

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SMART COMMUNICATIONS,
INC.,

CTA AC NO. 228

Petitioner,

Present:

- versus -

CASTAÑEDA, JR., Chairperson, and
BACORRO-VILLENA, JL

HON. JUDGE AUGUSTO JOSE
Y. ARREZA as Acting Presiding
Judge of the Regional Trial Court,
Branch 133, Makati City,
HON. JESUSA E. CUNETA in her
capacity as OIC City Treasurer of
Makati City and CITY OF MAKATI,
Respondents.

Promulgated:

NOV 09 2020

X ----- X
2:57 p.m.

RESOLUTION

BACORRO-VILLENA, JL:

For the Court's resolution is a "Motion for Reconsideration"¹ filed by Smart Communications, Inc. (**Smart**) on 24 February 2020. The motion seeks the reversal of this Court's Decision² dated 05 February 2020 in the above-captioned case. The dispositive portion of the assailed decision reads:

...

WHEREFORE, the foregoing considered, petitioner's Petition for *Certiorari* is **DENIED** for lack of merit. Accordingly, the Resolutions on 28 June 2019 and on 07 August 2019 issued by

¹ Docket, Volume III.

² Id.

Branch 133 of the Regional Trial Court of Makati City are hereby
AFFIRMED.

...

The Court ordered respondents to file their respective comments thereto within ten (10) days from receipt thereof in a resolution dated 12 March 2020³. Respondents filed their Comment⁴ on 27 August 2020, and the Court ordered the instant motion submitted for resolution⁵ on 07 September 2020.

We now resolve.

A perusal of the instant motion immediately shows that petitioner's arguments are a mere rehash of those already raised previously in its original petition. The Court also finds that these issues have been adequately discussed not only in the assailed Decision but also in Our Resolution dated 15 October 2019⁶ which denied petitioner's application for a Temporary Restraining Order and/or Writ of Injunction (TRO/WPI).

It must be stressed that a petition for *certiorari* is an extraordinary remedy that the courts must grant sparingly, and its writ should only issue in extraordinary circumstances. Hence, in *Fernando v. Vasquez, et al.*⁷, the Supreme Court held:

...

The office of the writ of *certiorari* has been reduced to the correction of defects of *jurisdiction* solely and cannot legally be used for any other purpose. It is truly an extraordinary remedy and, **in this jurisdiction, its use is restricted to truly extraordinary cases — cases in which the action of the inferior court is wholly void; where any further steps in the case would result in a waste of time and money and would produce no result whatever; where the parties, or their privies, would be utterly deceived; where a final judgment or decree would be nought but a snare and a delusion, deciding nothing, protecting nobody, a judicial pretension, a recorded falsehood, a standing menace.** It is only to avoid such results as these that a writ of *certiorari* is issuable; and



³ Id.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ G.R. No. L-26417, 30 January 1970.

even here an appeal will lie if the aggrieved party prefers to prosecute it.⁸

...

Clearly, resort to the remedy of *certiorari* presupposes that the act assailed is a complete nullity. This is so since, “[a]n essential requisite for filing a petition for *certiorari* is the allegation that the judicial tribunal acted with grave abuse of discretion amounting to lack or excess of jurisdiction”.⁹ While, grave abuse of discretion has been defined as a “capricious or whimsical exercise of judgment that is patent and gross as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law”.¹⁰

Given these concepts, the Court need not look any further than the assailed acts of respondent court. The only question that must be answered here therefore is - whether the public respondent judge acted beyond his authority in granting Makati City’s Motion for Production or Inspection of Documents. The Court finds this not to be the case.

In granting the foregoing motion, the public respondent judge merely exercised his discretion in allowing a party to avail of a mode of discovery specifically provided for in the Rules of Court. However, to petitioner’s mind, the mere allowance of this motion immediately equates to a second audit of its local business taxes - the very subject of its case now pending before the lower court. In this respect, We reiterate the Supreme Court’s ruling in the case of *Republic of the Philippines (Presidential Commission on Good Government) v. Sandiganbayan, et al.*¹¹, to wit:

...
...Indeed, it is the purpose and policy of the law that the parties — before the trial if not indeed even before the pre-trial — should discover or inform themselves of all the facts relevant to the action, not only those known to them individually, but also those known to adversaries; in other words, the *desideratum* is that civil trials should not be carried on in the dark; and the Rules of Court make this ideal possible through the deposition-discovery mechanism set forth in

⁸ Emphasis supplied and italics in the original text.

⁹ *Cruz, et al. v. People*, G.R. No. 224974, 03 July 2017.

¹⁰ *Rodriguez, et al. v. The Hon. Presiding Judge of the Regional Trial Court of Manila - Branch 17, et al.*, G.R. No. 157977, 27 February 2006.

¹¹ G.R. No. 90478, 21 November 1991.

Rules 24 to 29. The experience in other jurisdictions has been that ample discovery before trial, under proper regulation, accomplished one of the most necessary of modern procedure: it not only eliminates unessential issue from trials thereby shortening them considerably, but also requires parties to play the game with the cards on the table so that the possibility of fair settlement before trial is measurably increased...

...

As regards the relevancy of the documents sought to be produced, this Court has already distinguished between relevancy as a requirement for production *vis-a-vis* relevancy as a requirement for admissibility in the following wise:

...

To be clear, the relevancy found by the lower court to warrant the production of the subject documents are *only for the purposes of discovery*. The actual relevancy of a piece of evidence or its relevancy for the purpose of admissibility is, however, a wholly different matter. Relevancy of the latter kind can only be determined after the court has been given an opportunity to appreciate the evidence presented before it. At this juncture, it is impossible either for this Court or the lower court to determine the materiality of the subject documents prior to their production.¹²

..

With no grave abuse of discretion attributable to public respondent judge's actions, and finding further petitioner's fear of a second audit to be immaterial at present, the Court finds no cogent reason to abandon or modify Our Decision in the above-captioned case.

WHEREFORE, the foregoing considered, petitioner's Motion for Reconsideration filed on 24 February 2020 is **DENIED** for lack of merit.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice