

**CE CASECNAN WATER AND ENERGY COMPANY, INC., PETITIONER,
VS. THE PROVINCE OF NUEVA ECIJA, THE OFFICE OF THE
PROVINCIAL ASSESSOR OF NUEVA ECIJA, AND THE OFFICE OF THE
PROVINCIAL T...**

G.R. No. 196278. June 17, 2015

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The Court of Tax Appeals (CTA) has exclusive jurisdiction over a special civil action for certiorari assailing an interlocutory order issued by the Regional Trial Court (RTC) in a local tax case.

This Petition for Review on Certiorari[1] assails the November 2, 2010 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 108441 which dismissed for lack of jurisdiction the Petition for Certiorari of petitioner CE Casecnan Water and Energy Company, Inc. (petitioner) against the Province of Nueva Ecija, the Office of the Provincial Assessor of Nueva Ecija (Office of the Provincial Assessor) and the Office of the Provincial Treasurer of Nueva Ecija (Office of the Provincial Treasurer) (respondents). Also assailed is the March 24, 2011 Resolution[3] of the CA denying petitioner's Motion for Reconsideration.[4]

Factual Antecedents

On June 26, 1995, petitioner and the National Irrigation Administration (NIA) entered into a build-operate-transfer (BOT) contract known as the "Amended and Restated Casecnan Project Agreement"[5] (Casecnan Contract) relative to the construction and development of the Casecnan Multi-Purpose Irrigation and Power Project (Casecnan Project) in Pantabangan, Nueva Ecija and Alfonso Castaneda, Nueva Vizcaya. The Casecnan Project is a combined irrigation and hydroelectric power generation facility using the Pantabangan Dam in Nueva Ecija.

On September 29, 2003, petitioner and NIA executed a Supplemental Agreement[6] amending Article II of the Casecnan Contract which pertains to payment of taxes. Article 2.2 thereof states that NIA must reimburse petitioner for real property taxes (RPT) provided the same was paid upon NIA's directive and with the concurrence of the Department of Finance.

On September 6, 2005, petitioner received from the Office of the Provincial Assessor a Notice of Assessment of Real Property dated August 2, 2005, which indicates that for the years 2002 to 2005, its RPT due was P248,676,349.60. Petitioner assailed the assessment with the Nueva Ecija Local Board of Assessment Appeals (Nueva Ecija LBAA) which dismissed it on January 26, 2006. Undeterred, petitioner filed a Notice of Appeal with the Nueva Ecija Central Board of Assessment Appeals (Nueva Ecija CBAA). During the pendency thereof, respondents collected from petitioner the RPT due under the said assessment as well as those pertaining to the years 2006 up to the second quarter of 2008, totalling P363,703,606.88. Petitioner paid the assessed RPT under protest; it also initiated proceedings questioning the validity of the collection with respect to the years 2006 up to

the second quarter of 2008. Thereafter, petitioner received a letter[7] dated July 9, 2008 from the Office of the Provincial Treasurer stating that it has RPT in arrears for the years 2002 up to the second quarter of 2008 amounting to P1,277,474,342.10. Petitioner received another letter[8] dated August 29, 2008 from the same office clarifying that its arrearages in RPT actually amounted to P1,279,997,722.70 (2008 RPT Reassessment). Again, petitioner questioned this assessment through an appeal before the Nueva Ecija LBAA. While the same was pending, petitioner received from respondents a letter dated September 10, 2008 demanding payment for its alleged RPT arrearages.

Hence, on September 23, 2008, petitioner filed with the RTC of San Jose City, Nueva Ecija a Complaint[9] for injunction and damages with application for temporary restraining order (TRO) and preliminary injunction[10] praying to restrain the collection of the 2008 RPT Reassessment. Petitioner emphasized, among others, that it was not the one which should pay the taxes but NIA.

Ruling of the Regional Trial Court

On September 24, 2008, the RTC denied petitioner's application for a 72-hour TRO.[11]

Meanwhile, petitioner received from the Office of the Provincial Treasurer a letter dated September 22, 2008 further demanding payment for RPT covering the third quarter of 2008 (2008-3Q Assessment). Thus, petitioner filed on September 29, 2008 an Amended Complaint[12] asking the RTC to likewise enjoin respondents from collecting RPT based on the 2008-3 Q Assessment in the amount of P53,346,755.18.

On October 2, 2008, the RTC issued a 20-day TRO[13] enjoining respondents from collecting from petitioner the RPT covered by the 2008 RPT Reassessment amounting to P1,279,997,722.70, including surcharges and penalties.

Subsequently, however, the RTC denied petitioner's application for writ of preliminary injunction in its Order[14] of October 24, 2008. It also denied petitioner's Motion for Reconsideration thereof in an Order[15] dated January 30, 2009.

On April 24, 2009, petitioner filed with the CA a Petition for Certiorari[16] under Rule 65 of the Rules of Court seeking to annul and set aside the aforementioned October 24, 2008 and January 30, 2009 RTC Orders.

Riding of the Court of Appeals

In its November 2, 2010 Decision,[17] the CA observed that the Petition for Certiorari before it was actually an offshoot of the 2008 RPT Reassessment. And since in resolving the issue of whether the RTC committed grave abuse of discretion in denying petitioner's application for a writ of preliminary injunction, the issue of the validity of the assessment and the collection of the RPT against petitioner must also be resolved, thus jurisdiction over the case lies within the Court of Tax Appeals (CTA). Hence, the CA ruled:

WHEREFORE, premises considered, the Petition for Certiorari is hereby DENIED DUE COURSE and accordingly, DISMISSED for lack of jurisdiction.

SO ORDERED.[18]

Petitioner sought reconsideration; however, it was denied in a Resolution[19] dated March 24, 2011.

Undaunted, petitioner filed this Petition imputing upon the CA grave error in:

xxx ruling that it is the Court of Tax Appeals (and not the Court of Appeals) which has jurisdiction over the CA Injunction Case.[20]

Petitioner's Arguments

In its Petition[21] and Reply[22], petitioner argues that it is the CA, not the CTA, which has jurisdiction over the subject matter of its Petition for Certiorari. Petitioner maintains that its petition relates to an ordinary civil action for injunction and not to a local tax case. It insists that in both the RTC injunction case and the Petition for Certiorari before the CA, petitioner was not protesting respondents' assessment of RPT against it; what it was seeking was respondents' enjoinder from committing or continuing to commit acts that would probably violate its right. In particular, petitioner points out that the RTC injunction case was intended to enjoin respondents from collecting payment during the pendency of the case with the LBAA challenging the validity of the 2008 RPT Reassessment. Petitioner explains that the said injunction case was filed with the RTC because the LBAA has no injunctive power.

Respondents' Arguments

In their Comment,[23] respondents argue that in resolving the issue on the propriety of issuing a writ of injunction, the CA will have to inevitably pass upon the propriety of the assessment of RPT on the Casecan Project, a local tax matter which is within the jurisdiction of the CTA. Respondents also echo the CA pronouncement that petitioner failed to exhaust administrative remedies with respect to the assessment and collection of RPT.

Our Ruling

There is no merit in the Petition.

It is the CTA which has the power to rule
on a Petition for Certiorari assailing an
interlocutory order of the RTC relating
to a local tax case.

Jurisdiction over the subject matter is required for a court to act on any controversy. It is conferred by law and not by the consent or waiver upon a court. As such, if a court lacks jurisdiction over an action, it cannot decide the case on the merits and must dismiss it.[24]

With respect to the CTA, its jurisdiction was expanded and its rank elevated to that of a collegiate court with special jurisdiction by virtue of Republic Act No. 9282.[25] This expanded jurisdiction of the CTA includes its exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the RTC in local tax cases originally decided or resolved by the RTC in the exercise of its original or appellate jurisdiction.[26]

In the recent case of *City of Manila v. Grecia-Cuerdo*,[27] the Court ruled that the CTA likewise has the jurisdiction to issue writs of certiorari or to determine whether 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 CTA's exclusive appellate jurisdiction, thus:

The foregoing notwithstanding, while there is no express grant of such power, with respect to the CTA, Section 1, Article VIII of the 1987 Constitution provides, nonetheless, that judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law and that judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

On the strength of the above constitutional provisions, it can be fairly interpreted that the power of the CTA includes that of determining 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.[28] (Citations omitted and emphasis supplied)

Further, the Court in *City of Manila*, citing *J. M. Tuason & Co., Inc. v. Jaramillo*,[29] *De Jesus v. Court of Appeals*,[30] as well as the more recent cases of *Galang, Jr. v. Hon. Judge Geronimo*[31] and *Bulilis v. Nuez*[32] held that:

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.[33] (Citations omitted)

Anent petitioner's contention that it is the CA which has jurisdiction over a certiorari petition assailing an interlocutory order issued by the RTC in a local tax case, the Court had this to say:

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.

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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.[34] (Citations omitted and emphasis supplied)

Given these, it is settled that it is the CTA which has exclusive jurisdiction over a special civil action for certiorari assailing an interlocutory order issued by the RTC in a local tax case.

The RTC injunction case is a local tax case.

In maintaining that it is the CA that has jurisdiction over petitioner's certiorari petition, the latter argues that the injunction case it filed with the RTC is not a local tax case but an ordinary civil action. It insists that it is not protesting the assessment of RPT against it but only prays that respondents be enjoined from collecting the same.

The Court finds, however, that in praying to restrain the collection of RPT, petitioner also implicitly questions the propriety of the assessment of such RPT. This is because in ruling as to whether to restrain the collection, the RTC must first necessarily rule on the propriety of the assessment. In other words, in filing an action for injunction to restrain collection, petitioner was in effect also challenging the validity of the RPT assessment. As aptly discussed by the CA:

xxx [T]he original action filed with the RTC is one for Injunction, with an application for Temporary Restraining Order and a Writ of Preliminary Injunction to enjoin the province of Nueva Ecija from further collecting the alleged real property tax liability assessed against it. Simply because the action is an application for irrevocable relief does not necessarily mean that it may no longer be considered as a local tax case. The subject matter and the issues, not the name or designation of the remedy, should control. While an ancillary action for injunction may not be a main case, the court [still has] to determine, even in a preliminary matter, the applicable tax laws, rules and jurisprudence, x x x[35]

Moreover, in *National Power Corporation v. Municipal Government of Navotas*,^[36] as well as in *City of Lapu-Lapu v. Philippine Economic Zone Authority*,^[37] this Court already held that local tax cases include RPT.

No doubt, the injunction case before the RTC is a local tax case. And as earlier discussed, a certiorari petition questioning an interlocutory order issued in a local tax case falls under the jurisdiction of the CTA. Thus, the CA correctly dismissed the Petition for Certiorari before it for lack of jurisdiction.

WHEREFORE, the Petition is DENIED. The November 2, 2010 Decision and March 24, 2011 Resolution of the Court of Appeals in CA-G.R. SP No. 108441 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Mendoza, and Reyes,[*] JJ., concur.

[*] Per Special Order No. 2056-A dated June 10, 2015.

[1] Rollo, pp. 64-97.

[2] CA rollo, Vol. II, pp. 1304-1320; penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Noel G. Tijam and Ramon M. Bato, Jr.; Associate Justices Florito S. Macalino and Samuel H. Gaerlan, dissented.

[3] Id. at 1467-1468.

[4] Id. at 1347-1376.

[5] Id. Vol. I. at 102-175.

[6] Id. at 176-194.

[7] Id. at 452.

[8] Id. at 471.

[9] Rollo, pp. 155-203.

- [10] Ruffled to Branch 39 and docketed as Civil Case No. (08)-189-P.
- [11] Rollo, pp. 204-206.
- [12] Id. at 207-267.
- [13] Id. at 268-276.
- [14] Id. at 277-282; penned by Judge Cynthia Martinez Florendo.
- [15] Id. at 321-322.
- [16] CA rollo, Vol. I, pp.2-93.
- [17] Id. Vol. II at 1304-1320.
- [18] Id. at 1319.
- [19] Id. at 1467-1468.
- [20] Rollo, p. 70.
- [21] Id. at 64-97.
- [22] Id. at 795-805.
- [23] Id. at 769-774.
- [24] Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue, G.R. No. 185666, February 4, 2015.
- [25] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level 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.
- [26] REPUBLIC ACT NO. 9282, Sec. 7(3).
- [27] G.R.No. 175723, Februarys 2014, 715 SCRA 182.
- [28] Id. at 202.
- [29] 118 Phil. 1022 (1963).
- [30] G.R. No. 101630, August 24, 1992, 212 SCRA 823.
- [31] 659 Phil. 65 (2011).
- [32] 670 Phil. 665 (2011).
- [33] City of Manila v. Grecia-Cuerdo, supra note 27 at 202-203.
- [34] Id. at 203-205.
- [35] CA rollo, Vol. II, p. 1315.
- [36] G.R. No. 192300, November 24, 2014.
- [37] G.R. Nos. 184203 and 187583, November 26, 2014.

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