



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **01 July 2020** which reads as follows:*

“G.R. No. 248413 (Coam Phil., Inc. and Globaltex Impex, Inc., petitioners; Top Global Eastern Resources Corporation, petitioner-intervenor; Double M Garments Corporation, petitioner-intervenor v. Hon. Alberto D. Lina, in his capacity as Commissioner of the Bureau of Customs [BOC] and all persons, judicial or juridical, acting on his behalf). – The Court resolves to:

1. **GRANT** petitioner’s motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review *on certiorari*; and

2. **NOTE** petitioner’s manifestation dated 13 September 2019, informing the Court that the petition was filed by registered mail, and attaching a copy thereof.

The instant petition is **DISMISSED** for failure of petitioner-intervenor Top Global Eastern Resources Corporation (TGERC) to attach the material portions of the record as would support the petition as required under Section 4 in relation to Section 5 of Rule 45 of the Rules of Court, to wit:

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)

Section 5. Dismissal or denial of petition. — **The failure of the petitioner to comply with any of the foregoing requirements** regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and **the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Emphasis and underscoring supplied)

A perusal of the petition reveals that the petitioners failed to attach copies of the material portions of the record that are crucial to their petition such as the copies of the Decision of the Regional Trial Court (RTC) in Civil Case No. SCA 15-134698, copy of Customs Tariff Decision Circular No. 01-2015 (CTD No. 01-2015) dated 1 July 2015, and such other pleadings and documents relevant and pertinent to the present petition.

At any rate, after a judicious study of the case, the Court further resolves to **DENY** the instant petition and to **AFFIRM** the Decision¹ dated 13 July 2017 and Resolution² dated 12 July 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 146652 for failure of the TGERC to show that the CA committed any reversible error in annulling and setting aside the Decision of the RTC which annulled CTD No. 01-2015 issued by then respondent-appellee Bureau of Customs (BOC) Commissioner Alberto Lina (Commissioner).

The Court is not oblivious to the prevailing jurisprudence that if what is being assailed is the validity or constitutionality of a rule or regulation issued by an administrative agency in the performance of its quasi-legislative functions, then the RTC has jurisdiction to pass upon the same. The determination of whether a specific rule or set of rules issued by an administrative agency contravenes the law or the Constitution is within the jurisdiction of the RTC.³ It must be stressed, however, that what was filed by the aforementioned companies was a petition for *certiorari*, prohibition and *mandamus* which is governed by Rule 65 of the Rules of Court. Section 4, Rule 65 of the Rules of Court clearly provides for the appropriate *fora* in filing a petition for *certiorari*, prohibition and *mandamus*, to wit:

¹ Penned by Associate Justice Rosmari D. Carandang (now a member of this Court), with Associate Justices Eduardo B. Peralta, Jr. and Ramon Paul L. Hernando (now a member of this Court), concurring; *rollo*, pp. 29-35.

² Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Ramon R. Garcia and Gabriel T. Robeniol, concurring; *id.* at 37-38.

³ *The Chairman and Executive Director, PCSD v. Lim*, 793 Phil. 690, 699-700 (2016).

Section 4. *When and where petition filed.* — The petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

The petition shall be filed in the Supreme Court or, if it relates to the acts or omissions of a lower court or of a corporation, board, officer or person, in the Regional Trial Court exercising jurisdiction over the territorial area as defined by the Supreme Court. It may also be filed in the Court of Appeals whether or not the same is in aid of its appellate jurisdiction, or in the Sandiganbayan if it is in aid of its appellate jurisdiction. **If it involves the acts or omissions of a quasi-judicial agency, unless otherwise provided by law or these Rules, the petition shall be filed in and cognizable only by the Court of Appeals.** (Emphasis and underscoring supplied)

Clearly, the Rule 65 petitions of Coam Phil., Inc. (Coam Phil.), Globaltex Impex, Inc. (Globaltex) and the petitions-in-intervention of TGERC and Double M Garments Corporation (Double M Garments) which assailed the act of BOC Commissioner should be filed before the CA, in the absence of provisions of law and rules which say otherwise. Accordingly, the Court agrees with the RTC that it has no jurisdiction over Rule 65 petitions assailing CTD No. 01-2015.

Moreover, the aforementioned companies availed of an improper remedy in assailing the subject circular.

Administrative agencies possess quasi-legislative or rule-making powers and quasi-judicial or administrative adjudicatory powers. Quasi-legislative or rule-making power is the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers.⁴ In this case, there is no dispute that CTD No. 01-2015 was issued by the BOC, through the Commissioner, in the exercise of quasi-legislative power. The Commissioner did not act in any judicial, quasi-judicial, or ministerial capacity in the issuance of the assailed circular. In issuing and implementing the subject circular, the Commissioner was not called upon to adjudicate the rights of contending parties to exercise, in any manner, discretion of a judicial nature. The issuance and enforcement of the questioned joint circular were done in the exercise of their quasi-legislative and administrative functions. It was in the nature of subordinate legislation, promulgated by them in their exercise of delegated power.⁵

In relation to the above pronouncement, the Court has consistently reiterated that petitions for *certiorari* and prohibition may be invoked only against tribunals, corporations, boards, officers, or persons exercising judicial, quasi-judicial or ministerial functions, and not against their exercise

⁴ *Smart Communications, Inc. v. National Telecommunications Commission*, 456 Phil. 145, 155 (2003).
⁵ See *Cawad v. Abad*, 764 Phil. 705, 723 (2015).

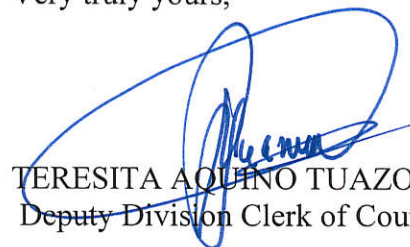
of legislative or quasi-legislative functions.⁶ The remedy of *mandamus*, on the other hand, is an extraordinary writ, which lies only to compel an officer to perform a ministerial duty, not a discretionary one.⁷ Accordingly, the subject Rule 65 petitions do not lie against the Commissioner's issuance of CTD No. 01-2015.

On a final note, the Court sees no justifiable reason to step in and resolve the merits of the present petition on the often-cited ground of public or transcendental importance. It must be noted that the present petition did not attach the material portions of records that would support the petition and that would enable the Court to judiciously rule on the merits of the case. Certainly, TGERC cannot seek refuge under the claim that its errors in practice and technical blunders committed in the trial court be excused and that the case be resolve on the merits on the claim that it raises issues of transcendental importance, while at the same time flouting the basic procedural rules in filing the Rule 45 petition.

More importantly, as explained earlier, the Rule 65 petitions of Coam Phil., and Globaltex and the petitions-in-intervention of TGERC and Double M Garments were filed before a court without jurisdiction, the RTC. Consequently, the RTC's lack of subject matter jurisdiction over the case renders it without authority and necessarily obviates the resolution of the merits of the case. To reiterate, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without any binding legal effects.⁸ Thus, it would be improper for the Court to exercise its appellate jurisdiction and resolve the merits of the present petition when, in the first place, the proceedings and the Decision before the RTC, which is the subject of the now appealed CA Decision, is null and void, and without any binding legal effects.

SO ORDERED." (*Hernando, J., no part due to prior action in the Court of Appeals; Gesmundo, J., designated Additional Member per Raffle dated 29 January 2020, on official leave. Gaerlan, J., designated Additional Member per Special Order No. 2780 dated 11 May 2020.*)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *ML 913*

⁶ Id. at 722.

⁷ *Special People, Inc. Foundation v. Canda*, 701 Phil. 365, 387 (2013).

⁸ *Bilag v. Ay-ay*, 809 Phil. 236, 247-248 (2017).

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 11
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(Civil Case No. SCA 15-134698)

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