

## EN BANC

[ G.R. No. 175723, February 04, 2014 ]

**THE CITY OF MANILA, REPRESENTED BY MAYOR JOSE L. ATIENZA, JR., AND MS. LIBERTY M. TOLEDO, IN HER CAPACITY AS THE CITY TREASURER OF MANILA, PETITIONERS, VS. HON. CARIDAD H. GRECIA-CUERDO, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 112, PASAY CITY; SM MART, INC.; SM PRIME HOLDINGS, INC.; STAR APPLIANCES CENTER; SUPERVALUE, INC.; ACE HARDWARE PHILIPPINES, INC.; WATSON PERSONAL CARE STORES, PHILS., INC.; JOLLIMART PHILS., CORP.; SURPLUS MARKETING CORPORATION AND SIGNATURE LINES, RESPONDENTS.**

### DECISION

#### PERALTA, J.:

Before the Court is a special civil action for *certiorari* under Rule 65 of the Rules of Court seeking to reverse and set aside the Resolutions<sup>[1]</sup> dated April 6, 2006 and November 29, 2006 of the Court of Appeals (CA) in CA-G.R. SP No. 87948.

The antecedents of the case, as summarized by the CA, are as follows:

The record shows that petitioner City of Manila, through its treasurer, petitioner Liberty Toledo, assessed taxes for the taxable period from January to December 2002 against private respondents SM Mart, Inc., SM Prime Holdings, Inc., Star Appliances Center, Supervalu, Inc., Ace Hardware Philippines, Inc., Watsons Personal Care Stores Phils., Inc., Jollimart Philippines Corp., Surplus Marketing Corp. and Signature Lines. In addition to the taxes purportedly due from private respondents pursuant to Section 14, 15, 16, 17 of the ***Revised Revenue Code of Manila (RRCM)***, said assessment covered the local business taxes petitioners were authorized to collect under Section 21 of the same Code. Because payment of the taxes assessed was a precondition for the issuance of their business permits, private respondents were constrained to pay the P 19,316,458.77 assessment under protest.

On January 24, 2004, private respondents filed [with the Regional Trial Court of Pasay City] the complaint denominated as one for "Refund or Recovery of Illegally and/or Erroneously-Collected Local Business Tax, Prohibition with Prayer to Issue TRO and Writ of Preliminary Injunction" which was docketed as Civil Case No. 04-0019-CFM before public respondent's ***sala*** [at Branch 112]. In the amended complaint they filed on February 16, 2004, private respondents alleged that, in relation to Section 21 thereof, Sections 14, 15, 16, 17, 18, 19 and 20 of the ***RRCM*** were violative of the limitations and guidelines under Section 143 (h) of

Republic Act. No. 7160 [Local Government Code] on double taxation. They further averred that petitioner city's Ordinance No. 8011 which amended pertinent portions of the **RRCM** had already been declared to be illegal and unconstitutional by the Department of Justice.<sup>[2]</sup>

In its Order<sup>[3]</sup> dated July 9, 2004, the RTC granted private respondents' application for a writ of preliminary injunction.

Petitioners filed a Motion for Reconsideration<sup>[4]</sup> but the RTC denied it in its Order<sup>[5]</sup> dated October 15, 2004.

Petitioners then filed a special civil action for *certiorari* with the CA assailing the July 9, 2004 and October 15, 2004 Orders of the RTC.<sup>[6]</sup>

In its Resolution promulgated on April 6, 2006, the CA dismissed petitioners' petition for *certiorari* holding that it has no jurisdiction over the said petition. The CA ruled that since appellate jurisdiction over private respondents' complaint for tax refund, which was filed with the RTC, is vested in the Court of Tax Appeals (CTA), pursuant to its expanded jurisdiction under Republic Act No. 9282 (RA 9282), it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the CTA.

Petitioners filed a Motion for Reconsideration,<sup>[7]</sup> but the CA denied it in its Resolution dated November 29, 2006.

Hence, the present petition raising the following issues:

**I- Whether or not the Honorable Court of Appeals gravely erred in dismissing the case for lack of jurisdiction.**

**II- Whether or not the Honorable Regional Trial Court gravely abuse[d] its discretion amounting to lack or excess of jurisdiction in enjoining by issuing a Writ of Injunction the petitioners[,] their agents and/or authorized representatives from implementing Section 21 of the Revised Revenue Code of Manila, as amended, against private respondents.**

**III- Whether or not the Honorable Regional Trial Court gravely abuse[d] its discretion amounting to lack or excess of jurisdiction in issuing the Writ of Injunction despite failure of private respondents to make a written claim for tax credit or refund with the City Treasurer of Manila.**

**IV- Whether or not the Honorable Regional Trial Court gravely abuse[d] its discretion amounting to lack or excess of jurisdiction considering that under Section 21 of the Manila Revenue Code, as amended, they are mere collecting agents of the City Government.**

**V- Whether or not the Honorable Regional Trial Court gravely abuse[d] its discretion amounting to lack or excess of jurisdiction**

**in issuing the Writ of Injunction because petitioner City of Manila and its constituents would result to greater damage and prejudice thereof. (sic)<sup>[8]</sup>**

Without first resolving the above issues, this Court finds that the instant petition should be denied for being moot and academic.

U pon perusal of the original records of the instant case, this Court discovered that a Decision<sup>[9]</sup> in the main case had already been rendered by the RTC on August 13, 2007, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, this Court hereby renders JUDGMENT in favor of the plaintiff and against the defendant to grant a tax refund or credit for taxes paid pursuant to Section 21 of the Revenue Code of the City of Manila as amended for the year 2002 in the following amounts:

To plaintiff SM Mart, Inc.	-	11,462,525.02	P
To plaintiff SM Prime Holdings, Inc.	-	3,118,104.63	
To plaintiff Star Appliances Center	-	2,152,316.54	
To plaintiff Supervalu, Inc.	-	1,362,750.34	
To plaintiff Ace Hardware Phils., Inc.	-	419,689.04	
To plaintiff Watsons Personal Care Health Stores Phils., Inc.	-	231,453.62	
To plaintiff Jollimart Phils., Corp.	-	140,908.54	
To plaintiff Surplus Marketing Corp.	-	220,204.70	
To plaintiff Signature Mktg. Corp.	-	94,906.34	
<b>TOTAL:</b>		<b>19,316,458.77</b>	<b>P</b>

Defendants are further enjoined from collecting taxes under Section 21, Revenue Code of Manila from herein plaintiff.

SO ORDERED.<sup>[10]</sup>

The parties did not inform the Court but based on the records, the above Decision had already become final and executory per the Certificate of Finality<sup>[11]</sup> issued by the same trial court on October 20, 2008. In fact, a Writ of Execution<sup>[12]</sup> was issued by the RTC on November 25, 2009.

In view of the foregoing, it clearly appears that the issues raised in the present petition, which merely involve the incident on the preliminary injunction issued by the RTC, have already become moot and academic considering that the trial court, in its decision on the merits in the main case, has already ruled in favor of respondents and that the same decision is now final and executory. Well entrenched is the rule that where the issues have become moot and academic, there is no justiciable controversy, thereby rendering the resolution of the same of no practical use or value.<sup>[13]</sup>

In any case, the Court finds it necessary to resolve the issue on jurisdiction raised by petitioners owing to its significance and for future guidance of both bench and bar. It is a settled principle that courts will decide a question otherwise moot and academic if it is capable of repetition, yet evading review.<sup>[14]</sup>

However, before proceeding, to resolve the question on jurisdiction, the Court deems it proper to likewise address a procedural error which petitioners committed.

Petitioners availed of the wrong remedy when they filed the instant special civil action for *certiorari* under Rule 65 of the Rules of Court in assailing the Resolutions of the CA which dismissed their petition filed with the said court and their motion for reconsideration of such dismissal. There is no dispute that the assailed Resolutions of the CA are in the nature of a final order as they disposed of the petition completely. It is settled that in cases where an assailed judgment or order is considered final, the remedy of the aggrieved party is appeal. Hence, in the instant case, petitioner should have filed a petition for review on *certiorari* under Rule 45, which is a continuation of the appellate process over the original case.<sup>[15]</sup>

Petitioners should be reminded of the equally-settled rule that a special civil action for *certiorari* under Rule 65 is an original or independent action based on grave abuse of discretion amounting to lack or excess of jurisdiction and it will lie only if there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law.<sup>[16]</sup> As such, it cannot be a substitute for a lost appeal.<sup>[17]</sup>

Nonetheless, in accordance with the liberal spirit pervading the Rules of Court and in the interest of substantial justice, this Court has, before, treated a petition for *certiorari* as a petition for review on *certiorari*, particularly (1) if the petition for *certiorari* was filed within the reglementary period within which to file a petition for review on *certiorari*; (2) when errors of judgment are averred; and (3) when there is sufficient reason to justify the relaxation of the rules.<sup>[18]</sup> Considering that the present petition was filed within the 15-day reglementary period for filing a petition for review on *certiorari* under Rule 45, that an error of judgment is averred, and because of the significance of the issue on jurisdiction, the Court deems it proper and justified to relax the rules and, thus, treat the instant petition for *certiorari* as a petition for review on *certiorari*.

Having disposed of the procedural aspect, we now turn to the central issue in this case. The basic question posed before this Court is whether or not the CTA has jurisdiction over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local tax case.

This Court rules in the affirmative.

On June 16, 1954, Congress enacted Republic Act No. 1125 (RA 1125) creating the CTA and giving to the said court jurisdiction over the following:

(1) Decisions of the Collector 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 law or part of law administered by the Bureau of Internal Revenue;

(2) Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges; seizure, detention or release of property affected fines, forfeitures or other penalties imposed in relation thereto; or other matters arising under the Customs Law or other law or part of law administered by the Bureau of Customs; and

(3) Decisions of provincial or City Boards of Assessment Appeals in cases involving the assessment and taxation of real property or other matters arising under the Assessment Law, including rules and regulations relative thereto.

On March 30, 2004, the Legislature passed into law Republic Act No. 9282 (RA 9282) amending RA 1125 by expanding the jurisdiction of the CTA, enlarging its membership and elevating its rank to the level of a collegiate court with special jurisdiction. Pertinent portions of the amendatory act provides thus:

*Sec. 7. Jurisdiction.* - The CTA shall exercise:

**a. 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 in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

**3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the**