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[G.R. No. 203754, November 03, 2020]

**FILM DEVELOPMENT COUNCIL OF THE PHILIPPINES,
PETITIONER, V. COLON HERITAGE REALTY CORPORATION,
OPERATOR OF ORIENTE GROUP OF THEATERS, REPRESENTED BY
ISIDORO A. CANIZARES, RESPONDENT.**

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**FILM DEVELOPMENT COUNCIL OF THE PHILIPPINES,
PETITIONER, V. CITY OF CEBU AND SM PRIME HOLDINGS, INC.,
RESPONDENTS.**

PERLAS-BERNABE, J.:

Before the Court is the Urgent Motion for Clarification (Urgent Motion)^[1] dated January 8, 2020 filed by respondent SM Prime Holdings, Inc. (SMPHI) with respect to the Court's **Resolution** ^[2] **dated October 15, 2019** (October 15, 2019 Resolution) which **denied with finality** the motion for reconsideration ^[3] filed by petitioner Film Development Council of the Philippines (FDCP) and the motion for partial reconsideration ^[4] filed by respondent City of Cebu, while partially granting the manifestation ^[5] filed by respondent Colon Heritage Realty Corporation (CHRC), all relative to the Court's Decision dated June 16, 2015 ^[6] (June 16, 2015 Decision) on the main.

The Facts

To recount, on June 7, 2002, Congress passed Republic Act No. (RA) 9167, ^[7] creating the FDCP. Sections 13 and 14 thereof provide that the amusement tax on certain graded films which would otherwise accrue to the cities and municipalities in Metropolitan Manila and highly urbanized and independent component cities in the Philippines pursuant to Section 140 of RA 7160 ^[8] (or the Local Government Code [LGC]) during the period the graded film is exhibited, should be deducted and withheld by the proprietors, operators or lessees of theaters or cinemas and remitted to the FDCP, which shall reward the same to the producers of the graded films.^[9]

In the June 16, 2015 Decision, the Court struck down as invalid and unconstitutional Sections 13 and 14 of RA 9167, essentially holding that these provisions violated the principle of local fiscal autonomy because they authorized FDCP to earmark, and hence, effectively confiscate the amusement taxes which should have otherwise inured to the benefit of the local government units (LGUs). ^[10] However, recognizing the existence of these statutory provisions and the reliance of the public thereto prior to their being declared unconstitutional, the Court applied the doctrine

of operative fact and held, among others, that: (1) FDCP and the producers of graded films need not return the amounts already received from the LGUs because they merely complied with the provisions of RA 9167 which were in effect at that time; and (2) any amounts retained by cinema proprietors and operators due to FDCP at that time should be remitted to the latter since Sections 13 and 14 of RA 9167 produced legal effects prior to their being declared unconstitutional.^[11]

In the October 15, 2019 Resolution, the Court **denied with finality** the motion for reconsideration of FDCP, ^[12] which hence, rendered the issue anent the unconstitutionality of Sections 13 and 14 of RA 9167 final and executory. In fact, FDCP has not further contested this issue.

This notwithstanding, SMPHI, in the present Urgent Motion, has drawn the Court's attention to the fact that it received a Memorandum dated December 11, 2019 (Memorandum), wherein FDCP's Chairperson and CEO, Mary Liza B. Dino, directed all theater owners to process all amusement tax remittances accorded to films graded before **December 10, 2019**, i.e., the date it received the Court's October 15, 2019 Resolution, ^[13] with a further warning that non-compliance therewith will result in legal action. ^[14] Notably, FDCP, in its Comment to SMPHI's Urgent Motion, stated that "[f]or FDCP, the reckoning point of the finality of [the Court's **June 16, 2015 Decision and October 15, 2019 Resolution**] is **December 10, 2019**,"^[15] since it received the latter resolution on said date.

In the foregoing regard, SMPHI, in its Urgent Motion, avers that the amusement taxes collected from the exhibition of the graded films during the Metro Manila Film Festival were not yet due to FDCP. **It claims that the screening of the films started on December 25, 2019 and most of them stopped on January 7, 2020.** Thus, the amusement taxes would have been due for remittance to FDCP thirty (30) days after or on February 6, 2020 by virtue of Section 14 of RA 9167. ^[16] Accordingly, SMPHI seeks clarification from the Court as follows:

WHEREFORE, it is respectfully prayed of the Honorable Court to clarify its Decision dated June 16, 2015 and the Resolution dated October 15, 2019 with regard to the effectivity of the application of the Operative Fact Doctrine to films graded before December 10, 2019 where the amusement taxes withheld are or were due for remittance to Petitioner FDCP after December 10, 2019, specifically those graded films, exhibited during the Metro Manila Film Festival, which were graded prior to [the] Finality of the Honorable Court's Decision dated June 16, but were exhibited after the Finality of the Honorable court's Decision. ^[17]

Commenting ^[18] to the Urgent Motion, FDCP avers that the amusement taxes based on the sales completed prior to the finality of the Court's Decision (which it claims to be on December 10, 2019, or the date of its receipt of the October 15, 2019 Resolution) already accrued to FDCP. According to FDCP, the accrual of the amusement tax is distinct from the obligation to pay the same. Citing Section 140 of RA 7160, the tax is on the gross receipt or the amount paid by the film patron to the theater owner. The time, manner, and terms and conditions for the payment of tax is different from the accrual of tax upon point of sale generating a gross receipt. Thus, at the point of sale, the theater owner is duty bound to collect this tax and hold it for the government, and pursuant to Section 14 of RA 9167, concomitantly

bound to remit to FDCP. [19]

The Issue Before the Court

The issue for clarification is whether or not SMPHI should remit to FDCP amusement taxes withheld or which were due for remittance after December 10, 2019, specifically for the graded films exhibited during the Metro Manila Film Festival.

The Court's Ruling

At the onset, it is apt to note that the propriety to clarify the Court's own decision or resolution in a given case rests on its sole prerogative, in line with its inherent power to "amend and control its process and orders so as to make them conformable to law and justice." [20] As held in one case, "[t]he inherent power of the court carries with it the right to determine every question of fact and law which may be involved in the execution." [21]

While the Court observes that its resolution in this case had already attained finality on October 15, 2019, the Court deems it apt to entertain SMPHI's motion for clarification concerning the above issue due to the misguided interpretation of the FDCP in the higher interest of justice.

Primarily, it should be borne in mind that per the Court's procedure, when motion for reconsideration of a decision/resolution on the main is denied with finality, it means that there is no more recourse by the losing party to contest the same. Unless the Court grants leave upon further motion of a party, a denial with finality necessarily signifies that no further pleadings, motions, or papers concerning the issue disposed of shall be entertained. This therefore signifies that, regardless of the date of receipt of the judgment, this Court's disposition contained in the decision or resolution should already be deemed effective. Since there is no further recourse by the losing party, the date of its receipt thereof would be of no practical consequence.

In this case, the Court, in the October 15, 2019 Resolution, had already denied with finality, among others, FDCP's motion for reconsideration of the June 16, 2015 Decision on the main:

WHEREFORE, the motion for reconsideration dated August 5, 2015 of petitioner Film Development Council of the Philippines and the motion for partial reconsideration dated September 16, 2015 of respondent City of Cebu are **DENIED with FINALITY** for lack of merit.

On the other hand, the Manifestation (with a Motion for Partial Reconsideration or Motion to Remand Trial Proceedings to determine Respondent's Full Payment and Compliance with the Decision) dated August 24, 2015 of respondent Colon Heritage Realty Corporation (CHRC) is **PARTLY GRANTED**. Accordingly, Civil Case No. CEB-35601 is hereby **REMANDED** to the Regional Trial Court of Cebu City, Branch 5 to determine whether the amusement taxes for the covered period have been paid by CHRC in accordance with this Resolution.

SO ORDERED. [22]

The Court's denial with finality of FDCP's motion for reconsideration had already put to rest any issue anent the constitutionality of Sections 13 and 14 of RA 9167. As above mentioned, the Court held that these provisions violated the principle of local fiscal autonomy because they authorized FDCP to earmark, and hence, effectively confiscate the amusement taxes which should have otherwise inured to the benefit of the LGUs. For reference, these provisions read:

Section 13. *Privileges of Graded Films.* — Films which have obtained an "A" or "B" grading from the Council pursuant to Sections 11 and 12 of this Act shall be entitled to the following privileges:

a. Amusement tax reward. — A grade "A" or "B" film shall entitle its producer to an incentive equivalent to the amusement tax imposed and collected on the graded films by cities and municipalities in Metro Manila and other highly urbanized and independent component cities in the Philippines pursuant to Sections 140 and 151 of Republic Act No. 7160 at the following rates:

1. For grade "A" films — 100% of the amusement tax collected on such films; and
2. For grade "B" films — 65% of the amusement tax collected on such films. The remaining thirty-five (35%) shall accrue to the funds of the Council.

Section 14. *Amusement Tax Deduction and Remittances.* — All revenue from the amusement tax on the graded film which may otherwise accrue to the cities and municipalities in Metropolitan Manila and highly urbanized and independent component cities in the Philippines pursuant to Section 140 of Republic Act No. 7160 during the period the graded film is exhibited, shall be deducted and withheld by the proprietors, operators or lessees of theatres or cinemas and remitted within thirty (30) days from the termination of the exhibition to the Council which shall reward the corresponding amusement tax to the producers of the graded film within fifteen (15) days from receipt thereof.

Proprietors, operators and lessees of theaters or cinemas who fail to remit the amusement tax proceeds within the prescribed period shall be liable to a surcharge equivalent to five percent (5%) of the amount due for each month of delinquency which shall be paid to the Council. (Emphases and underscoring supplied)

With the unconstitutionality of these provisions, proprietors, operators or lessees of theatres or cinemas are no longer under any obligation to remit to FDCP the amusement taxes on graded films, which should have accrued to the LGUs. Conversely, FDCP no longer had any legal right to receive or demand the same.

However, in light of the operative fact doctrine, the Court gave these provisions limited application in that FDCP was authorized to retain the aforesaid amusement taxes already received from proprietors, operators or lessees of theatres or cinemas during the provisions' effectivity. With the Court's final denial of FDCP's motion for reconsideration on October 15, 2019, FDCP had lost its right to retain, nay, collect or demand, any amusement tax from proprietors, operators or lessees of theatres or

cinemas pursuant to the stricken down Sections 13 and 14 of RA 9167. The limited recognition of FDCP's right to these taxes, although coming from unconstitutional and hence, void provisions, is only based on the operative fact doctrine, which is in turn, premised on the public reliance thereto at the time of their existence. Thus, since Sections 13 and 14 of RA 9167 had already been declared unconstitutional with finality on October 15, 2019, no one can validly claim reliance on these provisions anymore from that point on, much less be a source of any right or entitlement in favor of FDCP.

To reiterate, the fact that FDCP received the October 15, 2019 Resolution on December 10, 2019 is of no moment. While the finality of decisions or resolutions of this Court is, per the Internal Rules of the Supreme Court, ^[23] counted fifteen (15) days from the party's receipt, ^[24] this reglementary period pertains to decisions or resolutions on the main. FDCP had already received the main decision in this case declaring Sections 13 and 14 as unconstitutional and had in fact, duly filed a motion for reconsideration within the fifteen (15)-day period. At the risk of belaboring the point, FDCP's motion for reconsideration had already been denied with finality, which therefore means that it had no further recourse under the Rules. In fact, from that time on, FDCP did not any more contest the Court's disposition through any subsequent motion. This notwithstanding, FDCP, through the alleged Memorandum dated December 11, 2019, still sought all theater owners to process all amusement tax remittances accorded to films graded before December 10, 2019. This FDCP can no longer do. Notwithstanding FDCP's receipt of the Court's October 15, 2019 Resolution on December 10, 2019, it has simply no more right, under the law or equity, to the amusement taxes accruing in favor of the LGUs. Beginning October 15, 2019, its limited refuge under the operative fact doctrine had already ended.

In fine, the Court hereby clarifies that pursuant to the operative fact doctrine, FDCP's right to claim **all taxes withheld by proprietors, operators or lessees of theatres or cinemas, which may otherwise accrue to the cities and municipalities in Metropolitan Manila and highly urbanized and independent component cities in the Philippines pursuant to Section 140 of RA 7160 during the period the graded film is exhibited, is only recognized from the date of effectivity of RA 9167 up until October 15, 2019 (finality of this case) .**

Hence, in response to the query in the Urgent Motion, SMPHI should no longer remit to FDCP amusement taxes withheld or which were due for remittance after December 10, 2019, specifically for the graded films exhibited during the Metro Manila Film Festival.

In this regard, it is fitting to elucidate that per the explicit wordings of Section 14 of RA 9167, the right of FDCP to the amusement taxes is only with respect to the amusement taxes withheld **during the period the graded film is exhibited:**

Section 14. *Amusement Tax Deduction and Remittances.* — All revenue from the amusement tax on the graded film which may otherwise accrue to the cities and municipalities in Metropolitan Manila and highly urbanized and independent component cities in the Philippines pursuant to Section 140 of Republic Act No. 7160 **during the period the graded film is exhibited**, shall be deducted and withheld by the proprietors, operators or lessees of theatres or cinemas and remitted within thirty