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Republic of the Philippines
Supreme Court
Manila

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals



08-000201-0023
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Case No: EB 417
En Banc

SECOND DIVISION

COMMISSION OF INTERNAL REVENUE,
Petitioner,

- versus -

G.R. No. 203403

**COURT OF TAX APPEALS, THIRD DIVISION and
WINTELECOM, INC.,**
Respondents,

X ----- X

December 5, 2018

NOTICE OF JUDGMENT

Sir/Madam:

Please take notice that on **November 14, 2018** a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 5, 2018 at 10:16 a.m.

Very truly yours,

MARIA LOURDES C. PERFECTO
Division Clerk of Court

By:

TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

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C.T.A Case No. 7056



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

COMMISSIONER OF INTERNAL
 REVENUE,

G.R. No. 203403

Petitioner,

Present:

- versus -

CARPIO, J.,
 Chairperson,
 PERLAS-BERNABE,
 CAGUIOA,
 A. REYES, JR., and
 J. REYES, JR.,* JJ.

COURT OF TAX APPEALS, THIRD
 DIVISION and WINTELECOM,
 INC.,

Promulgated:

Respondents.

14 NOV 2018

X-----X

DECISION

A. REYES, JR., J.:

Before the Court is a Petition for *Certiorari*,¹ filed by the Commissioner of Internal Revenue (petitioner) under Rule 65 of the 1997 Rules of Civil Procedure, seeking the nullification of the Resolution² dated July 30, 2012 rendered by the Court of Tax Appeals (CTA), Third Division, which denied the petitioner's "Motion for Partial Reconsideration (*Re: Decision dated June 7, 2012*) and For Leave to Re-Open Case"³ (subject motion) in CTA Case No. 7056.

* Designated as Acting Member per Special Order No. 2587 dated August 28, 2018.

¹ *Rollo*, pp. 2-55.

² Penned by Associate Justice Olga Palanca-Enriquez, with Associate Justices Lovell R. Bautista and Amelia R. Cotangco-Manalastas concurring; *id.* at 62-67.

³ *Id.* at 434-447.

Reyes

The Antecedent Facts

The petitioner is a duly appointed official of the Republic of the Philippines charged with the duty of assessing and collecting national and internal revenue taxes while private respondent Wintelecom, Inc. (Wintelecom) is a duly organized domestic corporation engaged in the sale and repair of mobile phones.⁴

Following an investigation and a pre-assessment notice of its internal revenue tax liabilities for taxable years 2001 and 2000, Wintelecom received a Final Assessment Notice (FAN) on March 10, 2004 for the alleged deficiency with discrepancies in the total amount of Php 553,344,468.98. It filed a corresponding protest to the FAN on April 6, 2004 which was eventually denied by the petitioner on August 20, 2004.⁵

On September 22, 2004, Wintelecom filed a Petition for Review against the petitioner with the CTA in Division docketed as CTA Case No. 7056.⁶

Thereafter, the petitioner filed a series of Motions for Extension of Time to File Answer on October 14, 2004, October 27, 2004, and November 16, 2004, respectively. The CTA, in turn, granted the motions in its respective Orders dated October 20, 2004, November 2, 2004, and November 17, 2004, with the last order warning the petitioner of its final extension.⁷

Notwithstanding, the petitioner filed a fourth, and eventually, a fifth Motion for Extension of Time to File Answer. In its Resolution dated December 17, 2004, the CTA denied the petitioner's fifth motion for extension. Prior to her receipt of the said resolution on January 5, 2005, the petitioner belatedly filed her Answer on December 20, 2004.⁸

On January 13, 2005, the petitioner moved for reconsideration of the Resolution dated December 17, 2004. In a Resolution dated May 20, 2005, the CTA denied the petitioner's motion for reconsideration and set the case for the *ex parte* presentation of evidence for Wintelecom. In turn, the petitioner questioned the said resolution *via* a petition with the Court of Appeals, but the same was dismissed. A subsequent appeal before this Court was likewise denied.⁹

⁴ Id. at 400-401.

⁵ Id. at 401-402.

⁶ Id. at 402.

⁷ Id. at 347-348.

⁸ Id. at 348, 402.

⁹ Id. at 402-403.

Meyer

After the termination of the *ex parte* presentation of evidence for Wintelecom, the CTA rendered a Decision dated February 20, 2008. Thereafter, the petitioner filed a Motion for Reconsideration with Motion to Admit Answer and Set Aside All Evidence Presented which was denied by the CTA in a Resolution dated August 5, 2008.¹⁰

In turn, the petitioner filed a Petition for Review with the CTA *en banc* docketed as CTA EB No. 417, assailing the Resolution dated May 20, 2005, Decision dated February 20, 2008, and Resolution dated August 5, 2008. Principally, the petitioner questioned the CTA in Division in ordering the *ex parte* presentation of evidence for Wintelecom without any motion from the latter to declare her in default, without a hearing on such motion, without an order declaring her in default, and in rendering judgment thereon.¹¹

In its Decision dated May 21, 2009, the CTA *en banc* held that while it does not countenance the petitioner's repeated motions for extension, the declaration of default against the petitioner was tainted with procedural defects.¹² Thus, the CTA *en banc* granted the petitioner's Petition for Review. Accordingly, it annulled the above-mentioned CTA resolutions and decision, admitted the petitioner's Answer, and remanded CTA Case No. 7056 to the CTA in Division for further proceedings. Wintelecom moved for reconsideration, but the same was denied.¹³

Hence, the case concerning Wintelecom's Petition for Review was remanded back to the CTA in Division where the petitioner's Answer was admitted.

In her Answer, the petitioner alleged that pursuant to the provisions of the National Internal Revenue Code (NIRC) of 1997 she has the power to assess the proper tax on any taxpayer based on the best evidence obtainable and such evidence shall be *prima facie* correct and sufficient for all legal purposes. The petitioner claimed that for taxable year 2000, Wintelecom under declared sales in the latter's Income Tax Return (ITR) in the amount of Php 150,153,394.00. For taxable year 2001, Wintelecom declared its sales amounting to Php 113,570,076.00, but in its amended ITR, it declared sales amounting to Php 2,221,499,968.00. The petitioner further alleged that based on third-party information, reconciliation of purchases per unreported books, and verification from the Information Systems Operations Service Data Center of the Bureau of Internal Revenue (BIR), Wintelecom incurred tax deficiencies for taxable years 2000 and 2001. She further asserted that all presumptions are in favor of the correctness of tax assessments.¹⁴

¹⁰ Id. at 403.

¹¹ Id. at 402.

¹² Id. at 359-360.

¹³ Id. at 403-404.

¹⁴ Id. at 404-405.

Mejia

In turn, Wintelecom presented its' testimonial and documentary evidence, which were all admitted by the CTA.¹⁵

On April 4, 2011, the petitioner moved for the resetting of the scheduled initial presentation of her evidence which was granted by the CTA with a warning. Despite this, the petitioner moved for resetting again on May 2, 2011. The CTA granted the said motion with a final warning to the petitioner's counsel. On June 1, 2011, the petitioner filed an Urgent Motion to Reset Hearing, alleging that she will not be able to present her evidence on June 6, 2011 due to the heavy volume of work and that she has yet to communicate with her witnesses, who are revenue examiners mostly doing field work.¹⁶

The petitioner failed to attend the scheduled hearing on June 6, 2011. Thus, upon motion of Wintelecom's counsel and considering that a final warning had already been issued against the petitioner against any further resetting, the petitioner was deemed to have waived the right to present evidence in a Resolution dated June 17, 2011 issued by the CTA. The petitioner moved for reconsideration, but the same was denied for lack of merit in CTA Resolution dated August 23, 2011.¹⁷

Thereafter, both parties were ordered to file their simultaneous memoranda within 30 days from notice. While Wintelecom filed its Memorandum, the petitioner failed to file the same despite notice. Subsequently, the case was deemed submitted for decision.¹⁸

Meanwhile, in a Petition for *Certiorari* filed before this Court on October 26, 2011 and docketed as G.R. No. 199071, the petitioner assailed the CTA Resolutions dated June 17, 2011 and August 23, 2011. Therein, the petitioner prayed that the declaration deeming her to have waived her right to present evidence be set aside and that she be allowed to present evidence in the case. On December 12, 2011, the Court issued a Resolution denying the said petition for having been filed out of time. The petitioner moved for reconsideration, but the same was denied with finality in a Resolution by the Court dated March 19, 2012. Consequently, an Entry of Judgment was made in that case on June 7, 2012.¹⁹

On June 7, 2012, the CTA, Third Division rendered its Decision²⁰ in the main case, the dispositive portion of which reads:

¹⁵ Id. at 404-405.

¹⁶ Id. at 406.

¹⁷ Id. at 406-407.

¹⁸ Id.

¹⁹ Id. at 449-450.

²⁰ Penned by Associate Justice Olga Palanca-Enriquez, with Associate Justices Lovell R. Bautista and Amelia R. Cotangco-Manalastas concurring; id. at 400-433.

Meyer

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTLY GRANTED**, as follows:

1. The assessments for deficiency income tax for taxable years 2000 and 2001 – are hereby **CANCELLED** and **SET ASIDE**;
2. As regards the assessments for deficiency VAT, withholding tax on compensation, expanded withholding tax and final withholding tax on fringe benefits for the years 2001 and 2000, [Wintelecom] is hereby **ORDERED TO PAY** [the petitioner] the reduced amount of **FIVE MILLION NINE HUNDRED FORTY[-]NINE [sic] THOUSAND EIGHT HUNDRED FORTY[-]SIX PESOS AND EIGHTY[-]EIGHT CENTAVOS (P5,949,846.88)**, computed as follows:

	YEAR 2001	YEAR 2000	TOTAL
Deficiency VAT	P553,177.65	P2,898,767.65	P3,451,945.30
Deficiency Withholding Taxes			
Compensation	27,540.25	26,056.73	53,596.98
Expanded Withholding Tax	1,203,728.18	39,512.76	1,243,240.94
Final Withholding Tax ---			
Fringe Benefits	1,201,063.66	---	1,201,063.66
	<u>P2,985,509.74</u>	<u>P2,964,337.14</u>	<u>P5,949,846.88</u>

3. In addition, [Wintelecom] is hereby **ORDERED TO PAY** an additional 20% delinquency interest on the total amount of P5,949,846.88 computed from August 23, 2004 until fully paid, pursuant to *Section 249 (C) of the NIRC of 1997, as amended*.

SO ORDERED.²¹

Finding against the petitioner's assessments for deficiency income tax, the CTA found that there were no factual and legal bases to support such claim: as the petitioner failed to present evidence thereof.²²

On June 26, 2012, the petitioner filed the subject motion²³ claiming she did not intend to waive her right to present evidence as the delay in presenting her evidence-in-chief was due to the massive demands of government on her limited pool of lawyers.²⁴ She then prayed that the

²¹ Id. at 432-433.

²² Id. at 418.

²³ Id. at 434-447.

²⁴ Id. at 439.

Meyer

Decision dated June 7, 2012 be set aside, the case be re-opened, and she be allowed to present its evidence in the interest of substantial justice.²⁵ In the assailed Resolution²⁶ dated July 30, 2012, the CTA denied the petitioner's motion in this wise:

WHEREFORE, premises considered, [the petitioner's] "Motion for Partial Reconsideration (Re: Decision dated June 7, 2012) and For Leave to Re-Open Case" is hereby **DENIED** for lack of merit.

SO ORDERED.²⁷

On September 4, 2012, the CTA issued an Entry of Judgment in CTA Case No. 7056.²⁸ Hence, this petition.

The Issue

WHETHER OR NOT THE CTA, THIRD DIVISION GRAVELY ABUSED ITS DISCRETION WHEN IT DENIED THE PETITIONER'S MOTION FOR PARTIAL RECONSIDERATION AND FOR LEAVE TO RE-OPEN THE CASE.

In denying the subject motion, the CTA held that the petitioner's excuses of heavy volume of work and non-availability of witnesses are not acceptable considering that the case is already a re-trial. Hence, the petitioner must have already developed a system and notified her witnesses in advance in order not to further delay the proceedings. The CTA also found that there is no provision in the Rules of Court that contemplates the re-opening of a case and that the grounds relied upon by the petitioner do not fall within those prescribed for a motion for new trial.

The petitioner argues that the CTA's denial of the subject motion amounts to grave abuse of discretion because it will result in apparent miscarriage of justice as it deprives the petitioner a chance to fully prove her case against Wintelecom and recover alleged deficiency taxes. She contends that a liberal stance in the matter of procedural technicalities should have been adopted by the CTA considering the assessment involves a sizeable amount in alleged deficiency taxes and the supposed existence and availability of the third party information which will prove the basis of the said assessment. Lastly, the petitioner insists that in the performance of government functions, the State is not bound by the neglect of its agents and officers.

²⁵ Id. at 443.

²⁶ Id. at 62-67.

²⁷ Id. at 66.

²⁸ Id. at 448-450.

meyer

Meanwhile, apart from agreeing with the CTA, Wintelecom questions the propriety of the instant petition and further claims that the petitioner is guilty of forum shopping. It points out that in the Verification and Certification of Non-Forum Shopping, the petitioner admitted that at the time the petition was filed, there was a "Motion to Admit Motion for Reconsideration" pending before this Court in G.R. No. 199071. Wintelecom likewise contends that the issue of whether or not the petitioner can still present evidence has been ruled upon with finality by the Court in G.R. No. 199071 and is, thus, moot and academic. Moreover, Wintelecom argues that there is no admissible evidence for the petitioner which warrants a re-opening of the case as no third-party information was identified and pre-marked during pre-trial before the CTA.

Ruling of the Court

The petition must fail.

Prefatorily, the Court first discusses the procedural matters raised by Wintelecom.

The petitioner did not engage in forum shopping.

As previously mentioned, prior to filing the instant petition, the petitioner filed an earlier Petition for *Certiorari* before this Court in G.R. No. 199071 assailing the Resolution dated June 17, 2011, which declared her to have waived her right to present evidence. Premised on practically the same facts as the petition at bench, the petitioner prayed that the said resolution be reversed and she be allowed to present her evidence-in-chief. The Court denied the earlier petition for *certiorari* on December 12, 2011 for having been filed out of time. The Court likewise denied the petitioner's eventual motion for reconsideration with finality per Resolution dated March 19, 2012. Notwithstanding, the Entry of Judgment on June 8, 2012, the petitioner filed a Motion to Admit Motion for Reconsideration before this Court on June 21, 2012. As admitted by the petitioner in her Verification and Certification of Non-Forum Shopping, the said motion was pending before this Court when she filed the present petition, which now seeks to re-open CTA Case No. 7056 and one again, for the petitioner to be allowed to present evidence.

Forum shopping is the act of instituting two or more actions or proceedings involving the same parties for the same causes of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition. It is resorted to by any party against whom an adverse judgment or order has been issued in one forum, in an

Meyer

attempt to seek a favorable opinion in another, other than by appeal or a special civil action for *certiorari*.²⁹

Applying the foregoing definition in the case at bar, this Court finds no forum shopping was committed by the petitioner as the instant petition was neither simultaneously nor successively filed with the earlier petition for *certiorari*, the latter having been filed on October 26, 2011 and the former almost one year later on October 1, 2012. In fact, at the time this petition was filed, an Entry of Judgment was already made in G.R. No. 199071. It is also worthy to note that the petitions assail two different resolutions. The earlier petition assailed the CTA Resolution dated June 17, 2011 which declared the petitioner to have waived the right to present evidence, while the instant petition assails the Resolution dated July 30, 2012 which denied her motion for partial reconsideration of the Decision dated June 7, 2012.

The petitioner improperly resorted to certiorari under Rule 65 of the Rules of Court.

The foregoing notwithstanding, the Court finds the petitioner's recourse in filing this petition for *certiorari* improper.

The assailed resolution denied the petitioner's Motion for Partial Reconsideration in connection with the June 7, 2012, which completely disposed of CTA Case No. 7065 on the merits. As such, the petitioner's remedy was to file an appeal before the CTA *en banc* by way of a petition for review under Rule 43 of the Rules of Court, pursuant to Sections 3(b) and 4(b), Rule 8 of the Revised Rules of the CTA (RRCTA), which states:

SEC. 3. Who may appeal; period to file petition. – x x x.

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial **may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** x x x.

x x x x

SEC. 4. Where to appeal; mode of appeal. x x x.

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. **The Court *en banc* shall act on the appeal.** (Emphasis Ours)

²⁹ *Yap v. Chua, et al.*, 687 Phil. 392, 399-400 (2012).

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Having received a copy of the Resolution on August 1, 2012,³⁰ the petitioner had fifteen (15) days or until August 16, 2012 to file an appeal before the CTA *en banc*. Instead, the petitioner filed the instant petition for *certiorari* under Rule 65 of the Rules of Court only on October 1, 2012. Notably, the Decision dated December 7, 2012 became final and executory on August 19, 2012 without any appeal being taken thereon.³¹

It is evident that the petitioner resorted to the instant petition because she failed to take an appeal within the prescribed reglementary period. Such a recourse cannot be done.

In the case of *Government Service Insurance System Board of Trustees and Cristina V. Astudillo v. The Hon. Court of Appeals-Cebu City and Former Judge Ma. Lorna P. Demonteverde*,³² citing *Butuan Development Corporation (BDC) v. The Twenty-First Division of the Honorable Court of Appeals (Mindanao Station), Max Arriola, Jr., De Oro Resources, Inc., (DORI) and Louie A. Libarios*,³³ the Court reiterated the well-entrenched rule that the special civil action of *certiorari* under Rule 65 of the Rules of Court cannot be allowed when a party fails to file an appeal despite availability of that remedy:

A special civil action under Rule 65 of the Rules of Court **will not be a cure for failure to timely file an appeal under Rule 43 of the Rules of Court**. Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, especially if such loss or lapse was occasioned by one's own neglect or error in the choice of remedies. As this Court held in *Butuan Development Corporation v. CA*:

A party cannot substitute the special civil action of *certiorari* under Rule 65 of the Rules of Court for the remedy of appeal. The existence and availability of the right of appeal are antithetical to the availability of the special civil action of *certiorari*. Remedies of appeal (including petitions for review) and *certiorari* are mutually exclusive, not alternative or successive. Hence, *certiorari* is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse. One of the requisites of *certiorari* is that there be no available appeal or any plain, speedy and adequate remedy. **Where an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion.**³⁴ (Citation omitted and emphasis and underscoring Ours)

³⁰ Rollo, p. 5.

³¹ Id. at 459.

³² G.R. No. 230953, June 20, 2018.

³³ G.R. No. 197398, April 5, 2017.

³⁴ *Government Service Insurance System Board of Trustees and Cristina V. Astudillo v. The Hon. Court of Appeals-Cebu City and Former Judge Ma. Lorna P. Demonteverde*, supra note 32.

Meyer

Neither can it be averred that the only question raised in this case is a jurisdictional question. As already mentioned, *certiorari* lies only where there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law. There is no reason why the issue of grave abuse of discretion could not have been raised on appeal.³⁵

The CTA, Third Division did not commit grave abuse of discretion in denying the petitioner's Motion for Partial Reconsideration and for Leave to Re-Open Case

Even if we are to give due course to the present petition, the same is still dismissible for lack of merit.

A petition for *certiorari* under Rule 65 of the Rules of Court³⁶ is the proper remedy in assailing that a tribunal exercising judicial functions committed grave abuse of discretion amounting to lack or excess of jurisdiction. In this regard, the Court has expounded on the meaning of the term "grave abuse of discretion" in *Yu v. Judge Reyes-Carpio, et al.*,³⁷ to wit:

The term grave abuse of discretion has a specific meaning. An act of a court or tribunal can only be considered as with grave abuse of discretion **when such act is done in a capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction.** The abuse of discretion **must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law,** or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. Furthermore, the use of a petition for *certiorari* is restricted only to truly extraordinary cases wherein the act of the lower court or quasi-judicial body is wholly void. From the foregoing definition, it is clear that the special civil action of *certiorari* under Rule 65 can only strike an act down for having been done with grave abuse of discretion **if the petitioner could manifestly show that such act was patent and gross.**³⁸ (Emphases Ours)

³⁵ *Republic v. CA*, 379 Phil. 92, 97 (2000).

³⁶ **Section 1. Petition for certiorari.** — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess 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.

³⁷ 667 Phil. 474 (2011).

³⁸ Id. at 481-482.

Reyes

The Court has likewise held that there is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law or jurisprudence, or (2) executed whimsically, capriciously or arbitrarily out of malice, ill will or personal bias.³⁹

In the case before the Court, the petitioner has failed to show that the CTA's act in denying the subject motion was so patent and gross that would warrant striking it down through petition for *certiorari*. Apart from sweeping allegations in the instant petition, the petitioner failed to substantiate her imputation of grave abuse of discretion on the part of the CTA. Neither did the petitioner advance any argument showing that the CTA exercised its judgment capriciously, whimsically, arbitrarily or despotically out of ill will, hostility, or personal bias.

Quite the contrary a careful review of the CTA, Third Division's assailed resolution reveals that its denial of the subject motion was based on applicable provisions of the RRCTA, the Rules of Court, and prevailing jurisprudence.

In the subject motion, the petitioner submitted that she did not intend to waive her right to present evidence as the delays were due to the massive demands of the Government on her limited pool of lawyers. She likewise beseeched the CTA for the liberal construction of its rules in re-opening the instant case where she would be allowed to present her evidence anew in the interest of substantial justice.

First, a reading of the subject motion readily shows that the petitioner is not seeking a partial reconsideration but a new trial of CTA Case No. 7056 or, at the very least, a re-opening of the case.

On this score, the CTA appropriately noted that the rules of procedure do not provide for a manner to re-open a case under the circumstances of the present case. What the RRCTA, in reference to the Rules of Court which applies suppletorily, specifies is the remedy of a motion for reconsideration or new trial under Rule 15 thereof, Sections 1 and 5 particularly states:

SEC. 1. *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. x x x.

SEC. 5. *Grounds of motion for new trial.* – A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

³⁹ *Air Transportation Office v. CA, et al.*, 737 Phil. 61, 84 (2014).

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(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or

(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

Here, the petitioner's failure to appear during the scheduled hearing for the presentation of her evidence, despite two postponements and strong warnings from the court, was not due to instances of fraud, accident, or excusable negligence. Neither did the petitioner seek the presentation of newly discovered evidence which could not have been discovered and produced during trial.

In addition to the foregoing, the CTA likewise observed that the subject motion was not supported by the required affidavits of merits or affidavits of witnesses as indicated in Section 6, Rule 15 of the RRCTA.⁴⁰

Second, the CTA correctly found the petitioner's submissions unjustifiable. Jurisprudence is replete with pronouncements that the heavy workload of a lawyer is an insufficient reason to justify the relaxation of procedural rules,⁴¹ the same being relative and often self-serving.⁴² If the failure of the petitioner's counsel to cope with his heavy workload would be considered a valid justification to disregard procedural rules, there would be no end to litigations so long as counsel had not been sufficiently diligent or experienced.⁴³

It bears stressing that the petitioner's failure to appear and present her evidence-in-chief during the scheduled hearing on June 6, 2011 was not the only time she failed to comply with procedural rules and court orders. Records reveal that the petitioner initially filed a series of Motions for Extension of Time to File Answer to Wintelecom's Petition for Review on five (5) separate occasions. The CTA in Division granted the petitioner's

⁴⁰ **SEC. 6. Contents of motion for reconsideration or new trial and notice.** – The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. **A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits** which may be rebutted by counter-affidavits. **A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses** by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed pro forma, which shall not toll the reglementary period for appeal. (Rules of Court, Rule 37, sec. 2a) (Emphases Ours)

⁴¹ *Iloilo Jar Corporation v. Comglasco Corporation/Agula Glass*, 803 Phil. 567, 575 (2017); *Atty. Buena, Jr. v. Dr. Benito*, 745 Phil. 399, 412-413 (2014), citing *Bacarra v. National Labor Relations Commission*, 510 Phil. 353, 359 (2005).

⁴² *Adtel, Inc. v. Valdez*, G.R. No. 189942, August 9, 2017, 836 SCRA 57, 67-68, citing *Yutingco v. CA*, 435 Phil. 83, 91-92 (2002).

⁴³ *Hernandez v. Agoncillo*, 697 Phil. 459, 469-470 (2012), citing *LTS Philippines Corporation v. Maliwat*, 489 Phil. 230, 235 (2005).

Meyer

first and second motions while it expressed stern warnings against the petitioner when it granted the third and fourth motions for extension. Understandably, the CTA denied the petitioner's fifth motion. Eventually, the case was elevated before the CTA *en banc* where it was ultimately remanded back to the CTA in Division and the petitioner was afforded another opportunity to present her case and evidence-in-chief.

Notwithstanding, the petitioner moved for resetting of the scheduled hearings on April 4, 2011 and May 2, 2011, respectively. In both occasions, the CTA granted the petitioner's motions with a firm warning. Yet on June 1, 2011, the petitioner filed an Urgent Motion to Reset Hearing, citing inability to present evidence due to heavy workload and failure to communicate with witnesses. When the CTA, Third Division declared her to have waived her right to present evidence and denied her subsequent motion for reconsideration, the petitioner belatedly elevated the case before this Court *via* Petition for *Certiorari* in G.R. No. 199071.

In an attempt to seek a third trial of the instant case because she failed to present her evidence-in-chief, the petitioner invoked the liberal application of the rules as set forth in Section 2, Rule 1 of the RRCTA.⁴⁴ It is the petitioner's contention that the CTA should not be governed strictly by technicalities and resolve the case on the merits. However, considering the above-mentioned circumstances and that the case before the CTA was already on its second trial, such is a dangerous proposition that this Court cannot countenance.

To agree with the petitioner's contention would give rise to an unjustifiable precedent in that there would be no end to the proceedings before the CTA. Whenever a party is deemed to have waived its right to present evidence and is subsequently aggrieved by the tax court's decision, he can have the trial set aside in complete disregard of procedural rules and court processes. While a litigation is not a game of technicalities, this does not mean that the procedural rules may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution.⁴⁵

Indeed, the Court agrees with the CTA's finding that the petitioner's repeated failure to present her evidence is tantamount to inexcusable neglect. As such, the petitioner cannot be allowed to harp on the policy of liberal application of the rules.⁴⁶

⁴⁴ **Sec. 2. Liberal construction.** – The Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court.

⁴⁵ *Sibay v. Bermudez*, G.R. No. 198196, July 17, 2017, 831 SCRA 191, 201, citing *Limpot v. CA*, 252 Phil. 377, 388 (1989).

⁴⁶ *Calamba Steel Center, Inc. v. CIR*, 497 Phil. 23, 39 (2005).

Meyer

To the mind of this Court and contrary to the petitioner's contentions, the CTA had already extended immense liberality and leniency towards the petitioner in allowing her repeated motions for extension and motions for resetting of scheduled hearings. In light of the such circumstances, a liberal application of the rules to accommodate the petitioner's purpose, regardless of her evident inexcusable neglect, would clearly pave the way for injustice as it would be rewarding an act of negligence with undeserved tolerance.⁴⁷

Finally and in view of the discussions herein, the Court does not agree that the petitioner can seek the disregard of our rules on the argument that the State is not bound by the neglect of its agents and officers for "[t]he rule on non-estoppel of the government is not designed to perpetrate an injustice."⁴⁸ While it is recognized that the State cannot be put in estoppel by the mistakes or errors of its agents and officials, such general rule admits of exceptions as the Court has established in *Republic v. CA*:⁴⁹

Estoppels against the public are little favored. They should not be invoked except in rare and unusual circumstances, **and may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public.** They must be applied with circumspection and should be applied only in those special cases where the interests of justice clearly require it. Nevertheless, **the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing;** and subject to limitations x x x the doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals.⁵⁰
(Emphases Ours)

All told, the Court finds no grave abuse of discretion on the part of the CTA, Third Division in denying the petitioner's Motion for Partial Reconsideration and for Leave to Re-Open Case.

WHEREFORE, premises considered, the petition for *certiorari* is hereby **DISMISSED** for lack of merit.

SO ORDERED.

Meyer
ANDRES B. REYES, JR.
Associate Justice

⁴⁷ *CIR v. A. Soriano Corp.*, 334 Phil. 965, 972 (1997).

⁴⁸ *Leca Realty Corp. v. Rep. of the Phils.*, 534 Phil. 693, 702 (2006).

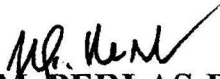
⁴⁹ 361 Phil. 319 (1999).

⁵⁰ *Id.* at 329.

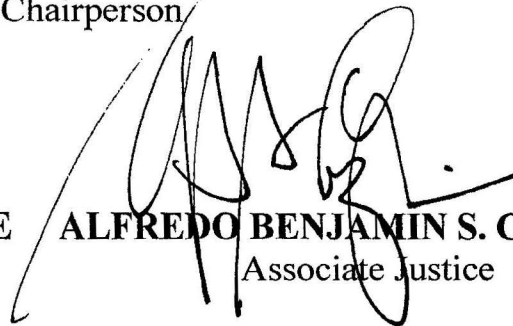
WE CONCUR:



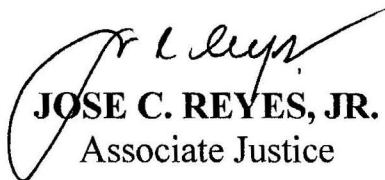
ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



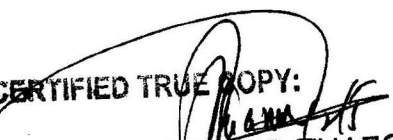
JOSE C. REYES, JR.
Associate Justice

CERTIFICATION

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



ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. No. 296
The Judiciary Act of 1948,
as amended)

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TERESITA AQUINO TUAZON
DEPUTY DIVISION CLERK OF COURT
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