groundless suit.
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> > It is true that an amended complaint and the answer thereto take the place of the originals which are thereby regarded as abandoned (*Reynes vs. Compañía General de Tabacos* [1912], 21 Phil. 416; *Ruyman and Farris vs. Director of Lands* [1916], 34 Phil. 428) and that "the complaint and answer having been superseded by the amended complaint and answer thereto, and the answer to the original complaint not having been presented in evidence as an exhibit, the trial court was not authorized to take it into account." (*Bastida vs. Menzi & Co.* [1933], 58 Phil. 188.) But in none of these cases or in any other case have we held that if a right of action did not exist when the original complaint was filed, one could be created by filing an amended complaint. In some jurisdictions in the United States what was termed an "imperfect cause of action" could be perfected by suitable amendment (*Brown vs.*

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17 See Sections 2 and 3 of Rule 10 of the 1997 Rules of Civil Procedure. See also Section 3 of Rule 1 of the Revised Rules of the Court of Tax Appeals.

> *Galena Mining & Smelting Co.*, 32 Kan., 528; *Hooper vs. City of Atlanta*, 26 Ga. App., 221) and this is virtually permitted in *Banzon and Rosauro vs. Sellner* ([1933], 58 Phil. 453); *Asiatic Potroleum* [*sic*] *Co. vs. Veloso* ([1935], 62 Phil. 683); and recently in *Ramos vs. Gibbon* (38 Off. Gaz. 241). *That, however, which is no cause of action whatsoever cannot by amendment or supplemental pleading* be converted into a cause of action: *Nihil de re accrescit ei qui nihil in re quando jus accresceret habet.*
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> We are therefore of the opinion, and so hold, that *unless the plaintiff has a valid and subsisting cause of action at the time his action is commenced, the defect cannot be cured or remedied by the acquisition or accrual of one while the action is pending, and a supplemental complaint or an amendment setting up such after-accrued cause of action is not permissible.* (Italics ours)[18]

PAGCOR has clearly failed to comply with the requisites in disputing an assessment as provided by Section 228 and Section 3.1.5. Indeed, PAGCOR's lapses in procedure have made the BIR's assessment final, executory and demandable, thus obviating the need to further discuss the issue of the propriety of imposition of fringe benefits tax.

WHEREFORE, we **DENY** the petition. The Decision promulgated on 18 February 2013 and the Resolution promulgated on 23 July 2013 by the Court of Tax Appeals – En Banc in CTA EB No. 844 are **AFFIRMED** with the **MODIFICATION** that the denial of Philippine Amusement and Gaming Corporation's petition is due to lack of jurisdiction because of premature filing. We **REMAND** the case to the Court of Tax Appeals for the determination of the final amount to be paid by PAGCOR after the imposition of surcharge and delinquency interest.

SO ORDERED.

ANTONIO T. CARPIO
Associate Justice

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[18] *Swagman Hotels and Travel, Inc. v. Court of Appeals*, 495 Phil. 161, 172-173 (2005), citing *Limpangco v. Mercado*, 10 Phil. 508 (1908) and *Surigao Mine Exploration Co., Inc. v. Harris*, 68 Phil. 113, 121-122 (1939).

WE CONCUR:

ARTURO D. BRION
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY:

MA. LOURDES C. PERFECTO
Division Clerk of Court
Second Divison