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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

Republic of the Philippines
Supreme Court
Manila

JUL 11 2018

THIRD DIVISION

PHILIPPINE PORTS AUTHORITY, G.R. No. 190324
Petitioner,

Present:

VELASCO, JR., J., *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, JJ.

-versus-

THE CITY OF DAVAO,
SANGGUNIANG PANGLUNGSOD
NG DAVAO CITY, CITY MAYOR
OF DAVAO CITY, CITY
TREASURER OF DAVAO CITY,
CITY ASSESSOR OF DAVAO CITY,
AND CENTRAL BOARD OF
ASSESSMENT APPEALS (CBAA),
Respondents.

Promulgated:

June 6, 2018

Wilfredo V. Lapitan

X-----X

DECISION

LEONEN, J.:

When a tax case is pending on appeal with the Court of Tax Appeals, the Court of Tax Appeals has the exclusive jurisdiction to enjoin the levy of taxes and the auction of a taxpayer's properties in relation to that case.

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This is a Petition for Review on Certiorari,¹ assailing the Court of Appeals December 15, 2008 Decision² and September 11, 2009 Resolution³ in CA-G.R. SP No. 00735-MIN, dismissing the Philippine Ports Authority's Petition for Prohibition.

The Philippine Ports Authority was created under Presidential Decree No. 857, as amended. It was mandated "to implement an integral program for the planning, development, financing, and operation of ports in the Philippines" and was "empowered to administer properties of any kind under its jurisdiction."⁴

On June 17, 2004, the Philippine Ports Authority received a letter from the City Assessor of Davao for the assessment and collection of real property taxes against its administered properties located at Sasa Port. It appealed the assessment via registered mail to the Local Board of Assessment Appeals through the Office of the City Treasurer of Davao on August 2, 2004. The Office of the City Treasurer of Davao received the appeal on August 11, 2004, and forwarded it to the Chairman of the Local Board of Assessment Appeals, who received it on September 6, 2004. While the case was pending, the City of Davao posted a notice of sale of delinquent real properties,⁵ including the three (3) properties subject of this case, namely, 1) the quay covered by Tax Declaration No. E-04-09-063842; 2) the parcel of land with Tax Declaration No. E-04-09-092572; and 3) the administrative building under Tax Declaration No. E-04-09-090803.⁶

The Local Board of Assessment Appeals dismissed the Philippine Ports Authority's appeal for having been filed out of time, and for its lack of jurisdiction on the latter's tax exemption in its January 25, 2005 Order.⁷ The Philippine Ports Authority appealed⁸ before the Central Board of Assessment Appeals, but this appeal was denied in the Central Board of Assessment Appeals April 7, 2005 Decision.⁹ Thus, it filed an appeal with the Court of Tax Appeals.¹⁰

¹ *Rollo*, pp. 13–36.

² *Id.* at 37–43. The Decision was penned by Associate Justice Mario V. Lopez and concurred in by Associate Justices Romulo V. Borja and Elihu A. Ybañez of the Twenty-First Division, Court of Appeals, Cagayan de Oro City.

³ *Id.* at 44–45. The Resolution was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Romulo V. Borja and Ruben C. Ayson of the Special Former Twenty-First Division, Court of Appeals, Cagayan de Oro City.

⁴ *Id.* at 38.

⁵ *Id.*

⁶ *Id.* at 21.

⁷ *Id.* at 38.

⁸ *Id.* at 75–89.

⁹ *Id.* at 113–124. The Decision, docketed as CBAA Case No. M-20, was signed by Chairman Cesar S. Gutierrez and Members Angel P. Palomares and Rafael O. Cortes of the Central Board of Assessment Appeals, Manila.

¹⁰ *Id.* at 39.

The Philippine Ports Authority claimed that it did not receive any warrant of levy for the three (3) properties which were sold to respondent City of Davao, or any notice that they were going to be auctioned. It was informed that it had one (1) year from the date of registration of the sale within which to redeem the properties by paying the taxes, penalties, and incidental expenses, plus interest at the rate of 2% per month on the purchase price.¹¹

Thus, it filed a petition for certiorari with the Court of Appeals, arguing that the City of Davao's taxation of its properties and their subsequent auction and sale to satisfy the alleged tax liabilities were without or in excess of its jurisdiction and contrary to law. It argued that it had no other speedy and adequate remedy except to file a petition for certiorari with the Court of Appeals.¹²

While the petition was pending with the Court of Appeals, the Court of Tax Appeals promulgated a Decision¹³ dated July 30, 2007, granting the Philippine Ports Authority's appeal, resolving in its favor the issue of its liability for the real estate tax of Sasa Port and its buildings. The dispositive portion of this Decision read:

WHEREFORE, premises considered, the present Petition for Review is hereby **GRANTED**. Accordingly, the Decision dated April 7, 2005 of the Central Board of Assessment Appeals in CBAA Case No. M-20 and the Order dated January 25, 2005 of the LBAA in LBAA Case No. 01-04 dismissing the appeal are hereby **SET ASIDE**. We declare the Sasa Port, Davao City and its buildings **EXEMPT** from the real estate tax imposed by Davao City. We declare **VOID** all the real estate tax assessments issued by Davao City on the Sasa Port and its buildings.

SO ORDERED.¹⁴ (Emphasis in the original)

Additionally, while the petition was pending with the Court of Appeals, the Court of Tax Appeals issued an Entry of Judgment stating that its July 30, 2007 Decision became final and executory on February 13, 2008, considering that no appeal to the Supreme Court had been taken.¹⁵

Thereafter, the Court of Appeals dismissed the petition in its December 15, 2008 Decision.¹⁶ It held that the Court of Tax Appeals had

¹¹ Id. at 21.

¹² Id. at 22.

¹³ Id. at 209-236. The Decision, docketed as C.T.A. EB Case No. 183, was penned by Associate Justice Olga Palanca-Enriquez and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castaneda, Jr., Lovell R. Bautista, Erlinda P. Uy, and Caesar A. Casanova of the En Banc, Court of Tax Appeals, Quezon City.

¹⁴ Id. at 235.

¹⁵ Id. at 254.

¹⁶ Id. at 37-43.

exclusive jurisdiction to determine the matter¹⁷ and said that the Philippine Ports Authority “should have applied for the issuance of writ of injunction or prohibition before the Court of Tax Appeals.”¹⁸ It further found the petition dismissible on the ground that the Philippine Ports Authority committed forum shopping, as the petition raised the same facts and issues as in its appeal before the Court of Tax Appeals.¹⁹

Petitioner filed a motion for reconsideration, which the Court of Appeals denied in its September 11, 2009 Resolution,²⁰ which read, in part:

This Court **GRANTS** the Motion For Extension Of Time To file Comment and **NOTES** the Comment subsequently filed within the extended period prayed for, and **DENIES** petitioner’s Motion for Reconsideration from the Decision dated December 15, 2008, dismissing the petition for prohibition and upholding the authority of the City Government of Davao in taxing, auctioning and selling petitioner’s properties to satisfy the latter’s real property tax liabilities.

....

WHEREFORE, the instant Motion for Reconsideration is hereby **DENIED**.

SO ORDERED.²¹ (Emphasis in the original)

Thus, the Philippine Ports Authority filed its Petition for Review²² under Rule 45 of the Rules of Court before this Court against the City of Davao, Sangguniang Panglungsod ng Davao City, City Mayor of Davao City, City Treasurer of Davao City, City Assessor of Davao City, and Central Board of Assessment Appeals (collectively, respondents), assailing the Court of Appeals December 15, 2008 Decision and September 11, 2009 Resolution. Respondents filed their Comment²³ to which petitioner filed its Reply.²⁴

Petitioner argues that it did not commit forum shopping, asserting that the only element of forum shopping present as between the appeals filed before the Court of Tax Appeals and the Court of Appeals is identity of parties.²⁵ Its arguments regarding the jurisdiction of the Court of Appeals are inscrutable but appear to maintain that the Court of Appeals has jurisdiction on the basis of urgency. It also avers that the Court of Appeals erred when it “ruled, declared and upheld the authority” of respondent City

¹⁷ Id. at 40.

¹⁸ Id. at 41.

¹⁹ Id. at 42.

²⁰ Id. at 44–45.

²¹ Id. at 45.

²² Id. at 13–36.

²³ Id. at 200–208.

²⁴ Id. at 246–253.

²⁵ Id. at 24–25.

of Davao to tax, auction, and sell its properties.²⁶ It points out that the Supreme Court has held that as a government instrumentality, its properties cannot be taxed by local government.²⁷

Respondents insist that forum shopping exists, considering that the elements of *litis pendentia* were present when the case was filed with the Court of Appeals.²⁸ On the question of the propriety of the imposition of tax on petitioner's properties, respondents claim that there was an error in the Court of Tax Appeals July 30, 2007 Decision. Thus, while they maintain that this case is not the proper case to rectify the error of the Court of Tax Appeals, they ask that this Court lay down a jurisprudential pronouncement on the real property tax treatment of petitioner's properties.²⁹

The issues for resolution by this Court are:

First, whether or not the Court of Appeals had jurisdiction to issue the injunctive relief prayed for by petitioner Philippine Ports Authority; and

Second, whether or not the petition before the Court of Appeals was properly dismissed for forum shopping.

This Court denies the Petition.

I

In real property tax cases such as this, the remedy of a taxpayer depends on the stage in which the local government unit is enforcing its authority to impose real property taxes.³⁰ Moreover, as jurisdiction is conferred by law,³¹ reference must be made to the law when determining which court has jurisdiction over a case, in relation to its factual and procedural antecedents.

Petitioner has failed to cite any law supporting its contention that the Court of Appeals has jurisdiction over this case. On the other hand, Section 7, paragraph (a)(5) of Republic Act No. 1125,³² as amended by Republic Act No. 9282,³³ provides that the Court of Tax Appeals has exclusive appellate

²⁶ Id. at 24.

²⁷ Id. at 28.

²⁸ Id. at 201.

²⁹ Id. at 206.

³⁰ See *City of Lapu-Lapu v. Phil. Economic Zone Authority*, 748 Phil. 473 (2014) [Per J. Leonen, Second Division].

³¹ See *Commissioner of Internal Revenue v. Villa*, 130 Phil. 3-7 (1968) [Per J. J.P. Bengzon, En Banc].

³² An Act Creating the Court of Tax Appeals (1954).

³³ An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level

jurisdiction over:

Section 7. Jurisdiction. – The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

.....
(5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals[.]

The Central Board of Assessment Appeals April 7, 2005 Decision assailed by petitioner before the Court of Appeals was rendered in the exercise of its appellate jurisdiction over the real property tax assessment of its properties. Clearly, this falls within the above-cited provision. Indeed, there is no dispute that this Central Board of Assessment Appeals decision constitutes one of the cases covered by the Court of Tax Appeals' exclusive jurisdiction.

Despite the clear wording of the law placing this case within the exclusive appellate jurisdiction of the Court of Tax Appeals, petitioner insists that the Court of Appeals could have issued the relief prayed for despite the provisions of Republic Act No. 9282, considering its urgent need for injunctive relief.³⁴

Petitioner's contention has no legal basis whatsoever and must be rejected. Urgency does not remove the Central Board of Assessment Appeals decision from the exclusive appellate jurisdiction of the Court of Tax Appeals. This is particularly true since, as properly recognized by the Court of Appeals, petitioner could have, and should have, applied for injunctive relief with the Court of Tax Appeals, which has the power to issue the preliminary injunction prayed for.³⁵

In *City of Manila v. Grecia-Cuerdo*,³⁶ this Court expressly recognized the Court of Tax Appeals' power to determine whether or not there has been grave abuse of discretion in cases falling within its exclusive appellate jurisdiction and its power to issue writs of certiorari:

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining

of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes (2004).

³⁴ *Rollo*, pp. 25–26.

³⁵ *Id.* at 41.

³⁶ 726 Phil. 9 (2014) [Per J. Peralta, En Banc].



whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC in issuing an interlocutory order in cases falling within the exclusive appellate jurisdiction of the tax court. It, thus, follows that the CTA, by constitutional mandate, is vested with jurisdiction to issue writs of *certiorari* in these cases.


Indeed, in order for any appellate court, to effectively exercise its appellate jurisdiction, it must have the authority to issue, among others, a writ of *certiorari*. In transferring exclusive jurisdiction over appealed tax cases to the CTA, it can reasonably be assumed that the law intended to transfer also such power as is deemed necessary, if not indispensable, in aid of such appellate jurisdiction. There is no perceivable reason why the transfer should only be considered as partial, not total.

Consistent with the above pronouncement, this Court has held as early as the case of *J.M. Tuason & Co., Inc. v. Jaramillo, et al.* that “if a case may be appealed to a particular court or judicial tribunal or body, then said court or judicial tribunal or body has jurisdiction to issue the extraordinary writ of *certiorari*, in aid of its appellate jurisdiction.” This principle was affirmed in *De Jesus v. Court of Appeals*, where the Court stated that “a court may issue a writ of *certiorari* in aid of its appellate jurisdiction if said court has jurisdiction to review, by appeal or writ of error, the final orders or decisions of the lower court.” The rulings in *J.M. Tuason* and *De Jesus* were reiterated in the more recent cases of *Galang, Jr. v. Geronimo* and *Bulilis v. Nuez*.

Furthermore, Section 6, Rule 135 of the present Rules of Court provides that when by law, jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer.

If this Court were to sustain petitioners’ contention that jurisdiction over their *certiorari* petition lies with the CA, this Court would be confirming the exercise by two judicial bodies, the CA and the CTA, of jurisdiction over basically the same subject matter — precisely the split-jurisdiction situation which is anathema to the orderly administration of justice. The Court cannot accept that such was the legislative motive, especially considering that the law expressly confers on the CTA, the tribunal with the specialized competence over tax and tariff matters, the role of judicial review over local tax cases without mention of any other court that may exercise such power. Thus, the Court agrees with the ruling of the CA that since appellate jurisdiction over private respondents’ complaint for tax refund is vested in the CTA, it follows that a petition for *certiorari* seeking nullification of an interlocutory order issued in the said case should, likewise, be filed with the same court. To rule otherwise would lead to an absurd situation where one court decides an appeal in the main case while another court rules on an incident in the very same case.

Stated differently, it would be somewhat incongruent with the pronounced judicial abhorrence to split jurisdiction to conclude that the intention of the law is to divide the authority over a local tax case filed with the RTC by giving to the CA or this Court jurisdiction to issue a writ of *certiorari* against interlocutory orders of the RTC but giving to the CTA the jurisdiction over the appeal from the decision of the trial court in the same case. It is more in consonance with logic and legal soundness to conclude that the grant of appellate jurisdiction to the CTA over tax cases



filed in and decided by the RTC carries with it the power to issue a writ of *certiorari* when necessary in aid of such appellate jurisdiction. The supervisory power or jurisdiction of the CTA to issue a writ of *certiorari* in aid of its appellate jurisdiction should co-exist with, and be a complement to, its appellate jurisdiction to review, by appeal, the final orders and decisions of the RTC, in order to have complete supervision over the acts of the latter.

A grant of appellate jurisdiction implies that there is included in it the power necessary to exercise it effectively, to make all orders that will preserve the subject of the action, and to give effect to the final determination of the appeal. It carries with it the power to protect that jurisdiction and to make the decisions of the court thereunder effective. The court, in aid of its appellate jurisdiction, has authority to control all auxiliary and incidental matters necessary to the efficient and proper exercise of that jurisdiction. For this purpose, it may, when necessary, prohibit or restrain the performance of any act which might interfere with the proper exercise of its rightful jurisdiction in cases pending before it.

Lastly, it would not be amiss to point out that a court which is endowed with a particular jurisdiction should have powers which are necessary to enable it to act effectively within such jurisdiction. These should be regarded as powers which are inherent in its jurisdiction and the court must possess them in order to enforce its rules of practice and to suppress any abuses of its process and to defeat any attempted thwarting of such process.³⁷ (Citations omitted)

In this case, the Court of Tax Appeals had jurisdiction over petitioner's appeal to resolve the question of whether or not it was liable for real property tax. To recall, the real property tax liability was the very reason for the acts which petitioner wanted to have enjoined. It was, thus, the Court of Tax Appeals, and not the Court of Appeals, that had the power to preserve the subject of the appeal, to give effect to its final determination, and, when necessary, to control auxiliary and incidental matters and to prohibit or restrain acts which might interfere with its exercise of jurisdiction over petitioner's appeal. Thus, respondents' acts carried out pursuant to the imposition of the real property tax were also within the jurisdiction of the Court of Tax Appeals.

Even if the law had vested the Court of Appeals with jurisdiction to issue injunctive relief in real property tax cases such as this, the Court of Appeals was still correct in dismissing the petition before it. Once a court acquires jurisdiction over a case, it also has the power to issue all auxiliary writs necessary to maintain and exercise its jurisdiction, to the exclusion of all other courts.³⁸ Thus, once the Court of Tax Appeals acquired jurisdiction over petitioner's appeal, the Court of Appeals would have been precluded from taking cognizance of the case.

³⁷ Id. at 24–27.

³⁸ *Madriñan v. Madriñan*, 554 Phil. 363, 370 (2007) [Per Justice Corona, First Division].

II

The rule against forum shopping is violated when a party institutes more than one action based on the same cause to increase its chances of obtaining a favorable outcome. Thus, when a party institutes a case while another case is pending, where there is an identity of parties and an identity of rights asserted and relief prayed for such that judgment in one case amounts to *res judicata* in the other, it is guilty of forum shopping.³⁹

To reverse a court determination that a party has violated the rule against forum shopping, this party must show that one or more of the requirements for forum shopping does not exist. To this end, petitioner attempts to differentiate the petition filed with the Court of Appeals from the appeal filed with the Court of Tax Appeals. It argues that the right asserted before the Court of Appeals is its right to peacefully possess its ports, free from the threat of losing the properties due to tax liabilities, whereas the right asserted before the Court of Tax Appeals is its right to be exempt from real property tax, as a government instrumentality. Petitioner further argues that the reliefs sought from the two (2) tribunals were not the same—it sought a final relief from payment of real property taxes on its ports from the Court of Tax Appeals; on the other hand, it sought a temporary and immediate relief from respondents' acts from the Court of Appeals, while the issue of taxability was still pending with the Court of Tax Appeals.⁴⁰

However, even assuming without conceding that the arguments laid down by petitioner could support its claim that it did not forum shop, this Court cannot accept that it was what was argued before the Court of Tax Appeals and Court of Appeals, respectively, without reading the text itself. Whether or not the rights asserted and reliefs prayed for in the two (2) petitions were different would best be determined from a reading of the appeal and petition themselves.

Unfortunately for petitioner, it submitted only its own arguments. Neither its petition before the Court of Appeals nor its appeal before the Court of Tax Appeals was attached to the petition filed with this Court. Without any of these texts, this Court is in no position to determine that the elements of forum shopping are absent here.

Thus, this Court affirms the Court of Appeals' finding that the rule against forum shopping was violated when petitioner filed its Petition for Certiorari despite its pending appeal before the Court of Tax Appeals.⁴¹

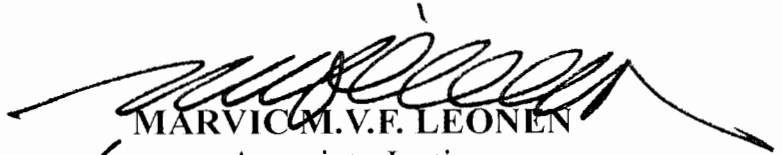
³⁹ See *Dy v. Yu*, 763 Phil. 491 (2015) [Per J. Perlas-Bernabe, First Division].

⁴⁰ *Rollo*, pp. 25–26.


⁴¹ *Id.* at 40–42.

WHEREFORE, the Petition for Review on Certiorari is **DENIED**.
The Court of Appeals December 15, 2008 Decision and September 11, 2009
Resolution in CA-G.R. SP No. 00735-MIN are hereby **AFFIRMED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

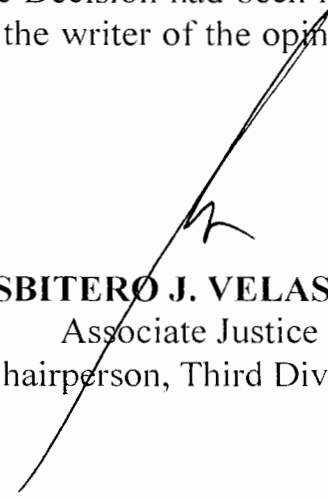

LUCAS P. BERSAMIN
Associate Justice


SAMUEL R. MARTIRES
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

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


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

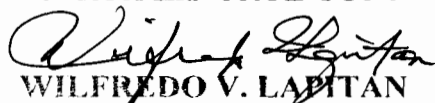
CERTIFICATION

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



ANTONIO T. CARPIO
Acting Chief Justice

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WILFREDO V. LAPIDAN
Division Clerk of Court
Third Division

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