

565 Phil. 255

FIRST DIVISION

[G.R. No. 163445, December 18, 2007]

ASIA INTERNATIONAL AUCTIONEERS, INC. AND SUBIC BAY MOTORS CORPORATION, PETITIONERS, VS. HON. GUILLERMO L. PARAYNO, JR., IN HIS CAPACITY AS COMMISSIONER OF THE BUREAU OF INTERNAL REVENUE (BIR), THE REGIONAL DIRECTOR, BIR, REGION III, THE REVENUE DISTRICT OFFICER, BIR, SPECIAL ECONOMIC ZONE, AND OFFICE OF THE SOLICITOR GENERAL, RESPONDENTS.

DECISION

PUNO, CJ.:

At bar is a petition for review on certiorari seeking the reversal of the decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 79329 declaring the Regional Trial Court (RTC) of Olongapo City, Branch 74, without jurisdiction over Civil Case No. 275-0-2003.

The facts are undisputed.

Congress enacted Republic Act (R.A.) No. 7227 creating the Subic Special Economic Zone (SSEZ) and extending a number of economic or tax incentives therein. Section 12 of the law provides:

(a) Within the framework and subject to the mandate and limitations of the Constitution and the pertinent provisions of the Local Government Code, the [SSEZ] shall be developed into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the zone and to attract and promote productive foreign investments;

(b) The [SSEZ] shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of the [SSEZ], as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. **However, exportation or removal of goods from the territory of the [SSEZ] to the other parts of the**

Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines;

(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed within the [SSEZ]. In lieu of paying taxes, three percent (3%) of the gross income earned by all businesses and enterprise within the [SSEZ] shall be remitted to the National Government, one percent (1%) each to the local government units affected by the declaration of the zone in proportion to their population area, and other factors. In addition, there is hereby established a development fund of one percent (1%) of the gross income earned by all business and enterprise within the [SSEZ] to be utilized for the development of municipalities outside the City of Olongapo and the Municipality of Subic, and other municipalities contiguous to the base areas.

In case of conflict between national and local laws with respect to tax exemption privileges in the [SSEZ], the same shall be resolved in favor of the latter;

(d) No exchange control policy shall be applied and free markets for foreign exchange, gold, securities and future shall be allowed and maintained in the [SSEZ]; (*emphasis supplied*)

On January 24, 1995, then Secretary of Finance Roberto F. De Ocampo, through the recommendation of then Commissioner of Internal Revenue (CIR) Liwayway Vinzon-Chato, issued Revenue Regulations [Rev. Reg.] No. 1-95,^[2] providing the "Rules and Regulations to Implement the Tax Incentives Provisions Under Paragraphs (b) and (c) of Section 12, [R.A.] No. 7227, [o]therwise known as the Bases Conversion and Development Act of 1992." Subsequently, Rev. Reg. No. 12-97^[3] was issued providing for the "Regulations Implementing Sections 12(c) and 15 of [R.A.] No. 7227 and Sections 24(b) and (c) of [R.A.] No. 7916 Allocating Two Percent (2%) of the Gross Income Earned by All Businesses and Enterprises Within the Subic, Clark, John Hay, Poro Point Special Economic Zones and other Special Economic Zones under PEZA." On September 27, 1999, Rev. Reg. No. 16-99^[4] was issued "Amending [RR] No. 1-95, as amended, and other related Rules and Regulations to Implement the Provisions of paragraphs (b) and (c) of Section 12 of [R.A.] No. 7227, otherwise known as the 'Bases Conversion and Development Act of 1992' Relative to the Tax Incentives Granted to Enterprises Registered in the Subic Special Economic and Freeport Zone."

On June 3, 2003, then CIR Guillermo L. Parayno, Jr. issued Revenue Memorandum Circular (RMC) No. 31-2003 setting the "Uniform Guidelines on the Taxation of Imported Motor Vehicles through the Subic Free Port Zone and Other Freeport Zones that are Sold at

Public Auction." The assailed portions of the RMC read:

II. Tax treatments on the transactions involved in the importation of motor vehicles through the SSEFZ and other legislated Freeport zones and subsequent sale thereof through public auction.—Pursuant to existing revenue issuances, the following are the uniform tax treatments that are to be adopted on the different transactions involved in the importation of motor vehicles through the SSEFZ and other legislated Freeport zones that are subsequently sold through public auction:

A. Importation of motor vehicles into the freeport zones

1. Motor vehicles that are imported into the Freeport zones for exclusive use within the zones are, as a general rule, exempt from customs duties, taxes and other charges, provided that the importer-consignee is a registered enterprise within such freeport zone. However, should these motor vehicles be brought out into the customs territory without returning to the freeport zones, the customs duties, taxes and other charges shall be paid to the BOC before release thereof from its custody.

x x x

3. For imported motor vehicles that are imported by persons that are not duly registered enterprises of the freeport zones, or that the same are intended for public auction within the freeport zones, the importer-consignee/auctioneer shall pay the value-added tax (VAT) and excise tax to the BOC before the registration thereof under its name with the LTO and/or the conduct of the public auction.

B. Subsequent sale/public auction of the motor vehicles

1. Scenario One – The public auction is conducted by the consignee of the imported motor vehicles within the freeport zone

x x x

1.2. In case the consignee-auctioneer is a registered enterprise and/or locator not entitled to the preferential tax treatment or if

the same is entitled from such incentive but its total income from the customs territory exceeds 30% of its entire income derived from the customs territory and the freeport zone, the income derived from the public auction shall be subjected to the regular internal revenue taxes imposed by the Tax Code.

X X X

1.4. In the event that the winning bidder shall bring the motor vehicles into the customs territory, the winning bidder shall be deemed the importer thereof and shall be liable to pay the VAT and excise tax, if applicable, based on the winning bid price. However, in cases where the consignee-auctioneer has already paid the VAT and excise tax on the motor vehicles before the registration thereof with LTO and the conduct of public auction, the additional VAT and excise tax shall be paid by winning bidder resulting from the difference between the winning bid price and the value used by the consignee-auctioneer in payment of such taxes. For excise tax purposes, in case the winning bid price is lower than the total costs to import, reconditioning/rehabilitation of the motor vehicles, and other administrative and selling expenses, the basis for the computation of the excise tax shall be the total costs plus ten percent (10%) thereof. The additional VAT and excise taxes shall be paid to the BIR before the auctioned motor vehicles are registered with the LTO.

1.5 In case the services of a professional auctioneer is employed for the public auction, the final withholding tax of 25%, in case he/she is a non-resident citizen or alien, or the expanded withholding tax of 20%, in case he/she is a resident citizen or alien, shall be withheld by the consignee-auctioneer from the amount of consideration to be paid to the professional auctioneer and shall be remitted accordingly to the BIR.

This was later amended by RMC No. 32-2003,^[5] to wit:

II. The imported motor vehicles after its release from Customs custody are sold through public auction/negotiated sale by the consignee within or outside of the Freeport Zone:

A. The gross income earned by the consignee-seller from the public

auction/negotiated sale of the imported vehicles shall be subject to the preferential tax rate of five percent (5%) in lieu of the internal revenue taxes imposed by the National Internal Revenue Code of 1997, provided that the following conditions are present:

1. That the consignee-seller is a duly registered enterprise entitled to such preferential tax rate as well as a registered taxpayer with the Bureau of Internal Revenue (BIR).
 2. That the total income generated by the consignee-seller from sources within the customs territory does not exceed thirty percent (30%) of the total income derived from all sources.
- B. In case the consignee-seller is a registered enterprise and/or locator not entitled to the preferential tax treatment or if the same is entitled from such incentive but its total income from the customs territory exceeds thirty percent (30%) of its entire income derived from the customs territory and the freeport zone, the sales or income derived from the public auction/negotiated sale shall be subjected to the regular internal revenue taxes imposed by the Tax Code. The consignee-seller shall also observe the compliance requirements prescribed by the Tax Code. When public auction or negotiated sale is conducted within or outside of the freeport zone, the following tax treatment shall be observed:
1. Value Added Tax (VAT)/ Percentage Tax (PT) - VAT or PT shall be imposed on every public auction or negotiated sale.
 2. Excise Tax - The imposition of excise tax on public auction or negotiated sale shall be held in abeyance pending verification that the importer's selling price used as a basis by the Bureau of Customs in computing the excise tax is correctly determined.

Petitioners Asia International Auctioneers, Inc. (AIAI) and Subic Bay Motors Corporation are corporations organized under Philippine laws with principal place of business within the SSEZ. They are engaged in the importation of mainly secondhand or used motor vehicles and heavy transportation or construction equipment which they sell to the public through auction.

Petitioners filed a complaint before the RTC of Olongapo City, praying for the nullification of RMC No. 31-2003 for being unconstitutional and an *ultra vires* act. The complaint was docketed as Civil Case No. 275-0-2003 and raffled to Branch 74. Subsequently, petitioners

filed their "First Amended Complaint to Declare Void, Ultra Vires, and Unconstitutional [RMC] No. 31-2003 dated June 3, 2003 and [RMC] No. 32-2003 dated June 5, 2003, with Application for a Writ of Temporary Restraining Order and Preliminary Injunction"^[6] to enjoin respondents from implementing the questioned RMCs while the case is pending. Particularly, they question paragraphs II(A)(1) and (3), II(B)(1.2), (1.4) and (1.5) of RMC No. 31-2003 and paragraphs II(A)(2) and (B) of RMC No. 32-2003. Before a responsive pleading was filed, petitioners filed their Second Amended Complaint^[7] to include Rev. Reg. Nos. 1-95, 12-97 and 16-99 dated January 24, 1995, August 7, 1997 and September 27, 1999, respectively, which allegedly contain some identical provisions as the questioned RMCs, but without changing the cause of action in their First Amended Complaint.

The Office of the Solicitor General (OSG) submitted its "Comment (In Opposition to the Application for Issuance of a Writ of Preliminary Injunction)."^[8] Respondents CIR, Regional Director and Revenue District Officer submitted their joint "Opposition (To The Prayer for Preliminary Injunction and/or Temporary Restraining Order by Petitioners)."^[9]

Then Secretary of Finance Jose Isidro N. Camacho filed a Motion to Dismiss the case against him, alleging that he is not a party to the suit and petitioners have no cause of action against him.^[10] Respondents CIR, BIR Regional Director and BIR Revenue District Officer also filed their joint Motion to Dismiss on the grounds that "[t]he trial court has no jurisdiction over the subject matter of the complaint" and "[a] condition precedent, that is, exhaustion of administrative remedies, has not been complied with."^[11] Petitioners filed their "Motion to Expunge from the Records the Respondents['] Motion to Dismiss"^[12] for allegedly failing to comply with Section 4, Rule 15 of the Rules of Court. To this, the respondents filed their Opposition.^[13]

Meantime, BIR Revenue District Officer Rey Asterio L. Tambis sent a 10-Day Preliminary Notice^[14] to the president of petitioner AIAI for unpaid VAT on auction sales conducted on June 6-8, 2003, as per RMC No. 32-2003.

On August 1, 2003, the trial court issued its order^[15] granting the application for a writ of preliminary injunction. The dispositive portion of the order states:

WHEREFORE, premises considered, petitioners' application for the issuance of a writ of preliminary injunction is hereby GRANTED. Let the writ issue upon the filing and approval by the court of an injunction bond in the amount of Php 1 Million.

SO ORDERED.^[16]

Consequently, respondents CIR, the BIR Regional Director of Region III, the BIR Revenue District Officer of the SSEZ, and the OSG filed with the CA a petition for certiorari under Rule 65 of the Rules of Court with prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction to enjoin the trial court from exercising jurisdiction over the case.^[17]

Meantime, BIR Regional Director Danilo A. Duncano sent a Preliminary Assessment Notice^[18] to the President of AIAI, informing him of the VAT due from the company for the auction sales conducted on June 6-8, 2003 as per RMC No. 32-2003, plus surcharge, interest and compromise penalty. Thereafter, a Formal Letter of Demand^[19] was sent to the President of petitioner AIAI by the Officer-in-Charge of the BIR Office of the Regional Director.

On March 31, 2004, the CA issued its assailed decision, the dispositive portion of which states:

WHEREFORE, the petition is *GRANTED*. Public respondent Regional Trial Court, Branch 74, of Olongapo City is hereby declared bereft of jurisdiction to take cognizance of Civil Case No. 275-0-2003. Accordingly, said Civil Case No. 275-0-2003 is hereby *DISMISSED* and the assailed Order dated August 1, 2003, *ANNULLED* and *SET ASIDE*.

SO ORDERED.^[20]

Hence, this Petition for Review on Certiorari^[21] with an application for a temporary restraining order and a writ of preliminary injunction to enjoin respondents "from pursuing sending letters of assessments to petitioners." Petitioners raise the following issues:

[a] [W]hether a petition for certiorari under Rule 65 of the New Rules is proper where the issue raised therein has not yet been resolved at the first instance by the Court where the original action was filed, and, necessarily, without first filing a motion for reconsideration;

[b] [W]hich Court- the regular courts of justice established under Batas Pambansa Blg. 129 or the Court of Tax Appeals - is the proper court of jurisdiction to hear a case to declare Revenue Memorandum Circulars unconstitutional and against an existing law where the challenge does not involve the rate and figures of the imposed taxes;

[c] [D]ependent on an affirmative resolution of the second issue in favor of the regular courts of justice, whether the writ of preliminary injunction granted by

the Court at Olongapo City was properly and legally issued.^[22]

Petitioners contend that there were fatal procedural defects in respondents' petition for certiorari with the CA. They point out that the CA resolved the issue of jurisdiction without waiting for the lower court to first rule on the issue. Also, respondents did not file a motion for reconsideration of the trial court's order granting the writ of preliminary injunction before filing the petition with the CA.

The arguments are unmeritorious.

Jurisdiction is defined as the power and authority of a court to hear, try and decide a case.

^[23] The issue is so basic that it may be raised at any stage of the proceedings, even on appeal.^[24] In fact, courts may take cognizance of the issue even if not raised by the parties themselves.^[25] There is thus no reason to preclude the CA from ruling on this issue even if allegedly, the same has not yet been resolved by the trial court.

As to respondents' failure to file a motion for reconsideration, we agree with the ruling of the CA, which states:

It is now settled that the filing of a motion for reconsideration is not always sine qua non before availing of the remedy of certiorari.^[26] Hence, the general rule of requiring a motion for reconsideration finds no application in a case where what is precisely being assailed is lack of jurisdiction of the respondent court.

^[27] And considering also the urgent necessity for resolving the issues raised herein, where further delay could prejudice the interests of the government,^[28] the haste with which the Solicitor General raised these issues before this Court becomes understandable.^[29]

Now, to the main issue: does the trial court have jurisdiction over the subject matter of this case?

Petitioners contend that jurisdiction over the case at bar properly pertains to the regular courts as this is "an action to declare as unconstitutional, void and against the provisions of [R.A. No.] 7227" the RMCs issued by the CIR. They explain that they "do not challenge the rate, structure or figures of the imposed taxes, rather they challenge the authority of the respondent Commissioner to impose and collect the said taxes." They claim that the challenge on the authority of the CIR to issue the RMCs does not fall within the jurisdiction of the Court of Tax Appeals (CTA).

Petitioners' arguments do not sway.

R.A. No. 1125, as amended, states:

Sec. 7. Jurisdiction.—The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided—

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or **other matters arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue**; x x x (*emphases supplied*)

We have held that RMCs are considered administrative *rulings* which are issued from time to time by the CIR.^[30]

Rodriguez v. Blaquera^[31] is in point. This case involves Commonwealth Act No. 466, as amended by R.A. No. 84, which imposed upon firearm holders the duty to pay an initial license fee of P15 and an annual fee of P10 for each firearm, with the exception that in case of "bona fide and active members of duly organized gun clubs and accredited by the Provost Marshal General," the annual fee is reduced to P5 for each firearm. Pursuant to this, the CIR issued General Circular No. V-148 which stated that "bona fide and active members of duly organized gun clubs and accredited by the Provost Marshal General... shall pay an initial fee of fifteen pesos and an annual fee of five pesos for each firearm held on license except caliber .22 revolver or rifle." The General Circular further provided that "[m]ere membership in the gun club does not, as a matter of right, entitle the member to the reduced rates prescribed by law. The licensee must be accredited by the Chief of Constabulary... [and] the firearm covered by the license of the member must be of the target model in order that he may be entitled to the reduced rates." Rodriguez, as manager of the Philippine Rifle and Pistol Association, Inc., a duly accredited gun club, in behalf of the members who have paid under protest the regular annual fee of P10, filed an action in the Court of First Instance (now RTC) of Manila for the nullification of the circular and the refund of P5. On the issue of jurisdiction, plaintiff similarly contended that the action was not an appeal from a ruling of the CIR but merely an attempt to nullify General Circular No. V-148, hence, not within the jurisdiction of the CTA. The Court, in finding this argument unmeritorious, explained:

We find no merit in this pretense. General Circular No. V-148 directs the officers charged with the collection of taxes and license fees to adhere strictly to the interpretation given by the defendant to the statutory provision above mentioned, as set forth in the circular. The same incorporates, therefore, a decision of the Collector of Internal Revenue (now Commissioner of Internal Revenue) on the manner of enforcement of said statute, the administration of

which is entrusted by law to the Bureau of Internal Revenue. As such, it comes within the purview of [R.A.] No. 1125, section 7 of which provides that the [CTA] "shall exercise exclusive appellate jurisdiction to review by appeal * * * decisions of the Collector of Internal Revenue in * * * matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue." Besides, it is plain from plaintiff's original complaint that one of its main purposes was to secure an order for the refund of the sums collected in excess of the amount he claims to be due by way of annual fee from the gun club members, regardless of the class of firearms they have. Although the prayer for reimbursement has been eliminated from his amended complaint, it is only too obvious that the nullification of General Circular No. V-148 is merely a step preparatory to a claim for refund.

Similarly, in **CIR v. Leal**,^[32] pursuant to Section 116 of Presidential Decree No. 1158 (The National Internal Revenue Code, as amended) which states that "[d]ealers in securities shall pay a tax equivalent to six (6%) per centum of their gross income. Lending investors shall pay a tax equivalent to five (5%) per cent, of their gross income," the CIR issued Revenue Memorandum Order (RMO) No. 15-91 imposing 5% lending investor's tax on pawnshops based on their gross income and requiring all investigating units of the BIR to investigate and assess the lending investor's tax due from them. The issuance of RMO No. 15-91 was an offshoot of the CIR's finding that the pawnshop business is akin to that of "lending investors" as defined in Section 157(u) of the Tax Code. Subsequently, the CIR issued RMC No. 43-91 subjecting pawn tickets to documentary stamp tax. Respondent therein, Josefina Leal, owner and operator of Josefina's Pawnshop, asked for a reconsideration of both RMO No. 15-91 and RMC No. 43-91, but the same was denied by petitioner CIR. Leal then filed a petition for prohibition with the RTC of San Mateo, Rizal, seeking to prohibit petitioner CIR from implementing the revenue orders. The CIR, through the OSG, filed a motion to dismiss on the ground of lack of jurisdiction. The RTC denied the motion. Petitioner filed a petition for certiorari and prohibition with the CA which dismissed the petition "for lack of basis." In reversing the CA, dissolving the Writ of Preliminary Injunction issued by the trial court and ordering the dismissal of the case before the trial court, the Supreme Court held that "[t]he questioned RMO No. 15-91 and RMC No. 43-91 are actually rulings or opinions of the Commissioner implementing the Tax Code on the taxability of pawnshops." They were issued pursuant to the CIR's power under Section 245^[33] of the Tax Code "to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws, including ruling on the classification of articles of sales and similar purposes." The Court held that under R.A. No. 1125 (An Act Creating the Court of Tax Appeals), as amended, such rulings of the CIR are appealable to the CTA.

In the case at bar, the assailed revenue regulations and revenue memorandum circulars are actually rulings or opinions of the CIR on the tax treatment of motor vehicles sold at public

auction within the SSEZ to implement Section 12 of R.A. No. 7227 which provides that "exportation or removal of goods from the territory of the [SSEZ] to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines." They were issued pursuant to the power of the CIR under Section 4 of the National Internal Revenue Code,^[34] viz:

Section 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.-- The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or **other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.** (*emphases supplied*)

Petitioners point out that the CA based its decision on Section 7 of R.A. No. 1125 that the CTA "shall exercise exclusive appellate jurisdiction to review *by appeal*..." decisions of the CIR. They argue that in the instant case, there is no decision of the respondent CIR on any disputed assessment to speak of as what is being questioned is purely the authority of the CIR to impose and collect value-added and excise taxes.

Petitioners' failure to ask the CIR for a reconsideration of the assailed revenue regulations and RMCs is another reason why the instant case should be dismissed. It is settled that the premature invocation of the court's intervention is fatal to one's cause of action. If a remedy within the administrative machinery can still be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his jurisdiction, then such remedy must first be exhausted before the court's power of judicial review can be sought.

^[35] The party with an administrative remedy must not only initiate the prescribed administrative procedure to obtain relief but also pursue it to its appropriate conclusion before seeking judicial intervention in order to give the administrative agency an opportunity to decide the matter itself correctly and prevent unnecessary and premature resort to the court. ^[36]

Petitioners' insistence for this Court to rule on the merits of the case would only prove futile. Having declared the court *a quo* without jurisdiction over the subject matter of the instant case, any further disquisition would be *obiter dictum*.

IN VIEW WHEREOF, the petition is DENIED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Promulgated on March 31, 2004 and penned by CA Justice Rosalinda Asuncion-Vicente; *rollo*, pp. 37-48.

[2] *Id.* at 198-209.

[3] *Id.* at 210-216.

[4] *Id.* at 218-221.

[5] "Revised Uniform Guidelines on the Imposition of Value Added Tax on the Sale Through the Public Auction/Negotiated Sale of Motor Vehicles Imported Through the Subic Freeport Zone and other Freeport Zones," issued on June 5, 2003.

[6] *CA rollo*, pp. 44-57.

[7] *Rollo*, pp. 305-317.

[8] Dated August 5, 2003; *CA rollo*, pp. 59-71.

[9] Dated July 11, 2003; *id.* at 73-96.

[10] Dated July 7, 2003; *id.* at 98-100.

[11] Dated July 21, 2003; *rollo*, pp. 50-56.

[12] Dated August 5, 2003; *id.* at 58-59.

[13] Dated August 6, 2003; *id.* at 63-64.

[14] Dated July 28, 2003; *id.* at 66.

[15] *Id.* at 372-373.

[16] *Id.* at 373.

[17] Dated September 19, 2003; *CA rollo*, pp. 1-29.

[18] Dated October 7, 2003; *rollo*, p. 67.

[19] Dated November 5, 2003; *id.* at 68.

[20] *Id.* at 48.

[21] *Id.* at 10-23.

[22] *Id.* at 11-12.

[23] *Veneracion v. Mancilla*, G.R. No. 158238, July 20, 2006, 495 SCRA 712, 726; *Platinum Tours and Travel, Inc. v. Panlilio*, G.R. No. 133365, September 16, 2003, 411 SCRA 142, 146; *United BF Homeowner's Association v. BF Homes, Inc.*, G.R. No. 124873, July 14, 1999, 310 SCRA 304, 317; *Zamora v. CA*, G.R. No. 78206, March 19, 1990, 183 SCRA 279, 283.

[24] *Dy v. NLRC*, G.R. No. L-68544, October 27, 1986, 145 SCRA 211, 220 *citing Calimlim v. Ramirez*, G.R. No. L-34362, November 19, 1982, 118 SCRA 399.

[25] *See* Section 1, Rule 9, Revised Rules of Civil Procedure; *Atuel v. Valdez*, G.R. No. 139561, June 10, 2003, 403 SCRA 517, 524; *Salera v. A-I Investors, Inc.*, G.R. No. 141238, February 15, 2002, 377 SCRA 201, 213.

[26] *Citing Chas Realty and Development Corp. v. Talavera*, G.R. No. 151925, February 6, 2003, 397 SCRA 84.

[27] *Citing Hamilton v. Levy*, G.R. No. 139283, November 15, 2000, 344 SCRA 821.

[28] *Citing Marawi Marantao General Hospital, Inc. v. CA*, G.R. No. 141008, January 16, 2001, 349 SCRA 321.

[29] *Rollo*, p. 45.

[30] *Philippine Bank of Communications v. Commissioner of Internal Revenue*, G.R. No. 112024, January 28, 1999, 302 SCRA 241, 252.

[31] 109 Phil. 598 (1960).

[32] G.R. No. 113459, November 18, 2002, 392 SCRA 9.

[33] Now Section 244 of the National Internal Revenue Code, as amended by R.A. No. 8424, which provides that "[t]he Secretary of Finance, upon recommendation of the Commissioner, shall promulgate all needful rules and regulations for the effective enforcement of the provisions of this Code."

[34] As amended by R.A. No. 8424, otherwise known as the "Tax Reform Act of 1997," which took effect on January 1, 1998.

[35] *National Irrigation Administration v. Enciso*, G.R. No. 142571, May 5, 2006, 489 SCRA 570, 576; *Metro Drug Distribution, Inc. v. Metro Drug Corporation Employees Association-Federation of Free Workers*, G.R. No. 142666, September 26, 2005, 471 SCRA 45, 58 citing *Ambil, Jr. v. Commission on Elections*, G.R. No. 143398, 25 October 2000, 344 SCRA 372.

[36] *Zabat v. CA*, G.R. No. 122089, August 23, 2000, 338 SCRA 551, 560 citing *Jariol v. Commission on Elections*, G.R. No. 127456, March 20, 1997, 270 SCRA 255, 262.