



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

HAZEL MA. C. ANTOLIN- G.R. No. 220378
ROSERO,

Petitioner, Present:

LEONEN, J., *Chairperson,*
HERNANDO,
INTING,
LOPEZ, J., and
ROSARIO,* JJ.

- versus -

PROFESSIONAL REGULATION
COMMISSION, BOARD OF
ACCOUNTANCY, and
ABELARDO T. DOMONDON,
REYNALDO D. GAMBOA, JOSE
A. GANGAN, VIOLETA J.
JOSEF, JOSE V. RAMOS, and
ANTONIETA FORTUNA-IBE

Promulgated:

Respondents. June 30, 2021

x-----Mis-Lo-Ba-ft-----x

DECISION

INTING, J.:

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking to reverse and set aside the Omnibus Orders dated December 19, 2013,² April 8, 2014,³ and September 11, 2015;⁴ and the Decision⁵ dated July 20, 2015 of Branch 41, Regional Trial Court (RTC), Manila.

¹ Designated additional member per Special Order No. 2833.

² *Rollo*, pp. 3-29.

³ *Id.* at 33-38; penned by Presiding Judge Rosalyn D. Mislos-Loja

⁴ *Id.* at 39-48.

⁵ *Id.* at 88-89.

⁶ *Id.* at 50-87.

The Antecedents

The present case originated from a petition for *mandamus* with damages filed before the RTC by Hazel Ma. C. Antolin-Rosero (petitioner) against the Board of Accountancy (BOA) and its members, Conchita L. Manabat,⁶ Abelardo T. Domondon (Domondon), Reynaldo D. Gamboa (Gamboa), Jose A. Gangan (Gangan), Violeta J. Josef (Josef), Jose V. Ramos (Ramos), and Antonieta Fortuna-Ibe (Ibe); and later, also against the Professional Regulation Commission (PRC) (collectively, respondents).⁷

In October 1997, petitioner, along with 6,481 other examinees, took the accountancy licensure examinations (1997 Certified Public Accountant [CPA] Board Exams) conducted by the BOA. The Certified Public Accountant Licensure Exam list of passers was released on October 29, 1997. Only 1,171 examinees passed. Unfortunately, petitioner did not make it. When the examination results were released, petitioner found out that she received failing grades in four of the seven subjects.⁸ Her grades are as follows:

Subject	Petitioner's Grade
Theory of Accounts	65%
Business Law	66%
Management Services	69%
Auditing Theory	82%
Auditing Problems	70%
Practical Accounting I	68%
Practical Accounting II	77% ⁹

Petitioner then wrote to Domondon, Acting Chairman of the BOA, and requested that her answer sheets be rechecked. On November 3, 1997, the BOA showed petitioner her answer sheets which merely consisted of shaded marks. Thus, petitioner was unable to determine why she failed the exam.¹⁰

⁶ Hazel Ma. C. Antolin-Rosero (petitioner) designated the present petition for review on *certiorari* under Rule 45 of the Rules of Court as "Hazel Ma. C. Antolin-Rosero, *Petitioner* v. Professional Regulation Commission, Board of Accountancy, and Abelardo T. Domondon, Reynaldo D. Gamboa, Jose A. Gangan, Violeta J. Josef, Jose V. Ramos, and Antonieta Fortuna-Ibe, *Respondents*." Notably, petitioner omitted Conchita L. Manabat from the recital of respondents (*id.* at 3,6).

⁷ *Id.* at 50.

⁸ *Antolin v. Domondon, et al.*, 637 Phil 164, 168-169 (2010).

⁹ *Id.* at 169.

¹⁰ *Rollo*, p. 50.

On November 10, 1997, petitioner again wrote to the BOA to request for copies of (a) the questionnaire in each of the seven subjects; (b) her answer sheets; (c) the answer keys to the questionnaires; and (d) an explanation of the grading system used in each subject (collectively, the examination documents) so that she could refer them to an expert for checking.¹¹ However, Domondon denied petitioner's request on two grounds. *First*, Section 36,¹² Article III of the Rules and Regulations Governing the Regulation and Practice of Professionals (RRG), as amended by Professional Regulation Commission (PRC) Resolution No. 332,¹³ Series of 1994 only permitted access to petitioner's answer sheet, which she had been shown previously; and that a reconsideration of her examination result is only proper under the grounds stated therein, *i.e.*, mechanical error in the grading of his/her test papers or answer sheets, or malfeasance. *Second*, the BOA is precluded from releasing the examination documents, other than petitioner's answer sheet, by Section 20 of PRC Resolution No. 338,¹⁴ Series of 1994.¹⁵ Under Section 20, the act of providing, getting, receiving, holding, using or reproducing questions that have been given in the examination constitutes prejudicial, illegal, grossly immoral, dishonorable, or unprofessional conduct, except if the test bank for the subject has on deposit at least 2,000 questions.

After a series of correspondence, the BOA informed petitioner that following an investigation conducted into her exam results, it found no mechanical error in the grading of her test papers.¹⁶

Thus, on January 12, 1998, petitioner filed a petition for *mandamus* with damages against the BOA and its members before the RTC. The case was raffled to Branch 33 and docketed as Civil Case No. 98-86881. Petitioner prayed for the following reliefs: (1) issuance of a preliminary mandatory injunction ordering the BOA and its members to furnish petitioner with copies of the examination papers; and (2) that a

¹¹ See Letter dated November 10, 1997 and signed by Atty. Roberto C. San Juan, counsel of petitioner, *id.* at 92.

¹² Section 36, Article III of the Rules and Regulations Governing the Regulation and Practice of Professionals provides:

Section 36. An Examinee shall be allowed to have access or go over his/her test papers or answer sheets on a date not later than thirty (30) days from the official release of the results of the examination. Within ten (10) days from such date, he/she may file his/her request for reconsideration of ratings. Reconsideration of rating shall be effected only on grounds of mechanical error in the grading of his/her test papers or answer sheets, or malfeasance.

¹³ Approved on September 29, 1994.

¹⁴ Approved on November 24, 1994.

¹⁵ *Rollo*, p. 51.

¹⁶ *Id.*

final judgment be issued ordering the BOA and its members to furnish petitioner with all documents and other materials as would enable her to determine whether respondents fairly administered the examinations and correctly graded her performance therein, and, if warranted, to issue to her a certificate of registration as a CPA.¹⁷

Thereafter, on February 5, 1998, the BOA and its members filed their Opposition to the Application for a Writ of Preliminary Mandatory Injunction.¹⁸

On February 16, 1998, respondents Domondon, Gamboa, Gangan, and Josef filed their Answer with Compulsory Counterclaim.¹⁹ Respondents Ibe and Ramos also filed their separate Answers²⁰ dated March 2, 1998 and February 17, 1998, respectively.²¹

In the course of the proceedings, the petition for *mandamus* was amended twice. Specifically, petitioner filed a motion to admit amended petition appending thereto the Amended Petition dated March 3, 1998 which the RTC admitted in its Order dated October 6, 1998 and a Second Amended Petition dated October 5, 2001, which the RTC admitted in its Omnibus Order dated November 11, 2002.²²

In her Amended Petition for *Mandamus* with Damages²³ (First Amended Petition) dated March 3, 1998, petitioner clarified that she was only pleading a cause of action for access to the documents requested pursuant to her constitutional right to information and not for recorection as in fact, she deleted the following prayer for relief from the amended petition: “*and, if warranted, to issue to her a certificate of registration as a CPA.*”²⁴

Respondents filed their respective answers to the amended petition: (a) Ibe filed her Answer to Amended Petition²⁵ dated October 27, 1998; (b) Domondon, Gamboa, Gangan, and Josef filed their Answer

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 177-190, 297-307.

²¹ *Id.* at 51.

²² *Id.* at 7, 52-53, 173.

²³ *Id.* at 114-123.

²⁴ *Id.* at 51.

²⁵ *Id.* at 156-170.

with Counterclaim²⁶ dated October 28, 1998; and (c) the BOA filed its Answer²⁷ dated November 9, 1998.

In her Second Amended Petition dated October 5, 2001, petitioner impleaded the PRC.²⁸ Petitioner prayed among others that judgment be issued commanding all of the respondents to give petitioner all the documents and other materials as would enable her to determine whether they have fairly administered the same examinations and correctly graded her performance therein and, if warranted, to make the appropriate revisions on the results of her examination.²⁹

During the pendency of the case before the RTC, petitioner took and passed the May 1998 CPA Board Exams. She then took her oath as a CPA.³⁰

In its Order dated October 16, 1998, the RTC dismissed petitioner's application for a writ of preliminary mandatory injunction. The RTC ruled that the matter had become moot considering that petitioner passed the May 1998 CPA Board Exams and had already taken her oath as a CPA.³¹

Further, in its Order dated June 21, 2002, the RTC, upon motion, dismissed the petition on the ground of mootness because petitioner already passed the May 1998 CPA Board Exams.³²

Petitioner then sought a reconsideration which the RTC granted in its Omnibus Order dated November 11, 2002. The RTC agreed with petitioner that her passing the subsequent 1998 CPA Board Exams did not render the petition moot and academic because the relief "*and if warranted, to issue to her a certificate of registration as Certified Public Accountant*" was deleted from the original petition.³³ However, the RTC refrained from ruling on the issue of whether petitioner has the constitutional right to have access to the questioned documents. In the same Order, the RTC admitted the Second Amended Complaint and

²⁶ *Id.* at 173-190.

²⁷ *Id.* at 52.-53, 191-205.

²⁸ *Id.* at 53.

²⁹ *Id.*

³⁰ *Id.* at 52.

³¹ *Id.*

³² *Id.* at 53.

³³ *Antolin v. Domondon, et al., supra* note 8 at 173-174.

ordered the PRC to preserve and safeguard the following documents and make them available anytime the court or petitioner needs them, to wit: a) Questionnaire in each of the seven subjects comprising the Accountancy Examination of October 1997; b) Petitioner's Answer Sheets; and c) Answer keys to the questionnaires.³⁴

Respondents filed a motion for reconsideration, but the RTC denied it in its Order dated January 30, 2003.³⁵

Subsequent to the RTC's disposition, three separate petitions for *certiorari* were filed before the CA as follows: (1) CA-G.R. SP No. 76498, a petition filed by Domondon, Gangan, and Josef on April 11, 2003; (2) CA-G.R. SP No. 76545, a petition filed by the BOA and the PRC; and (3) CA-GR SP No. 76546, a petition filed by Ibe on April 30, 2003.³⁶

As to the petition of Domondon, Gamboa, Gangan, Josef, and Ramos (collectively, Domondon, *et al.*) in CA-GR SP No. 76498, the CA, in its Decision³⁷ dated February 16, 2004, vacated and set aside the RTC Orders dated November 11, 2002 and January 30, 2003 and reinstated the Order dated June 21, 2002 dismissing the petition for *mandamus*. The CA ruled that: (1) Section 20 of PRC Resolution No. 338 constituted a valid limitation on petitioner's right to information and access to government documents; (2) the examination documents were not of public concern because petitioner merely sought review of her failing marks; (3) it was not the ministerial or mandatory function of respondents to review and reassess the answers to examination questions of a failing examinee; (4) the case has become moot because petitioner already passed the May 1998 CPA Board Exams and took her oath as a CPA; and (5) petitioner failed to exhaust administrative remedies, because, having failed to secure the desired outcome from respondents, she did not elevate the matter to the PRC before seeking judicial intervention.³⁸

³⁴ *Id.* at 174.

³⁵ *Rollo*, p. 311.

³⁶ *Antolin v. Domondon, et al.*, *supra* note 8 at 175

³⁷ *Rollo*, pp. 311-327; penned by Associate Justice Renato C. Dacudao with Associate Justices Cancio C. Garcia and Danilo B. Pine, concurring.

³⁸ *Antolin v. Domondon, et al.*, *supra* note 8 at 175-176.

In CA-GR SP No. 76545, the CA, in its Resolution³⁹ dated July 2, 2003, dismissed the petition filed by the BOA due to *litis pendentia*.

As to respondent Ibe's petition in CA-GR SP No. 76546, the CA, in its Decision⁴⁰ dated December 11, 2006, granted the petition for *certiorari* and dismissed the petition for *mandamus* on the ground that the latter has become moot considering that petitioner already passed the May 1998 CPA Board Exams.⁴¹

Aggrieved, petitioner assailed the CA Decisions in CA-GR SP No. 76498 and CA-GR SP No. 76546 before the Court. The petitions were docketed as G.R. Nos. 165036 and 175705, respectively. The Court then consolidated the two cases in view of the similarity of the antecedents and issues and to avoid the possibility of conflicting decisions by different divisions of the Court.⁴²

In its Decision⁴³ dated July 5, 2010, the Court in *Antolin v. Domondon, et al. (Antolin)* granted the petitions in G.R. Nos. 165036 and 175705, and set aside the Decisions dated December 11, 2006 and February 16, 2004 of the CA in CA-GR SP No. 76546 and CA-GR SP No. 76498, respectively. It affirmed the Orders dated November 11, 2002 and January 30, 2003 of the RTC and remanded the case to the RTC for further proceedings.⁴⁴

In reversing the findings of the CA in CA-GR SP No. 76498 and CA-GR SP No. 76546, the Court ruled that petitioner's belated passing of the CPA Board Exams did not automatically mean that her interest in the examination documents has become a mere superfluity.⁴⁵ The Court explained that the constitutional question presented, because of the likelihood that the issues in the case will be repeated, warranted a review. However, the Court clarified that any claim for recorection or revision of petitioner's 1997 CPA Board Exams cannot be compelled by *mandamus*.⁴⁶

³⁹ *Rollo*, pp. 309-310, penned by Associate Justice Lucas P. Bersamin with Associate Justices Ruben T. Reyes and Elvi John S. Asuncion, concurring.

⁴⁰ *Id.* at 329-340, penned by Associate Justice Monina Arevalo-Zenarosa with Associate Justices Martin S. Villarama, Jr and Lucas P. Bersamin, concurring.

⁴¹ *Id.* at 339.

⁴² *Antolin v. Domondon, et al.*, *supra* note 8 at 176.

⁴³ *Id.*

⁴⁴ *Id.* at 183.

⁴⁵ *Id.* at 181.

⁴⁶ *Id.* at 177.

Notwithstanding, while the Court conceded that national board examinations, such as the CPA Board Exams, are matters of public concern, the Court noted that the PRC has not yet been given the opportunity to explain the reasons behind their regulations, or to articulate a justification for keeping the examination documents confidential. Thus, in view of the far reaching implications of the case, the Court deemed it best to remand the case to the RTC for further proceedings.⁴⁷

Upon remand to the RTC, the PRC filed on April 5, 2011 its Answer (to the Second Amended Petition dated 5 October 2011).⁴⁸ It attached to the Answer a Certification dated February 24, 2011 issued by Ms. Gina A. Consignado, the Officer-in-Charge of the Ratings Division of the PRC, certifying that “based on the records of the Commission, the test questions data bank in any given subject of all Professional Regulatory Boards has not reached the 2,000 mark[s] since 1994 up to the present.”⁴⁹

Thereafter, the case went through the Judicial Dispute Resolution (JDR) process. However, the JDR was terminated for failure of the parties to amicably settle.⁵⁰

The case was then re-raffled to Branch 4i of RTC Manila. The pre-trial conference then proceeded.⁵¹

Trial ensued.

Petitioner presented her father, Atty. Nelson Antolin as her sole witness.⁵²

On the other hand, respondent Ibe presented her lone witness, Ms. Ma. Flores Escano, who was the Billing Supervisor of her counsel to prove her counterclaim for damages.⁵³

⁴⁷ *Id.* at 181-183.

⁴⁸ *Rollo*, pp. 56, 134-151.

⁴⁹ *Id.* at 152.

⁵⁰ *Id.* at 56-60.

⁵¹ *Id.* at 60.

⁵² *Id.* at 64-67.

⁵³ *Id.* at 68-70.

In the course of the trial, on August 29, 2013, Domondon, *et al.* filed a motion for judgment on demurrer to evidence. They argued that: (1) petitioner failed to prove that they were in possession of the examination documents; (2) they are prohibited under the pain of disciplinary action from releasing copies of the questionnaire unless the conditions set forth by law were duly complied with; (3) petitioner made the request to view the documents days after the release of the results of examination that she took but at that time, the records were already turned over to the PRC pursuant to PRC Resolution No. 338; thus, the BOA and its members already lost jurisdiction over the examination papers; (4) they ceased to be members of the BGA, or to be connected with the PRC; thus, they cannot be compelled by *mandamus* to produce documents which are neither in their possession nor control; (5) petitioner failed to rebut the disputable presumption under Section 3(m), Rule 131 of the Rules of Court that “official duty has been regularly performed;” and (6) petitioner did not comply with the condition set forth in Section 20 of PRC Resolution No. 338 which enjoins any person in possession of the examination documents to provide, get, receive, hold, use or reproduce questions to anyone except when the test bank for the subject has on deposit of at least 2,000 questions.⁵⁴

In its Comment, the PRC joined respondents Domondon, *et al.*'s demurrer and asked that the petition for *mandamus* be dismissed.⁵⁵

*RTC Omnibus Orders dated December 19, 2013
and April 8, 2014*

In its Omnibus Order⁵⁶ dated December 19, 2013, the RTC granted the motion for judgment on demurrer to evidence and consequently dismissed the petition for *mandamus* as against respondents Domondon, *et al.* The RTC ruled that paragraph 3, Section 20(A) constitutes a limitation on petitioner's constitutional right to have access to information on matters of public concern. The RTC also ruled that the testimonial and documentary evidence of petitioner failed to show that the test bank on the examination she took contained more than 2,000 questions on deposit in order to obligate the person in possession of the examination papers to release the requested documents.

⁵⁴ *Id.* at 33-34.

⁵⁵ *Id.* at 71.

⁵⁶ *Id.* at 33-38.

The dispositive portion provides:

WHEREFORE, premises considered, the “Motion for Judgment on Demurrer to Evidence” filed by respondents Domondon, Gamboa, Josef and Gangan is hereby GRANTED and the case against them ordered DISMISSED.

As to the “Manifestation with Offer of Testimony and Urgent Ex-Parte Motion to Cancel Trial” filed by respondent Antonietta Ibe, the petitioner is given a period of fifteen (15) days from receipt hereof within which to file her comment. Afterwhich, the Manifestation and Offer of Testimony will be ordered submitted for resolution.

SO ORDERED.⁵⁷

On January 21, 2014, petitioner filed a Motion for Reconsideration of the Omnibus Order dated December 19, 2013.⁵⁸

Thereafter, respondents Ibe and the PRC filed their respective motions to dismiss. Respondent Ibe claimed parity of situation with respondents Domondon, Gamboa, Gangan, Josef, and Ramos. On the other hand, the PRC argued that the grant of demurrer to the evidence effectively rendered nugatory petitioner's cause of action against it.⁵⁹

On April 8, 2014, the RTC issued an Omnibus Order⁶⁰ denying petitioner's Motion for Reconsideration. In the same Order, the RTC denied respondents Ibe and the PRC's respective motions to dismiss for failure to plead their objections to the petition in their Answer, or at the earliest stage of the proceedings. However, the RTC qualifiedly allowed respondent Ibe to call Mrs. Aurora H. Mendoza to the witness stand to identify the relevant transcript of stenographic notes.⁶¹

Petitioner moved for partial reconsideration. Likewise, the PRC and respondent Ibe separately filed their respective motions for reconsideration.⁶²

⁵⁷ *Id.* at 37-38.

⁵⁸ *Id.* at 71.

⁵⁹ *Id.* at 71-72.

⁶⁰ *Id.* at 39-47.

⁶¹ *Id.* at 72.

⁶² *Id.*

In an Order dated July 30, 2014, the Court denied all the foregoing motions.

Thereafter, the trial continued.⁶³

Respondent PRC presented its sole witness, Ms. Sarah Datoon (Datoon), a computer programmer at the Ratings Division of the PRC. She testified that: the PRC conducts 102 examinations every year and that for the year 2013 alone, there were about 450,179 examinees; the Ratings Division of the PRC is in charge of correcting and rating the examination answer sheets and the eventual release of the corresponding results; as far as she can estimate, there may be millions or hundreds of thousands of answer sheets that needed segregation and checking; there is scarcity in manpower in the Ratings Division as there are only 22 employees in their office to do all the works; and with the volume of their work in the Ratings Division of the PRC, they are time-constrained in the performance of their functions especially when they are quarantined, *i.e.*, they are not allowed to communicate with anyone outside, or even go out of the premises until the results are officially released.⁶⁴

After the parties filed their respective Memoranda, the RTC rendered its ruling in the case.⁶⁵

*RTC Decision dated July 20, 2015 and
On nibus Order dated August 6, 2015*

In its Decision⁶⁶ dated July 20, 2015, the RTC dismissed the petition for *mandamus* including petitioner's claim for damages and attorney's fees, and respondents' counterclaim.

In dismissing the petition for *mandamus*, the RTC recognized that the right of the people to information on matters of public concern as a constitutionally enshrined right embodied in Section 7, Article III of the Constitution. However, it explained that the right to information is not at all absolute, *i.e.*, that in every case, the availability of access to a

⁶³ *Id.* at 72.

⁶⁴ *Id.* at 73-79.

⁶⁵ *Id.* at 79.

⁶⁶ *Id.* at 50-87.

particular public record must be circumscribed by the nature of the information sought and the sensitivity of its content; and that the right to information is subject to reasonable regulations and restrictions and must not be among those excluded by law.⁶⁷

The RTC explained that in petitioner's case, Presidential Decree No. (PD) 223 has empowered the PRC, as an administrative body, to adopt rules and regulations intended to carry out the provisions of the law and implement legislative policy; and pursuant thereto, Section 28, Article III of the RRG, as amended, in relation to Section 20 of PRC Resolution No. 338, which respondents invoked, serves as a restriction on the privilege of disclosure; thus:

Section 28. After all the test papers have been rated, and initialed by Members of the Board, the papers shall be turned over by the Board to the Commission, and the Board loses jurisdiction over the examination papers xxx.

Sec. 20. *Illegal, Immoral, Dishonorable, Unprofessional Acts.*
— The hereunder acts shall constitute prejudicial, illegal, grossly immoral, dishonorable, or unprofessional conduct:

A. Providing, getting, receiving, holding, using or reproducing questions

x x x x

3. that have been given in the examination except if the test bank for the subject has on deposit at least two thousand (2,000) questions.⁶⁸

The RTC ruled that the restriction provided in Section 20 of PRC Resolution No. 338 is an administrative regulation which has the force of law and is a reasonable measure to secure the confidentiality of all examination papers. The RTC recognized that the PRC conducts numerous licensure examinations every year; thus to allow every examinee to inspect his or her test papers would open the gate to devastating consequences and possible leakage of questions and answers to the detriment of the integrity of professional examinations. The RTC added that with the limited number of employees manning the Ratings Division of the PRC, they would be forced to abandon the performance of other official duties just so that they can attend to each request for inspection; and it would be difficult for said employees to keep track of

⁶⁷ *Id.* at 81-83.

⁶⁸ *Id.* at 21, 83-84.

each examination record to ensure that it is not lost, destroyed, or worse, copied by individuals purporting to be examinees and circulate them for profit or gain.⁶⁹

The RTC further emphasized the public character of the remedy of a writ of *mandamus* which in its view, excludes the idea that it may be resorted to enforce the performance of duties in which the public has no interest.⁷⁰

Moreover, the RTC dismissed the counterclaim for damages which respondents Ibe and the PRC sought considering that petitioner brought the petition to exercise her right to information as enshrined in the 1987 Philippine Constitution. The RTC explained that respondents Ibe and the PRC failed to establish that petitioner acted in bad faith or with ill will or motive in filing the petition for *mandamus*.⁷¹

The dispositive portion provides:

WHEREFORE, premises considered, the instant petition for mandamus is hereby dismissed.

The respondents' counterclaim are similarly dismissed.

SO ORDERED.⁷²

Aggrieved, petitioner filed a motion for reconsideration of the Decision dated July 20, 2015. However, the RTC denied it in its Omnibus Order⁷³ dated September 11, 2015. The RTC explained that the lack of discussion on the applicability of Section 5(e) of Republic Act No. (RA) 6713 would not change its conclusion. It held that while the law allows access to and inspection of documents within reasonable working hours, the right to information as enshrined in the Constitution recognizes legal limitations, as discussed in the RTC Decision dated July 20, 2015.⁷⁴

⁶⁹ *Id.* at 84-85.

⁷⁰ *Id.* at 85-86.

⁷¹ *Id.*

⁷² *Id.* at 86-87.

⁷³ *Id.* at 88-89.

⁷⁴ *Id.*

Hence, on October 5, 2015, petitioner filed her Petition for Review on *Certiorari*⁷⁵ before the Court.

The Petition, Comments, and Replies

Petitioner assails two sets of disposition, *i.e.*: (1) the RTC's grant of a motion for demurrer to evidence and consequently, dismissal of the petition for *mandamus* as against respondents Domondon, *et al.*, (Omnibus Orders respectively dated December 19, 2013 and April 8, 2014); and (2) the dismissal of the petition for *mandamus* as against the remaining respondents—the PRC and respondent Ibe after trial on the merits (Decision dated July 20, 2015 and Omnibus Order dated August 6, 2015).⁷⁶

Petitioner argues in her petition that the RTC erred in: (1) failing to address petitioner's claim for *mandamus* under Section 5(e), RA 6713, and thus, violating its constitutional obligation under Section 14, Article VIII of the Constitution to set out the facts and the law on which it based its decision and to state the grounds for denying the motions for reconsideration; (2) failing to rule that petitioner was entitled to access within reasonable working hours the examination documents she requested in relation to the 1997 CPA Board Exams, and thus, violating the clear mandate of Section 5(e), RA 6713, as implemented by the Implementing Rules and Regulations (IRR) issued by the Civil Service Commission; and (3) ruling that administrative regulations such as Section 28, Article III of the RRG, as amended, and Section 20 of PRC Resolution No. 338 are laws in the constitutional sense because they have the force of law, and thus, violating the precedents set by the Court *En Banc*.⁷⁷

Specifically, petitioner maintains that the Court has long recognized the obligation of public officers to provide access to public documents subject only to the limitation that the access be reasonable during working hours.⁷⁸ Petitioner argues that there is no valid reason for prohibiting access to such used questions considering that PRC Resolution No. 338 requires examiners, including the individual respondents, to formulate fresh questions or problems for deposit in the

⁷⁵ *Id.* at 3-32.

⁷⁶ *Id.* at 3, 5.

⁷⁷ *Id.* at 10.

⁷⁸ *Id.* at 14.

test banks.⁷⁹ Lastly, petitioner maintains that the condition set forth in Section 20 of PRC Resolution No. 338 for the release of the used test questions has been satisfied, *i.e.*, that more than 2,000 unused questions were on deposit in the test banks when petitioner requested for the examination documents sometime in November 1997.⁸⁰

The following comments were filed: (1) Comment⁸¹ dated February 12, 2016, by Domondon, *et al.*; (2) Comment⁸² dated February 19, 2016, by Ibe; and (3) Comment⁸³ dated April 27, 2016, by the PRC.

Domondon, *et al.* argues that: (1) the RTC Omnibus Order dated December 19, 2013 which granted the demurrer to evidence of Domondon, *et al.* and the RTC Omnibus Order dated April 8, 2014 which denied the motion for reconsideration have attained finality due to petitioner's failure to seasonably appeal them, and thus, the Omnibus Orders cannot be reopened anymore; (2) the determination of the propriety of the grant of a motion for judgment on demurrer to evidence requires an evaluation of the RTC's factual findings which is beyond the Court's jurisdiction in a petition for review on *certiorari*; (3) assuming that a petition for review on *certiorari* is a proper remedy, constitutional issues should not be addressed if there are other ways of resolving the issues; (4) the Court has previously rejected petitioner's prayer for *mandamus*; and (5) assuming *arguendo* that Section 28 of the RRG, (as amended), and Section 20 of PRC Resolution No. 338 are tainted with constitutional infirmity, such finding should not be given retroactive effect.⁸⁴

Ibe argues that: (1) the petition should be dismissed pursuant to Section 5,⁸⁵ Rule 7 of the Rules of Court on the ground of petitioner's

⁷⁹ *Id.* at 22.

⁸⁰ *Id.* at 22-24.

⁸¹ *Id.* at 248-262.

⁸² *Id.* at 268-296.

⁸³ *Id.* at 417-450.

⁸⁴ *Id.* at 249-258.

⁸⁵ Section 5, Rule 7 of the Rules of Court provides:

Section 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory

failure to inform the Court of the pendency of CA-G.R. SP No. 143078 entitled, “*Hazel Ma. C. Antolin-Rosero v. Poard of Accountancy, Conchita L. Manabat, Abelardo T. Domondon, Reynaldo D. Gamboa, Jose V. Ramos, Violeta J. Josef, Antonieta Fortuna-Ibe, Jose A. Gangan and The Professional Regulations Commission*,” an appeal by Ibe of the RTC Decision dated July 20, 2015; petitioner has no right to access the examination documents under Section 5(e) of RA 6713; and (2) Section 28 of the RRG, as amended, and Section 20 of PRC Resolution No. 338 constitute valid limitations to petitioner's right to access public documents under Section 5(e) of RA 6713 and her constitutional right to information under Section 7, Article III of the 1987 Constitution.⁸⁶

The PRC argues that: (1) the RTC was correct in ruling that petitioner presented no clear legal right to be entitled to a writ of *mandamus*; (2) practical and legal considerations demand keeping the examination documents confidential; (3) the PRC regulations and resolutions relating to confidentiality of examination papers are justified; and (4) the PRC is not liable for damages.⁸⁷

Petitioner filed her Replies to the Comments of Domondon, *et al.*, Ibe, and the PRC on March 7, 2016,⁸⁸ March 15, 2016,⁸⁹ and July 15, 2016,⁹⁰ respectively.

Issues

The procedural issues in the case are: (1) whether petitioner violated the rule on forum shopping under Section 2, Rule 42 in relation to Section 4, Rule 45 of the Rules of Court in failing to inform the Court of the pendency of respondent Ibe's appeal with the CA in CA-G.R. SP

pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (n)

⁸⁶ *Rollo*, pp. 279-292

⁸⁷ *Id.* at 429-449.

⁸⁸ *Id.* at 360-379.

⁸⁹ *Id.* at 380-410.

⁹⁰ *Id.* at 488-523.

No. 143078; and (2) whether petitioner timely assailed in the present petition the RTC Omnibus Orders respectively dated December 19, 2013 and April 8, 2014.

The substantive issue in the case is whether the RTC erred in dismissing the petition for *mandamus* on the ground that petitioner's constitutional right to have access to the examination documents is restricted.

The Court's Ruling

The Court denies the petition.

Preliminarily, the Court shall address the procedural matters raised by respondents.

Petitioner did not violate the rule on forum shopping under Section 2, Rule 42 in relation to Section 4, Rule 45 of the Rules of Court.

To reiterate, Ibe argues that the present petition should be dismissed for violation of Section 5, Rule 7 of the Rules of Court. This is considering that petitioner failed to inform the Court of the pendency of the appeal which Ibe filed with the CA docketed as CA-G.R. SP No. 143078.

Briefly, on October 2, 2015, respondent Ibe filed a Notice of Appeal with the RTC to assail the RTC Decision dated July 20, 2015 before the CA. Ibe's appeal was then docketed before the CA as CA-G.R. SP No. 143078 wherein the main issue was whether the RTC erred in denying Ibe's counterclaim for damages.⁹¹

In its Decision⁹² dated February 28, 2017, the CA denied Ibe's appeal.

⁹¹ See *Rollo* (G.R. No. 230240), pp. 49-50, 54.

⁹² *Id.* at 49-61; penned by Associate Justice Noel G. Tijam with Associate Justices with Associate Justices Carmelita S. Marañan and Maria Elisa Sempio Diy, concurring.

Thereafter, on March 21, 2017, Ibe filed a Petition for Review on *Certiorari* before the Court assailing the Decision dated February 28, 2017 rendered by the CA in CA-G.R. SP No. 143078. The petition was docketed as G.R. No. 230240.⁹³

In its Resolution dated July 12, 2017, the Court in G.R. No. 230240 denied the petition. Ibe filed a motion for reconsideration, but the Court denied it in its Resolution dated November 27, 2017.⁹⁴

Here, Ibe argues that petitioner was already imputed with knowledge of the pendency of the appeal in CA-G.R. SP No. 143078 as early as October 5, 2015 upon his filing of the Notice of Appeal dated October 2, 2015 with the RTC. Thus, petitioner should have notified the Court within five days from the said date or, at the latest within five days from October 12, 2015 when the RTC issued its Order finding Ibe's Notice of Appeal to have been seasonably filed, with a directive to the Clerk of Court to transmit the records to the CA.⁹⁵

To clarify, while respondent Ibe invokes Section 5, Rule 7 of the Rules of Court, the more apt provisions to govern the determination of whether petitioner violated the rule against forum shopping are Section 4, Rule 45 and Section 2, Rule 42 of the Rules of Court. The provisions specifically apply to the contents of a Petition for Review on *Certiorari* filed before the Court.

Section 4,⁹⁶ Rule 45 of the Rules of Court provides for the contents of a petition for review on *certiorari*, one of which is the sworn

⁹³ *Id.* at 30-47.

⁹⁴ *Id.* at 292.

⁹⁵ *Id.* at 291-292.

⁹⁶ Section 4, Rule 45 of the Rules of Court provides:

Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (2a)

certification against forum shopping as provided in Section 2, Rule 42 of the Rules of Court.

Section 2, Rule 42 of the Rules of Court provides:

Section 2. Form and contents. — x x x

The petitioner shall also submit together with the petition a certification under oath that he has not theretofore commenced any other action involving the same issues in the Supreme Court, the Court of Appeals or different divisions thereof, or any other tribunal or agency; if there is such other action or proceeding, he must state the status of the same; and *if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or different divisions thereof, or any other tribunal or agency, he undertakes to promptly inform the aforesaid courts and other tribunal or agency thereof within five (5) days therefrom.* (Italics supplied.)

In *Heirs of Marcelo Sotto v. Palicte*,⁹⁷ the Court discussed that forum shopping exists “when a party repetitively avails of several judicial remedies in different courts, simultaneously or successively, all substantially founded on the same transactions and the same essential facts and circumstances and all raising substantially the same issues either pending in or already resolved adversely by some other court.” The Court characterized forum shopping as “an act of malpractice that is prohibited and condemned because it trifles with the courts and abuses their processes,” “degrades the administration of justice and adds to the already congested court dockets.”⁹⁸

In *Bradford United Church of Christ, Inc. v. Ando*,⁹⁹ the Court explained that the rule on forum shopping requires a two-fold compliance, *i.e.*: (1) non-commission of the forum shopping itself; and (2) submission of the certification against forum shopping.¹⁰⁰

The certification against forum shopping contains an oath and/or undertaking that: (1) petitioner had not commenced any other action involving the same issues in any court, tribunal, or agency; (2) in case there is an action or proceeding with the *same issues* as the petition he

⁹⁷ 726 Phil. 651 (2013).

⁹⁸ *Id.* at 653-654.

⁹⁹ 785 Phil. 769 (2016).

¹⁰⁰ *Id.* at 779.

filed, he must state the status of that action or proceeding; and (3) petitioner shall promptly inform the courts of the pendency or the filing of similar action or proceeding, if any, within five days from the time he learns of the existence of such action or proceeding.

In determining whether petitioner has a duty to disclose the pendency or existence of another case, the “similarity” of the action or proceeding with the present petition must be assessed in the light of the test for determining the existence of forum shopping.

Verily, the essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action.¹⁰¹ The test to determine the existence of forum shopping is as follows:

x x x the test for determining the existence of forum shopping is whether a final judgment in one case amounts to *res judicata* in another or whether the following elements of *litis pendentia* are present: (a) identity of parties, or at least such parties as representing the same interests in both actions; (b) identity of rights asserted and reliefs prayed for, the relief being founded on the same facts; and (c) identity of the two preceding particulars, such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration. Said requisites are also constitutive of the requisites for *auter action pendant* or *lis pendens*.¹⁰²

Here, the Court finds no similarity between the present petition filed by petitioner and Ibe's appeal before the CA docketed as CA-G.R. SP No. 143078. Thus, petitioner did not violate her undertaking in the certification against forum shopping within the period provided under Section 2, Rule 42 in relation to Section 4, Rule 45 of the Rules of Court.

There is no question that there is an identity of parties in the present petition and the appeal in CA-G.R. SP No. 143078. Respondent Ibe, one of the respondents in this case, is the appellant in CA-G.R. SP No. 143078 while herein petitioner is the appellee in CA-G.R. SP No. 143078. Further, both the present petition and the appeal in CA-G.R. SP No. 143078 arose from the same factual circumstances, *i.e.*, petitioner's

¹⁰¹ *Id.*

¹⁰² *Villamor & Victorero Construction Co. v. Sogo Realty and Development Corp.*, G.R. No. 218771, June 3, 2019.

failure to pass the 1997 CPA Board Exams and the denial of her request for the examination documents which led to the filing of the petition for *mandamus* before the RTC.

However, it must be emphasized that while both the present petition and the appeal in CA-G.R. SP No. 143078 assail the Decision dated July 20, 2015 and Omnibus Order dated September 11, 2015, there is no identity of rights asserted and the reliefs prayed for.

In the present petition, petitioner seeks a reversal of: (1) Omnibus Orders dated December 19, 2013 and April 8, 2014 which dismissed the petition for *mandamus* as to Domondon, *et al.*; and (2) the Decision dated July 20, 2015 and Omnibus Order dated September 11, 2015 which dismissed the petition for *mandamus* as to respondents PRC and Ibe. Ultimately, petitioner prays for the Court to direct respondents to give her the examination documents or copies thereof as would enable her to determine whether respondents fairly administered the 1997 CPA Board Exams and correctly grade her performance therein.

On the other hand, as pointed out by petitioner, Ibe's appeal in CA-G.R. SP No. 143078 dealt with the RTC's dismissal of the counterclaim for damages and attorney's fees through the RTC Decision July 20, 2015 and Omnibus Order dated September 11, 2015.¹⁰³ It must be emphasized that at least, in so far as the CA in CA-G.R. SP No. 143078 is concerned, there was no issue as to the RTC's dismissal of petitioner's petition for *mandamus* because the only issue on appeal before it was the denial of Ibe's counterclaim. In effect, the CA in CA-G.R. SP No. 143078 operated on the premise that there was no merit to the petition for *mandamus* and only resolved the sole issue of whether petitioner was in bad faith in filing the petition for *mandamus* which would entitle Ibe to a counterclaim for damages.¹⁰⁴

Evidently, the reversal of the dismissal of the petition for *mandamus*, and the reversal of the dismissal of Ibe's counterclaim for damages and attorney's fees prayed for in the appeal in CA-G.R. SP No. 143078 are different reliefs, albeit related as they arose from the same case.

¹⁰³ *Rollo*, p. 393.

¹⁰⁴ See *rollo* (G.R. No. 230240), pp. 49-61.

If at all, the present petition and Ibe's appeal in CA-G.R. SP No. 143078 are closely related subject matters which would have been consolidated had both cases been filed before the same appellate court. The well settled rule is that “when two or more cases involve the same parties and affect closely related subject matters, they must be consolidated and jointly tried in order to serve the best interests of the parties and to settle expeditiously the issues involved.”¹⁰⁵ Thus, “consolidation is proper wherever the subject matter involved and relief demanded in the different suits, make it expedient for the court to determine all of the issues involved and adjudicate the rights of the parties by hearing the suits together.”¹⁰⁶

However, respondent Ibe appealed the dismissal of her counterclaim for damages and attorney's fees before the CA, while petitioner brought her petition directly with the Court. Thus, the consolidation of respondent Ibe's appeal in CA-G.R. SP No. 143078 with the present petition is not proper.

Nevertheless, even assuming *arguendo* that the appeal filed by respondent Ibe in CA-G.R. SP No. 143078 was a “similar action” which would have put petitioner under the obligation to report it in the present case, the Court is inclined to relax the procedural rules if only to give the Court the opportunity to resolve with finality the more important issue of whether petitioner has the right to have access to the examination documents premised on the constitutional right to information.

Petitioner timely assailed in this present Petition for Review on Certiorari the RTC Omnibus Orders dated December 19, 2013 and April 8, 2014 together with the RTC Decision dated July 20, 2015 and Omnibus Order dated September 11, 2015.

Domondon, *et al.* argue in their Comment¹⁰⁷ that petitioner failed to seasonably appeal both the Omnibus Orders respectively dated

¹⁰⁵ *Deutsche Bank AG v. Court of Appeals*, 683 Phil. 80, 91 (2012), citing *Steel Corp. of the Phils. v. Equitable PCI Bank, Inc. (now known as BDO Unibank, Inc.)*, 649 Phil. 692, 705 (2010).

¹⁰⁶ *Id.*

¹⁰⁷ *Rollo*, pp. 248-262.

December 19, 2013 and April 8, 2014; thus, the two Omnibus Orders already attained finality and cannot be reopened anymore. To recall, the RTC, through the two Omnibus Orders, granted the demurrer to evidence and denied the Motion for Reconsideration of Domondon, *et al.*

The Court finds Domondon, *et al.*'s contentions to be without merit.

Section 1(f), Rule 41 of the Rules of Court provides:

Section 1. Subject of appeal.- An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable:

No appeal may be taken from:

x x x x

(f) *A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third-party complaints, while the main case is pending, unless the court allows an appeal therefrom; xxx*

x x x x

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65. *(As amended by J.M. No. 07-7-12-SC, December 1, 2007.)*

Section 1(f), Rule 41 of the Rules of Court explicitly states that while the main case is pending, a judgment or final order for or against one or more of several parties in a case is not appealable unless the court allows an appeal therefrom.

Here, notwithstanding the Omnibus Orders dated December 19, 2013 and April 8, 2014, the RTC did not dispose of the main case because it did not yet dismiss the action as to the other respondents. Thus, in accordance with Section 1(f), Rule 41 of the Rules of Court, petitioner did not yet appeal the Omnibus Orders dated December 19, 2013 and April 8, 2014 while the main case was still pending with the RTC.

Admittedly, Rule 41, Section 1 provides that the aggrieved party may file a petition for certiorari under Rule 65 in the enumerated cases where no appeal may be taken. However, as aptly explained by the Court in *Philippine Business Bank v. Chua*,¹⁰⁸ “[a]s a legal recourse, the special civil action of *certiorari* is a limited form of review. The jurisdiction of this Court is narrow in scope; it is restricted to resolving errors of jurisdiction, not errors of judgment. Indeed, as long as the courts below act within their jurisdiction, alleged errors committed in the exercise of their discretion will amount to mere errors of judgment correctable by an appeal or a petition for review.”¹⁰⁹

Thus, petitioner could have either filed a petition for certiorari of the Omnibus Orders dated December 19, 2013 and April 8, 2014 under Rule 65 on errors of jurisdiction; or, she could have awaited the RTC's dismissal of the petition for the *mandamus* as to the rest of respondents thru RTC Decision dated July 20, 2015 and/or Omnibus Order dated August 6, 2015 so that she may appeal both the two sets of disposition by the RTC on the ground of errors of judgment.

Petitioner chose the latter recourse, and rightfully so. A perusal of the arguments in the present petition shows that petitioner's grounds for assailing the Omnibus Orders dated December 19, 2013 and April 8, 2014 are matters not involving the RTC's lack or excess of jurisdiction, but on the RTC's purported error in concluding that: (1) paragraph 3, Section 20(A) of PRC Resolution No. 338 constituted a limitation on her constitutional right to have access to information on matters of public concern; and (2) that the evidence failed to show that the test bank on the examination which she took contained more than 2,000 questions on deposit to obligate the person in possession of the examination papers to release the requested documents.¹¹⁰ Specifically, petitioner argues in the present petition that: (1) paragraph 3, Section 20(A) of PRC Resolution No. 338 can only validly prohibit access to unused questions, but not those which have already been used in past examinations; and (2) that the RTC ought to have concluded that more than 2,000 unused questions were on deposit in the test banks when she requested the pertinent documents sometime in November 1997—thereby satisfying the

¹⁰⁸ 649 Phil. 131 (2010).

¹⁰⁹ *Id.* at 149, citing *Apostol v. Court of Appeals, et al.*, 590 Phil. 88, 101 (2008).

¹¹⁰ *Rollo*, p. 37.

condition that paragraph 3, Section 20(A) of PRC Resolution No. 338 requires as a condition for accessing used questions.¹¹¹

Thus, the Court finds that petitioner timely assailed the Omnibus Orders dated December 19, 2013 and April 8, 2014, along with the Decision dated July 20, 2015 and Omnibus Order dated August 6, 2015.

The Court will now resolve the merits of the case.

Mandamus will not lie against respondents to compel them to deliver to petitioner the examination documents in connection with the 1997 CPA Board Exams.

The remedy of a writ of *mandamus* and the requisites for its issuance are provided in Section 3, Rule 65 of the Rules of Court, as follows:

Section 3. *Petition for mandamus.* — When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (3a)

Under Section 3, Rule 65 of the Rules of Court, the appropriate court may issue a writ of *mandamus* in two situations: (1) when any tribunal, corporation, board officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station; and (2) when any tribunal,

¹¹¹ *Id.* at 22.

corporation, board, office or person unlawfully excludes another from the use and enjoyment of a right or office to which the other is entitled.¹¹² Under these two situations, the person aggrieved may ask the court to compel the required performance.¹¹³

However, it must be emphasized that the writ will issue only if the legal right to be enforced is well defined, clear, and certain.¹¹⁴ Further, *mandamus* is a remedy only when there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.¹¹⁵

Here, anchoring her petition on her purported constitutional right to information, petitioner prays for the Court to issue a writ of *mandamus* compelling respondents to provide her copies of the examination documents.

The Court finds no merit in the petition.

The 1987 Constitution recognizes the right of the people to information on matters of public concern. Section 7, Article III of the Constitution provides:

Section 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

As the Court has previously explained in *Antolin*, the right of the people to information on matters of public concern, together with Section 28, Article II of the Constitution, promotes full disclosure and transparency in government. Section 28, Article II of the Constitution provides:

Section 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

¹¹² *Lihaylihay v. Tan*, 836 Phil. 400 (2018).

¹¹³ *Id.*

¹¹⁴ *Pimentel III v. COMELEC, et al.*, 571 Phil. 596, 636 (2008), citing *Olama v. Philippine National Bank*, 525 Phil 424, 432-433 (2006).

¹¹⁵ *Special People, Inc. Foundation v. Canda, et al.*, 701 Phil. 365, 380 (2013), citing Section 3, Rule 65 of the Rules of Court.

On the other hand, Section 5(e), RA 6713 provides for the obligation of public officials and employees to make public documents accessible to the public; thus:

Section 5. Duties of Public Officials and Employees. - In the performance of their duties, all public officials and employees are under obligation to:

x x x x

(e) *Make documents accessible to the public.* - All public documents must be made accessible to, and readily available for inspection by the public within the reasonable working hours.

Nevertheless, the Court recognizes that the right to information is not absolute as it is limited to “matters of public concern,” and is further “subject to such limitation as may be provided by law.”¹¹⁶ Similarly, the Court emphasized that the State's policy of full disclosure is limited to “transactions involving public interest,” and is “subject to reasonable conditions prescribed by the law.”¹¹⁷

For the right to information to be compellable by *mandamus*, a petitioner must establish the following requisites. *first*, the information sought must be in relation to matters of public concern and public interest; and *second*, it must not be exempt by law from the operation of the constitutional guarantee.¹¹⁸

As to the first requisite, the Court fully recognizes that there is no rigid test that can be applied in determining whether a particular information is of public concern or public interest. Both terms embrace a broad spectrum of subjects that the public may want to know, either because these directly affect their lives, or simply because such matters naturally arouse the interest of an ordinary citizen. Thus, ultimately, the courts must determine on a case-to-case basis whether the information sought is of public concern or interest as it relates or affects the public.¹¹⁹

¹¹⁶ *Antolin v. Domondon, et al.*, *supra* note 8 at 181-182.

¹¹⁷ *Id.* at 182.

¹¹⁸ *Sereno v. Committee on Trade and Related Matters (CTRM) of the National Economic and Development Authority (NEDA), et al.*, 780 Phil. 1, 12-13 (2016).

¹¹⁹ *Id.* at 13.

In the case, the Court conceded in *Antolin* that national board examinations, such as the CPA Board Exams, are matters of public concern. The Court explained that “[t]he populace in general, and the examinees in particular, would understandably be interested in the fair and competent administration of these exams in order to ensure that only those qualified are admitted into the accounting profession.”¹²⁰ The Court added that “x x x these examinations could be not merely quantitative means of assessment, but also means to further improve the teaching and learning of the art and science of accounting.”¹²¹

As to the second requisite, petitioner must show that the information sought is not exempt by law from the operation of the constitutional guarantee. In *Chavez v. PCGG*¹²² (*Chavez*), the Court enumerated the following as some of the recognized restrictions to the constitutional guarantee of the right to information: (1) national security matters and intelligence information; (2) trade secrets and banking transaction; (3) criminal matters; and (4) other confidential information.¹²³ Thus, the Court in *Chavez* specifically recognized as exempt from public disclosure the following information: state secrets regarding military, diplomatic, and other national security matters; classified law enforcement matters, such as those relating to the apprehension, the prosecution and the detention of criminals which courts may not inquire into prior to such arrest, detention and prosecution; and diplomatic correspondence, closed door cabinet meetings and executive sessions of either house of Congress, as well as the internal deliberations of the Court.¹²⁴

Nevertheless, the list of specific matters identified by the Court in *Chavez* not covered by the constitutional guarantee of the right to information is not an exclusive list that could preclude the Court from affirming the dismissal of the instant petition for *mandamus*.

In connection with the second requisite, Section 5(e) of RA 6713 does not give petitioner an absolute right to access information and documents. RA 6713 recognizes that not all kinds of information in the possession of public officials and employees may be made available to

¹²⁰ *Antolin v. Domondon, et al.*, *supra* note 8 at 182.

¹²¹ *Id.*

¹²² 360 Phil. 133 (1998).

¹²³ *Id.* at 160.

¹²⁴ *Id.* at 162. See also *Sereno v. Committee on Trade and Related Matters (CTRM) of the National Economic and Development Authority (NEDA), et al.*, *supra* note 118 at 14.

the public. Thus, while Section 5(e) provides that “[a]ll public documents must be made accessible to and readily available for inspection by the public within reasonable working hours,” it must be read together with Section 7(c) of RA 6713 which prohibits public officials and employees from disclosing and misusing confidential information. Thus, *confidential information is exempt from the mandate of making public documents available for inspection within reasonable working hours*. Section 7(c) of RA 6713 provides:

Section 7. *Prohibited Acts and Transactions*. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

(c) Disclosure and/or misuse of confidential information. - Public officials and employees shall not use or divulge, confidential or classified information officially known to them by reason of their office and not made available to the public, either:

- (1) To further their private interests, or give undue advantage to anyone; or
- (2) To prejudice the public interest.

Further, as to what constitutes confidential information under the purview of Section 7(c) of RA 6713, the IRR of Civil Service Commission on RA 6713 provides for the exceptions from the rule that every department, office, or agency shall provide official information, records or documents to any requesting public. Section 3, Rule IV of the IRR provides:

Section 3. Every department office or agency shall provide official information, records or documents to any requesting public, *except if*:

(a) such information, record or document must be kept secret in the interest of national defense or security or the conduct of foreign affairs;

(b) such disclosure would put the life and safety of an individual in imminent danger;

(c) *the information, record or document sought falls within the concept of established privilege or recognized exceptions as may be provided by law or settled policy or jurisprudence;*

(d) such information, record or document comprises drafts of decisions, orders, rulings, policy decisions, memoranda etc.;

(e) it would disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) it would disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) disclose the identity of a confidential source and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, or (iv) unjustifiably disclose investigative techniques and procedures; or

(g) it would disclose information the premature disclosure of which would (i) in the case of a department, office or agency which agency regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities or commodities, or significantly endanger the stability of any financial institution; or (ii) in the case of any department, office or agency be likely or significantly to frustrate implementation of a proposed official action, except that subparagraph (f) (ii) shall not apply in any instance where the department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final action on such proposal.

To clarify, the real crux of the matter in the case is whether Section 20 of PRC Resolution No. 338 is reasonable, and thus, a valid regulation which restricts petitioner's access to the Examination Documents. On the other hand, Section 28 of the RRG, as amended, merely provides for the turnover of the test papers from the BOA to the PRC after the members of the BOA have rated and initialed the test papers. An unsuccessful examinee, upon turnover of the test papers, is not precluded from requesting from the PRC the test papers provided that he or she has a right thereto.

The Court finds that Section 20 of PRC Resolution No. 338 constitutes a valid limitation to petitioner's right to access and inspect public documents within reasonable working hours under Section 5(e) of RA 6713 and her constitutional right to information under Section 7, Article III of the Constitution. Thus, for failure to establish the condition outlined in Section 20 of PRC Resolution No. 338, an administrative regulation promulgated pursuant to the powers vested upon the PRC by PD 223, the Court finds that the examination documents are confidential and exempt from the constitutional guarantee of the right to information. Specifically, the test questions sought by petitioner fall within the concept of established privilege or *recognized exceptions as may be provided by law or settled policy or jurisprudence* under Section 7(c), RA 7613. Thus, the Court affirms the RTC's dismissal of the petition for *mandamus* as to all of the respondents.

For emphasis, the Court reiterates Section 20 of PRC Resolution No. 338:

Sec. 20. Illegal, Immoral, Dishonorable, Unprofessional Acts.

— The hereunder acts shall constitute prejudicial, illegal, grossly immoral, dishonorable, or unprofessional conduct:

A. Providing, getting, receiving, holding, using or reproducing questions

x x x x

3. that have been given in the examination except if the test bank for the subject has on deposit at least two thousand (2,000) questions.

Section 20 of PRC Resolution No. 338 embodies the policy of the PRC not to disclose the questions given in the examination. Undoubtedly, Section 20 of PRC Resolution No. 338 was promulgated pursuant to the powers vested upon the PRC by law, and thus, has the force of law.

Notably, the PRC was created under PD No. 223. Among the powers granted to it is the power to promulgate rules and regulations as may be necessary on the performance of its functions which include the administration and conduct of licensure examinations for the various professions. Its rule-making function as regards licensure examinations is provided in Section 5 of PD 223 which provides in part:

Section 5. Powers of the Commission. The powers of the Commission are as follows:

a) To administer, implement and enforce the regulatory policies of the National Government with respect to the regulation and licensing of the various professions and occupations under its jurisdiction including the maintenance of professional and occupational standards and ethics and the enforcement of the rules and regulations relative thereto.

b) To perform any and all acts, enter into contracts, *make such rules and regulations and issue such orders and other administrative issuances as may be necessary in the execution and implementation of its functions and the improvement of its services.*

x x x x

d) *To administer and conduct the licensure examinations of the various Boards according to the rules and regulations promulgated by it; determine and fix the places and dates of examinations; appoint supervisors and room examiners from among the employees of the Government or private individuals who have been trained by the Commission for that purpose who shall be entitled to a daily allowance of not less than ten pesos (P10) for every examination day actually attended; use the buildings and facilities of public and private schools for examination purposes; and approve the release of examination results;*

x x x x

n) To promulgate such rules and regulations as may be necessary to effectively implement policies with respect to the regulation and practice of the professions;

o) To perform such other functions and duties as may be necessary to carry out effectively the various provisions of professional regulatory laws, decrees or orders.

Further, after the creation of the PRC, former President Fidel V. Ramos ordered the computerization of licensure examinations in the Philippines through Executive Order No. 200, Series of 1994.¹²⁵

Thus, to implement the computerization of the licensure examinations of all Professional Regulatory Boards under the supervision of the PRC, and pursuant to its rule-making powers, PRC Resolution No. 338 was promulgated on November 24, 1994, which

¹²⁵ Entitled, "Institutionalization of the Full Computerization of the Licensure Examinations Administered by the Various Regulatory Boards under the Supervision of the Professional Regulation Commission" approved on September 20, 1994.

included Section 20 as relied upon by respondents in denying petitioner's request.

As to the reasonableness of Section 20 of PRC Resolution No. 338 as a restriction on petitioner's right to information, the Court in *Antolin* recognized that there may be valid reasons to limit access to documents, similar to what is sought by petitioner in connection with the 1997 CPA Board Exams, in order to properly administer the exam. The Court explained that “[m]ore than the mere convenience of the examiner, it may well be that there exist inherent difficulties in the preparation, generation, encoding, administration and checking of these multiple choice exams that require that the questions and answers remain confidential for a limited duration.”¹²⁶

Notably, the RTC in its Decision¹²⁷ dated July 20, 2015, ruled that the restriction provided in Section 20 of PRC Resolution No. 338 is a reasonable measure to secure the confidentiality of all examination papers considering that the PRC conducts numerous licensure examinations every year and to allow every examinee to inspect his or her test papers would open the gate to devastating consequences and possible leakage of questions and answers to the detriment of the integrity of professional examinations. Such conclusion is based on the inherent limits in the capacity of the PRC to accede to the requests for examination of documents in connection with the relevant professional board examinations. As explained by the RTC, with the limited number of employees in the Ratings Division of the PRC, a request for inspection filed by each applicant who fails a board examination will cause the designated employees to abandon the performance of other official duties.

Understandably, the RTC relied on documentary evidence as well as the testimony of the PRC's sole witness, Datoon, a Computer Programmer at the Ratings Division of the PRC, who testified as to the scarcity of its manpower, the number of examinations that they have to administer every year, and consequently, the huge number of answer sheets that they have to correct.

The Court agrees with the conclusion of the RTC that Section 20, PRC Resolution No. 338 is a reasonable measure to secure the

¹²⁶ *Antolin v. Domondon, et al.*, *supra* note 8 at 182-183.

¹²⁷ *Rollo*, pp. 50-87.

confidentiality of all examination papers. However, more than the burdensome task that the PRC will have to suffer from the inquiries of unsuccessful examinees given the limited capacity of PRC to accede to such requests, the more important concern is that if the examinees who seek for recorection of their exams are given access to the examination papers, nothing prevents the indiscriminate distribution of the test questions to the undue advantage of future examinees who will gain access to it. Certainly, this would compromise the integrity of the CPA Board Exams as an accurate gauge in determining who among the examinees have the technical aptitude to practice the profession. This is especially taking into consideration that the test questions given in the CPA Boards are formatted as multiple choice questions where the correct answers already form part of the question as they are already made available among the choices.¹²⁸

Further, to allow access to the used test questions would seriously preempt and limit the examiners' discretion as to what questions he or she should include in future examinations.

It is true that as provided under Section 14 of PRC Resolution No. 338, questions that have been used in the last examination or which have become irrelevant or obsolete are to be withdrawn from the test bank. Notably, petitioner's counsel invoked a substantially similar provision, *i.e.*, Section 14¹²⁹ of the earlier PRC Resolution No. 332 during one of his correspondences with respondent Domondon to support the former's position that respondent Domondon cannot justify his refusal to provide petitioner with the examination documents.¹³⁰ However, the withdrawal of the used questions from the test bank from which future questions will come from does not mean that the release of these used questions will

¹²⁸ See *Antolin v. Domondon, et al.*, *supra* note 8.

¹²⁹ SECTION 1 (sic). Section 14, Article III shall now read, to wit:

"SEC. 14. The questions for inputting into the test bank shall be constructed and prepared by the Board Members assigned to the subjects based on their syllabi containing their concepts and topics. However, questions from the academe or any other sources may be adopted and inputted into the test bank after they have been reviewed as to validity and then modified. Adoption in toto or verbatim of such questions shall not be allowed.

Questions which have been used in the last examination or which have become irrelevant or obsolete are to be withdrawn from the test bank. Withdrawn questions, if still relevant and not obsolete, may be redeposited after they are modified. Questions must be abreast of the economic, technological, and scientific modernization and globalization of the profession and in accordance with their syllabi prepared by the Board and duly approved by the Commission. The proceedings on such withdrawn and replacement shall take place under strict confidential condition.

See *rollo*, p. 104, 463.

¹³⁰ See Letter dated November 18, 1997, *id.* at 97.

not negatively impact the integrity of the CPA Board Exams. This is because while Section 14 of PRC Resolution No. 338 expressly provides for the withdrawal of the used questions from the test bank, the same provision allows the used test questions to be redeposited to the test bank after they have been modified. The provision states:

SEC. 14. Withdrawal and Replacement of Used and Obsolete Questions. — Questions which have been used in the last examination or which have become irrelevant, are to be withdrawn from the Test bank. Withdrawn questions - if they are still relevant - may be redeposited after they are modified. Questions for replacement must be abreast of the economic, technological, and scientific modernization and globalization of the profession. The proceedings of withdrawal and replacement of test questions shall take place under strict confidential conditions.

Strikingly, the provision does not specify the degree of modification that a test question must undergo before it may be redeposited to the test bank. To allow the release of the used questions would hamper the examiner's exercise of discretion as to the degree of modification of the test question since examiners are allowed to redeposit the used questions to the test bank albeit with modification. Specifically, in order to ensure the integrity of the CPA Board Exams so that the examinees will pass the CPA Boards because of mastery of the concepts and not because of the undue advantage resulting from the examinees' familiarity with the past multiple choice test questions as well as the correct answers, the examiners might be deterred from modifying altogether the existing questions to any degree. However, in such a situation, the discretion given to the examiners to redeposit the test questions after modification will be rendered nugatory.

Thus, to preserve the integrity and fairness of the examinations for future applicants, the questions in the test banks must be kept confidential subject only to the conditions provided by law and the relevant rules for their availability.

Besides, Section 20 of PRC Resolution No. 338 does not constitute an absolute prohibition on the release of test questions that have been given in the CPA Board Exams. A petitioner must only show that the condition provided in Section 20 of PRC Resolution No. 338 has been satisfied, *i.e.*, that the test bank for each subject has at least 2,000 questions. Suffice it to state that this condition is a reasonable limitation

or the availability of the test questions to the public taking the inherent difficulties surrounding the preparation of the test questions and the need to preserve the integrity of the CPA Board Exams.

Thus, reading together Section 14 and Section 20 of PRC Resolution No. 338, the rules must be understood to be prohibiting the release of the test questions already given in an examination even if Section 14 of PRC Resolution No. 338 mandates their withdrawal from the test bank, unless the test bank for each subject has at least 2,000 questions. This is to avoid unduly preempting the examiners' exercise of discretion in redepositing questions after modification—the degree of the modification itself, being discretionary.

Petitioner maintains that the RTC ought to have concluded that more than 2,000 unused questions were on deposit in the test banks when petitioner requested the examination documents sometime in November 1997. Petitioner explains that by November 1997, there were already 3,200 unused questions in the test banks given the requirements of PRC Resolution No. 265 which was issued on April 7, 1993 and PRC Resolution No. 338 dated November 24, 1994.

Petitioner quoted PRC Resolution Nos. 265 and 338, as follows:

PRC Resolution No. 265

1. The Board Member shall input or feed into the test bank at least 500 questions for each subject or the minimum number of questions for each subject as the starting point which has to be built up by [at] least 300 questions every examination to reach the optimum ideal number of 3,000 questions or more.¹³¹

PRC Resolution No. 338

Section 9. Number of Questions for Deposit in the Test Bank. - At least five hundred (500) test questions/problems shall initially be deposited in the Test Bank by each Board Member for each of his/her assigned subjects. At each subsequent examination, he/she shall deposit at least three hundred (300) additional question[s] in the Test bank until it shall reach the ideal level of three thousand (3,000) questions/problems.¹³²

¹³¹ As culled from the Petition for Review on *Certiorari*, *id.* at 23.

¹³² *Id.*

Regrettably, the Court cannot entertain petitioner's asseveration that the test banks for the subjects in the CPA Board Exams by the time she took the exam already had more than 2,000 unused questions.

To reiterate, the RTC ruled in its Omnibus Order dated December 19, 2013 that “[t]he testimonial and documentary evidence of the petitioner failed to show that indeed the test bank on the examination she took contained more than 2,000 questions on deposit in order to obligate the person in possession of the examination papers to release the requested documents.”

The settled rule is that the Court is not a trier of facts. Specifically, in petitions for review on *certiorari*, the Court is limited to reviewing errors of law that may have been committed by the lower courts.¹³³ Here, the truth or falsity of petitioner's asseveration involves a question of fact which the Court is not in the position to entertain.

Moreover, the Court is in no position to assume that the actual questions in the test banks are the same as what should be the number of questions given the requirements of PRC Resolution No. 338 and before that, PRC Resolution No. 265.

Thus, as correctly argued by respondent Ibe, considering that petitioner failed to establish that the test banks for the examination she took contained more than 2,000 questions on deposit, there is no clear legal right to the release of the test questions by the respondents.¹³⁴

Consequently, to ask for the other examination documents, *i.e.*, her answer sheets, the answer keys to the questionnaires, and an explanation of the grading system used in each subject would be futile because without the test questions, there is no way that petitioner will be able to realize her intention of determining whether respondents fairly administered the 1997 CPA Board Exams and correctly graded petitioner's performance therein.

Given the foregoing, the petition for *mandamus* must fail. Thus, the Court no longer finds the need to address the other arguments raised

¹³³ *Heirs of Teresita Villanueva v. Heirs of Petronila Syquia Mendoza, et al.*, 810 Phil. 172, 177-178 (2017).

¹³⁴ *Rolla*, p. 289.

by the parties. Specifically, the Court finds that the issue of whether Section 28 of the RRG is reasonable and valid is not indispensable to the resolution of this case.

To clarify, however, the ruling in this case is without prejudice to an examinee's right under Section 36 of the RRG, as amended, to have access or go over his/her test papers or answer sheets on a date not later than 30 days from the official release of the results of the examination; and within 10 days from such date, to file his/her request for reconsideration of ratings only on grounds of mechanical error in the grading of his/her or test papers or answer sheets or malfeasance.

As a final note, the Court is not oblivious to petitioner's quest for 23 years to determine for herself whether she failed the 1997 CPA Board Exams. Regrettably, for petitioner, the balancing of interests in this case tilts in favor of the need to preserve the confidentiality of the test questions to protect the integrity of the CPA Board Exams. Thus, petitioner's efforts in this case which spanned more than two decades must now be put to rest.


WHEREFORE, the petition is **DENIED**. The Omnibus Orders dated December 19, 2013, April 8, 2014, September 11, 2015 and the Decision dated July 20, 2015 of Branch 41, Regional Trial Court, Manila are **AFFIRMED**.

SO ORDERED.

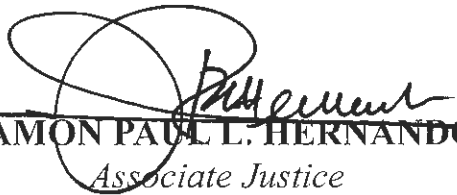


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN
Associate Justice
Chairperson



RAMON PAUL L. HERNANDO
Associate Justice


JHOSEF V. LOPEZ
Associate Justice


RICARDO B. ROSARIO
Associate Justice

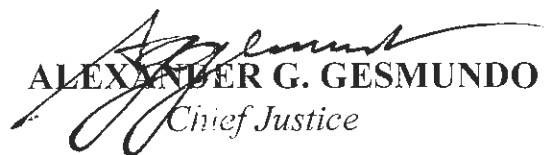
ATTESTATION

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.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

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.


ALEXANDER G. GESMUNDO
Chief Justice

