



Republic of the Philippines
Supreme Court
 Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 JAN 08 2016

THIRD DIVISION

REPUBLIC OF THE PHILIPPINES, represented by the BUREAU OF CUSTOMS,
 Petitioner,

G.R. No. 209324

Present:

VELASCO, JR., *J.*, Chairperson,
 PERALTA,
 BERSAMIN,*
 VILLARAMA, JR., and
 REYES, *JJ.*

- versus -

PILIPINAS SHELL PETROLEUM CORPORATION,
 Respondent.

Promulgated:

December 9, 2015

X-----*Wilfredo V. Lapitan*-----X

DECISION

VILLARAMA, JR., *J.*:

Assailed in this petition for review under Rule 45 are the Decision¹ dated February 13, 2013 and Resolution² dated June 3, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 95436 which affirmed the Orders³ dated April 28, 2010 and July 2, 2010 of the Regional Trial Court (RTC) of Manila, Branch 49 in Civil Case No. 02-103191.

Factual Antecedents

Pilipinas Shell Petroleum Corporation (PSPC), a domestic corporation registered with the Board of Investments (BOI), is engaged in the importation, refining and sale of petroleum products in the country. For its importations, PSPC was assessed and required to pay customs duties and internal revenue taxes.

* Designated additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 13, 2014.

¹ *Rollo*, pp. 45-62. Penned by Associate Justice Socorro B. Inting with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez concurring.

² Id. at 64-65.

³ Id. at 66-73. Penned by Judge William Simon P. Peralta.

WV

Under Deed of Assignment⁴ dated May 7, 1997, Filipino Way Industries (FWI) assigned the following Tax Credit Certificates⁵ (TCCs) to PSPC:

| | |
|--------------|-------------------------------------------|
| TCC # 006889 | P 2,542,918.00 |
| TCC # 006977 | 2,573,422.00 |
| TCC # 006978 | 2,559,493.00 |
| TCC # 006979 | <u>2,413,079.00</u> |
| TOTAL | <u>P10,088,912.00</u> ⁶ |

On the belief that the TCCs were actually good and valid, the Bureau of Customs (BOC) accepted and allowed PSPC to use the above TCCs to pay the customs duties and taxes due on its oil importations.

The One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center⁷ (“Center”) undertakes the processing of TCCs and approval of their transfers. It is composed of a representative from the Department of Finance (DOF) as its chairperson; and the members thereof are representatives of the BOI, BOC and Bureau of Internal Revenue (BIR).

On November 3, 1999 the Center, through then Finance Secretary Edgardo B. Espiritu, informed BIR Commissioner Beethoven L. Rualo that pursuant to EXCOM Resolution No. 03-05-99, it has cancelled various Tax Debit Memos (TDMs) issued to PSPC and Petron Corporation against their TCCs which were found to have been fraudulently issued and transferred. These include the subject TCCs sold by FWI to PSPC. The Center thus advised that it will be demanding from the said oil companies payment corresponding to the amount of the TCCs as evidenced by the TDMs, and accordingly directed the BIR to collect the amount utilized on the TCCs, including the related penalties, surcharges and interests.⁸ A similar letter was sent to Customs Commissioner Nelson Tan regarding the cancellation of TDMs issued to PSPC based on the Center’s finding that the TCCs utilized by PSPC have been fraudulently issued and transferred.⁹

On April 3, 2002, the Republic of the Philippines represented by the BOC filed the present collection suit in the RTC (Civil Case No. 02-103191) for the payment of ₱10,088,912.00 still owed by PSPC after the invalidation of the subject TCCs.

Meanwhile, PSPC filed with the Court of Tax Appeals (CTA Case No. 6484) a petition for review questioning the factual and legal bases of BOC’s collection efforts.

⁴ Id. at 78-79.

⁵ Id. at 74-77.

⁶ Id. at 78.

⁷ Created pursuant to Administrative Order No. 226 issued on February 7, 1992.

⁸ Id. at 135.

⁹ Id. at 133.

Subsequently, PSPC moved to dismiss Civil Case No. 02-103191 on the ground that the RTC had no jurisdiction over the subject matter and that the complaint for collection was prematurely filed in view of its pending petition for review in the CTA. The RTC denied the motion to dismiss and PSPC eventually filed its answer questioning the RTC's jurisdiction. When the RTC issued a notice of pre-trial, PSPC moved for reconsideration of the order denying its motion to dismiss. The RTC denied the motion for reconsideration, prompting PSPC to elevate the matter to the CA *via* a petition for certiorari (CA-G.R. SP No. 71756). On October 23, 2003, the CA rendered decision denying PSPC's petition. With the denial of its motion for reconsideration, PSPC sought recourse from this Court in a petition for review on certiorari (G.R. No. 161953). In a Decision¹⁰ dated March 6, 2008, this Court denied PSPC's petition, *viz.*:

Inasmuch as the present case did not involve a decision of the Commissioner of Customs in any of the instances enumerated in Section 7(2) of RA 1125, **the CTA had no jurisdiction over the subject matter. It was the RTC that had jurisdiction under Section 19(6) of the Judiciary Reorganization Act of 1980, as amended:**

X X X X

In view of the foregoing, the RTC should forthwith proceed with Civil Case No. 02-103191 and determine the extent of petitioner's liability.

We are not unmindful of petitioner's pending petition for review in the CTA where it is questioning the validity of the cancellation of the TCCs. However, respondent cannot and should not await the resolution of that case before it collects petitioner's outstanding customs duties and taxes for such delay will unduly restrain the performance of its functions. Moreover, if the ultimate outcome of the CTA case turns out to be favorable to petitioner, the law affords it the adequate remedy of seeking a refund.

WHEREFORE, this petition is hereby *DENIED*. The Regional Trial Court of Manila, Branch 19 is ordered to proceed expeditiously with the pre-trial conference and trial of Civil Case No. 02-103191.

Costs against petitioner.

SO ORDERED.¹¹ (Emphasis supplied)

As to CTA Case No. 6484, the CTA denied BOC's motion to dismiss on the ground of prescription. When the CTA denied the BOC's motion for reconsideration, the BOC appealed to the CA, which reversed the questioned CTA resolutions. PSPC again sought recourse from this Court *via* a petition for review on certiorari (G.R. No. 176380). By Decision¹² dated June 18, 2009, we denied the petition and held that the present case does not involve a tax protest case within the jurisdiction of the CTA to resolve. Citing our

¹⁰ *Pilipinas Shell Petroleum Corporation v. Republic*, 571 Phil. 418 (2008).

¹¹ *Id.* at 427-428.

¹² *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*, 607 Phil. 569 (2009).

previous ruling in *Pilipinas Shell Petroleum Corporation v. Republic*¹³ we ruled that the appropriate forum to resolve the issues raised by PSPC before the CTA, which were all related to the fact and efficacy of the payments made, should be the collection case before the RTC where PSPC can put up the fact of its payment as a defense.

With the resumption of proceedings in the RTC, the BOC filed an Amended Complaint, to which PSPC filed a Second Amended Answer. Pre-trial was terminated and the RTC summarized the issues in its Pre-Trial Order¹⁴ dated September 9, 2009, to wit:

The following issues raised by the plaintiffs:

- a. Whether or not plaintiff Republic has cause of action against defendants;
- b. Whether or not defendant Pilipinas Shell is [a] transferee in good faith [of] Tax Credit Certificates;
- c. Whether or not defendants are liable to pay the Republic the amount of Php10,088,912.00 represents unpaid taxes;
- d. Whether or not the Tax Credit Certificate was spurious and fraudulent.

The following issues raised by the defendant Pilipinas Shell:

- a. Whether the defendants PSPC is liable for the amount of Php10,088,912.00 in customs duties and taxes covered by cancelled subject Tax Credit Certificates, However, there are sub-issues. These are include[d] in our pre-trial brief;
- b. Whether or not plaintiff is liable for moral and exemplary and Attorney's fees; and
- c. Whether or not defendant Filipino Way is liable to defendant PSPC in case of successful collection of customs taxes against PSPC.¹⁵

On November 16, 2009, PSPC filed a motion for summary judgment arguing that there is no basis for the Republic's claims considering that the subject TCCs were already fully utilized for the payment of PSPC's customs duties and taxes, and that EXCOM Resolution No. 03-05-99, the basis of the cancellation of the TCCs, was declared void and invalid in *Pilipinas Shell Petroleum Corporation v. CIR*,¹⁶ where this Court likewise ruled that the subject TCCs cannot be cancelled on the basis of post-audit since a post-audit is not allowed and not a suspensive condition. PSPC further contended that the Republic's cause of action had already prescribed when it attempted to collect PSPC's customs duties and taxes only four years later, beyond the one-year prescriptive period to file a collection case. Lastly,

¹³ Supra note 10.

¹⁴ *Rollo*, pp. 390-395.

¹⁵ *Id.* at 394-395.

¹⁶ 565 Phil. 613 (2007).

PSPC asserted that even assuming the TCCs were fraudulently obtained by FWI, an innocent purchaser for value like PSPC cannot be prejudiced as held in the aforementioned case.

In its Comment/Opposition, BOC argued that rendition of summary judgment is inappropriate in this case in view of disputed facts that necessitate a full-blown trial where both parties can present evidence on their respective claims. BOC pointed out that PSPC cannot rely on the Deed of Assignment as proof that it had no participation in the issuance of the TCCs. PSPC should prove at the trial that there was a valid transfer in good faith and for value of the subject TCCs. As to the rulings in the case of *Pilipinas Shell Petroleum Corporation v. CIR*,¹⁷ these are inapplicable here because first, what is involved therein are taxes owed to the BIR and there was no finding of fraud against PSPC whereas in the present case the BOC can readily prove during trial that PSPC committed fraud.

On February 22, 2010, the RTC denied the motion for summary judgment in view of factual disputes which can only be resolved by trial on the merits. Specifically, it stated that presentation of evidence is necessary to determine if PSPC is a mere transferee in good faith and for value of the subject TCCs and that there was a valid transfer/assignment between PSPC and FWI.¹⁸

However, on motion for reconsideration by PSPC, the RTC reversed its earlier ruling and granted the motion for summary judgment under its Order¹⁹ dated April 28, 2010. The RTC cited *Pilipinas Shell Corporation v. Republic*²⁰ which supposedly settled factual and legal issues raised by BOC in its pleadings and arguments, specifically PSPC's *not* having committed fraud. As there are no more disputed matters, the RTC held that there is no more need for a trial to prove that the subject TCCs have been fully utilized by PSPC and that they were cancelled due to an invalid post-audit under the authority of EXCOM Resolution No. 03-05-99.

The RTC thus decreed:

WHEREFORE, premises considered, the Order dated February 22, 2010 is hereby REVERSED and SET ASIDE. The instant case against defendant PSPC is DISMISSED. However, the case against defendant Filipino Way still SUBSISTS.

Let the trial of this case continue against the other Defendant namely, Filipino Way Industries, as previously scheduled on May 19, 2010 at 1:00 o'clock in the afternoon.

SO ORDERED.²¹

¹⁷ Id.

¹⁸ *Rollo*, pp. 157-158.

¹⁹ Id. at 66-72. Penned by Judge William Simon P. Peralta.

²⁰ *Supra* note 10.

²¹ *Rollo*, p. 72.

With the denial of its motion for reconsideration, BOC appealed to the CA. By Decision dated February 13, 2013, the CA denied the appeal and affirmed the questioned orders of the RTC. BOC's motion for reconsideration was likewise denied by the CA.

According to the CA, BOC adopted a wrong mode of appeal because whether the RTC erred in rendering summary judgment is purely a legal issue, jurisdiction over which is vested only in this Court. Even assuming that the CA can entertain BOC's appeal, the CA said it found no genuine issues raised by the parties' pleadings and arguments that necessitate a full-blown trial. The CA further held that the rule on *stare decisis* applies in the present case considering that the legal and factual issues have been previously discussed and resolved by this Court in *Pilipinas Shell Petroleum Corporation v. CIR*.²²

Issues

The following issues clearly emerge from the present controversy: (1) Does the Republic's (petitioner) appeal involve purely questions of law and hence a wrong remedy from the assailed RTC orders?; (2) Whether or not summary judgment is proper; (3) Does the ruling in *Pilipinas Shell Petroleum Corporation v. CIR*²³ apply to this case under the doctrine of *stare decisis*; and (4) Whether or not petitioner's claim is barred by prescription.

Petitioner's Arguments

Citing the cases of *Nocom v. Camerino*²⁴ and *Heirs of Baldomero Roxas v. Garcia*²⁵ petitioner argues that since a summary judgment has the effect of adjudication on the merits, appeal under Rule 41 of the Rules of Court is the proper remedy.

As to the propriety of summary judgment rendered by the RTC, petitioner underscores that the collection case it filed against PSPC is founded on the fact that the latter utilized the fraudulently-secured TCCs for payment of customs duties and taxes that arose from its various oil importations, and their cancellation did not extinguish its liability to the government. The matter of whether or not PSPC is a transferee in good faith and for value is a genuine issue to be resolved, and must be ventilated in a full trial. The issue of whether or not PSPC is guilty of fraud likewise calls for the presentation of evidence at the trial.

Petitioner mentions other factual inquiries which it said arose in this case, such as the manner by which FWI acquired the subject TCCs; the legality of their transfer to PSPC; the results of the post-audit conducted on

²² Supra note 16.

²³ Id.

²⁴ 598 Phil. 214 (2009).

²⁵ 479 Phil. 918 (2004).

the subject TCCs; whether PSPC claimed a return of the consideration from FWI upon the cancellation of the TCCs; the veracity of the letter from Equitable Banking Corporation stating that the credit memos, supposedly used by FWI in securing the TCCs, do not conform to the bank's records; and what are the company papers and export documents submitted for the claim of tax credits.

Petitioner also argues that *Pilipinas Shell Petroleum Corporation v. CIR*²⁶ is not applicable as said case involves the assessment of deficiency taxes which was filed before the CTA, hence a tax case, whereas here it is a civil case for collection of sum of money which was filed in a regular court. More important, the facts in the aforesaid case did not clearly establish the fraudulent acts committed by the original grantees of tax credits in the procurement of TCCs from the Center, whereas in the present case, petitioner can sufficiently prove that the documents submitted by the original grantee (FWI) for the claim of tax credits were forgeries and the TCCs subsequently issued had absolutely no monetary value to back up their issuance. Thus, where the facts in the two cases under consideration are different, *stare decisis* finds no application.

On other legal issues that were previously settled in *Pilipinas Shell Petroleum Corporation v. CIR*,²⁷ petitioner submits there is an extreme urgency to revisit this Court's ruling —

X X X because of the great danger and prejudice it had caused to the several collection cases filed by the government which are pending before several regular courts involving TCCs in the hundreds of millions of pesos. Most defendants in these cases assert to be "buyers or transferees in good faith" and capitalize on the ruling of this Honorable Court in the *Shell case*. However, if the only basis for finding good faith on the part of the transferee of TCCs is the mere approval of the transfer by the DOF One Stop Shop Center, then all these pending cases, as above-mentioned, must be dismissed, since all the transfers of the TCCs were approved by the Center. This is precisely the very reason why the government filed several cases before the Office of the Ombudsman against the personnel and officers of the One Stop Shop Center, including private individuals, because of the collusion and conspiracy they contrived in order to defraud the government of several billions of pesos involving the issuance and transfers of TCCs. This is now infamously known as the "*tax credit scam*" because it was committed in grandiose style by a crime syndicate.

In the final analysis, the ultimate victim in this scheme is not the Republic but the Filipino people who did not commit mistake or wrongdoing, but rather, its agents. Hence, the State cannot be made to bear the loss of revenues on account of scheming individuals or entities that are out to defraud the government or evade the payment of tax liabilities.²⁸

²⁶ Supra note 16.

²⁷ Id.

²⁸ *Rollo*, p. 36.

Respondent's Arguments

PSPC contends that the assailed orders of the RTC granting summary judgment has already attained finality since petitioner availed of the wrong remedy before the CA. It asserts that the CA did not err in upholding the RTC's ruling that there exists no genuine issues of fact in the present case.

On the alleged fraudulent issuance of the subject TCCs, PSPC maintains that it cannot be prejudiced by such fraud which, by petitioner's own admission, was committed by FWI. Being a transferee in good faith and for value of the subject TCCs, these matters raised by petitioner are thus irrelevant. That PSPC is a transferee in good faith and for value was admitted by petitioner during the pre-trial hearing held on September 9, 2009.

PSPC argues that, contrary to petitioner's claims, the CA correctly applied this Court's rulings in *Pilipinas Shell Petroleum Corporation v. CIR*²⁹ under the doctrine of *stare decisis*. In any event, it asserts that petitioner's cause of action had already prescribed since the subject TCCs were already fully utilized as payment for PSPC's customs duties and taxes on November 17, 1997, while petitioner attempted to collect only on February 15, 2002 or four years later, beyond the one year period to file the present case.

Our Ruling

The petition is meritorious.

Propriety of Summary Judgment a Question of Law, hence, the Remedy is a Petition for Review Under Rule 45

Section 2, Rule 41 of the 1997 Rules of Civil Procedure, as amended, provides for two remedies from the final orders or judgments of the RTC in the exercise of its original jurisdiction, *viz.*:

Section 2. *Modes of appeal.* –

(a) *Ordinary appeal.* – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where the law or these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

²⁹ Supra note 16.

(b) *Petition for review*. – The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c) *Appeal by certiorari*. – In all cases **where only questions of law are raised or involved**, the appeal shall be **to the Supreme Court by petition for review on certiorari in accordance with Rule 45**. (Emphasis supplied)

Thus, when an appeal raises only pure questions of law, it is this Court that has the sole jurisdiction to entertain the same. On the other hand, appeals involving both questions of law and fact fall within the exclusive appellate jurisdiction of the CA.³⁰

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, the same must not involve an examination of the probative value of the evidence presented by the litigants or any of them. The resolution of the issue must rest solely on what the law provides on the given set of circumstances. Once it is clear that the issue invites a review of the evidence presented, the question posed is one of fact. Thus, the test of whether a question is one of law or of fact is not the appellation given to such question by the party raising the same; rather, it is whether the appellate court can determine the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law; otherwise it is a question of fact.³¹

We have held that the question of whether the RTC erred in rendering summary judgment is one of law, thus:

Any review by the appellate court of the propriety of the summary judgment rendered by the trial court based on these pleadings would not involve an evaluation of the probative value of any evidence, but would only limit itself to the inquiry of whether the law was properly applied given the facts and these supporting documents. Therefore, what would inevitably arise from such a review are pure questions of law, and not questions of fact, which are not proper in an ordinary appeal under Rule 41, but should be raised by way of a petition for review on *certiorari* under Rule 45.³²

Petitioner raised as sole issue in its brief filed with the CA the RTC's erroneous grant of summary judgment in favor of PSPC based on its finding that there exists no genuine factual issue. Obviously, it availed of the wrong mode of appeal when it filed a notice of appeal in the RTC under Section 2(a), Rule 41, instead of a petition for review on certiorari in this Court under Rule 45.

³⁰ *Cucueco v. Court of Appeals*, 484 Phil. 254, 264 (2004), citing Article VIII, Sec. 5(2)(e), 1987 Constitution; Rule 45, Rules of Court; and *Far East Marble (Phils.), Inc. v. Court of Appeals*, G.R. No. 94093, August 10, 1993, 225 SCRA 249, 255.

³¹ *Id.* at 264, 265.

³² *Id.* at 266.

Relaxation of the Rule on Appeal

However, despite such lapse, a relaxation of the rule on appeal is justified under the circumstances. The CA found no reversible error in the grant of summary judgment in favor of PSPC. Accordingly, it affirmed the assailed orders of the RTC.

Considering the Republic's stake in the outcome of the proceedings in Civil Case No. 02-103191, among the several collection suits it has instituted in the drive to recover huge revenue losses from spurious tax credit certificates that proliferated in the 1990s, we cannot accede to PSPC's contention that petitioner's erroneous appeal has rendered the Orders dated April 28, 2010 and July 2, 2010 of the RTC final and executory.

In *Barangay Sangalang v. Barangay Maguihan*,³³ we ratiocinated:

In any case, as in the past, this Court has recognized the emerging trend towards a liberal construction of the Rules of Court. In *Ong Lim Sing, Jr. v. FEB Leasing and Finance Corporation*, this Court stated:

Courts have the prerogative to relax procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to speedily put an end to litigation and the parties' right to due process. In numerous cases, this Court has allowed liberal construction of the rules when to do so would serve the demands of substantial justice and equity. In *Aguam v. Court of Appeals*, the Court explained:

The court has the discretion to dismiss or not to dismiss an appellant's appeal. It is a power conferred on the court, not a duty. The "discretion must be a sound one, to be exercised in accordance with the tenets of justice and fair play, having in mind the circumstances obtaining in each case." Technicalities, however, must be avoided. The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "A litigation is not a game of technicalities." "Lawsuits, unlike duels, are not to be won by a rapier's thrust. Technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts." Litigations must be decided on their merits and not on technicality. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the unacceptable plea of technicalities. Thus, dismissal of appeals purely on technical

³³ 623 Phil. 711 (2009).

grounds is frowned upon where the policy of the court is to encourage hearings of appeals on their merits and the rules of procedure ought not to be applied in a very rigid, technical sense; rules of procedure are used only to help secure, not override substantial justice. It is a far better and more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal to attain the ends of justice rather than dispose of the case on technicality and cause a grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.

Thus, notwithstanding petitioner's wrong mode of appeal, the CA should not have so easily dismissed the petition, considering that the parties involved are local government units and that what is involved is the determination of their respective territorial jurisdictions. x x x³⁴

Summary Judgment Not Proper

Under Rule 35 of the 1997 Rules of Civil Procedure, as amended, except as to the amount of damages, when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law, summary judgment may be allowed:

Section 1. *Summary Judgment for claimant.* – A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory relief may, at any time after the pleading in answer thereto has been served, move with supporting affidavits, depositions or admissions for a summary judgment in his favor upon all or any part thereof.

Summary judgment is a procedural device resorted to in order to avoid long drawn out litigations and useless delays. When the pleadings on file show that there are no genuine issues of fact to be tried, the Rules allow a party to obtain immediate relief by way of summary judgment, that is, when the facts are not in dispute, the court is allowed to decide the case summarily by applying the law to the material facts.³⁵ Even if on their face the pleadings appear to raise issues, when the affidavits, depositions and admissions show that such issues are not genuine, then summary judgment as prescribed by the Rules must ensue as a matter of law. The determinative factor, therefore, in a motion for summary judgment, is the presence or absence of a genuine issue as to any material fact.³⁶

For a full-blown trial to be dispensed with, the party who moves for summary judgment has the burden of demonstrating clearly the absence of

³⁴ Id. at 723-725.

³⁵ *Nocom v. Camerino*, supra note 24, at 233.

³⁶ *Asian Construction and Development Corporation v. PCIB*, 522 Phil. 168, 178 (2006).

genuine issues of fact, or that the issue posed is patently insubstantial as to constitute a genuine issue. Genuine issue means an issue of fact which calls for the presentation of evidence as distinguished from an issue which is fictitious or contrived.³⁷

Petitioner's complaint is premised mainly on the alleged fraudulent issuance and transfer of the subject TCCs. As stated in the pre-trial order, petitioner submitted for trial the issue of whether or not PSPC is a transferee in good faith.

In *Pilipinas Shell Petroleum Corporation v. CIR*,³⁸ we ruled that “[t]he transferee in good faith and for value may not be unjustly prejudiced by the fraud committed by the claimant or transferor in the procurement or issuance of the TCC from the Center.”

A transferee in good faith and for value of a TCC who has relied on the Center's representation of the genuineness and validity of the TCC transferred to it may not be legally required to pay again the tax covered by the TCC which has been belatedly declared null and void, that is, after the TCCs have been fully utilized through settlement of internal revenue tax liabilities. Conversely, when the transferee is party to the fraud as when it did not obtain the TCC for value or was a party to or has knowledge of its fraudulent issuance, said transferee is liable for the taxes and for the fraud committed as provided for by law.³⁹

The RTC found no genuine factual issue as far as PSPC's status as innocent purchaser in good faith and for value, relying on the following underlined portion of this Court's decision in *Pilipinas Shell Petroleum Corporation v. Republic*⁴⁰ (March 6, 2008):

THE FILING OF THE COLLECTION CASE WAS A PROPER REMEDY

Assessments inform taxpayers of their tax liabilities. Under the TCCP, the assessment is in the form of a liquidation made on the face of the import entry return and approved by the Collector of Customs. Liquidation is the **final computation and ascertainment by the Collector of Customs of the duties due on imported merchandise** based on official reports as to the quantity, character and value thereof, and the Collector of Customs' own finding as to the applicable rate of duty. A liquidation is considered to have been made when the entry is officially stamped “liquidated.”

Petitioner claims that it paid the duties due on its importations. Section 1603 of the old TCCP stated:

Section 1603. *Finality of Liquidation.* When articles have been entered and passed free of duty or final adjustments of

³⁷ *Gubat v. National Power Corporation*, 627 Phil. 551, 564 (2010), citing *Philippine Countryside Rural Bank (Liloan Cebu), Inc. v. Toring*, 603 Phil. 203, 218 (2009) and *Manufacturers Hanover Trust Co. v. Guerrero*, 445 Phil. 770, 776 (2003).

³⁸ *Supra* note 16, at 644.

³⁹ *Id.*

⁴⁰ *Supra* note 10, at 424-425.

duties made, with subsequent delivery, such entry and passage free of duty or settlement of duties will, after the expiration of one year from the date of the final payment of duties, in the absence of fraud or protest, be final and conclusive upon all parties, unless the liquidation of the import entry was merely tentative.

An assessment or liquidation by the BoC attains finality and conclusiveness one year from the date of the final payment of duties except when:

- (a) there was fraud;
- (b) there is a pending protest or
- (c) the liquidation of import entry was merely tentative.

None of the foregoing exceptions is present in this case. There was no fraud as petitioner claimed (and was presumed) to be in good faith. Respondent does not dispute this. Moreover, records show that petitioner paid those duties without protest using its TCCs. Finally, the liquidation was not a tentative one as the assessment had long become final and incontestable. Consequently, pursuant to *Yabes* and because of the cancellation of the TCCs, respondent had the right to file a collection case. (Underscoring supplied)

Upon reading the entire text of the above decision, it can be gleaned that PSPC (petitioner therein) had questioned the jurisdiction of the RTC, arguing that said court has no jurisdiction over Civil Case No. 02-103191 (collection case) in view of the pendency of PSPC's petition for review in the CTA challenging the BOC's assessment of the customs duties and taxes covered by the same TCCs involved in this case. Citing *Yabes v. Flojo*⁴¹ PSPC contended that the RTC acquires jurisdiction over a collection case only if an assessment made by the CIR has become final and incontestable.

Addressing the issue of prematurity of BOC's collection case in the RTC, we cited three exceptions from the rule that an assessment becomes final and conclusive one year from the date of final payment of duties: among which is when there is fraud. The decision then declares that none of the cited exceptions are present, specifically stating that there was no fraud as petitioner claimed (and was presumed) to be in good faith, and the BOC does not dispute it. *It is this statement which the RTC deemed as establishing PSPC's status as transferee in good faith and for value of the subject TCCs.* However, we find the RTC's reliance on this statement in the earlier case involving the issue of jurisdiction of the RTC as misplaced and erroneous. Such statement pertained to fraud in the computation or accuracy of the customs duties and taxes due on the subject importations, which concerns the correctness of the quantity and class of goods declared by the importer PSPC as basis for the assessment by the BOC. There may have been preconceived courses of action purposely adopted by importers to evade the payment of the correct customs duties. Clearly, the fraud mentioned in the said decision does

⁴¹ 200 Phil. 672 (1982).

not refer to the fraud in the issuance and transfer of TCCs for which the petitioner seeks to recover unpaid customs duties and taxes, subject matter of the present controversy. The latter has to do with presentation of spurious documents that would render the TCCs worthless, resulting in non-payment of the assessed customs duties and taxes.

It bears stressing also that the collection case is not based on any revised or new assessment of customs duties and taxes on PSPC's oil importations. As we noted in *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*⁴² BOC's demand letters to PSPC merely reissued the original assessments that were previously settled by it with the use of the TCCs. But since the TCCs were cancelled, the tax liabilities of PSPC under the original assessments were considered unpaid; hence, the demand letters and *actions for collection*.

Moreover, it would be absurd to interpret such statement in our decision in *Pilipinas Shell Petroleum Corporation v. Republic*⁴³ (March 6, 2008) as a judicial declaration of PSPC's status as a transferee in good faith and for value of the subject TCCs when in the same decision we ordered the case remanded to the RTC for proceeding with the pre-trial where issues for trial still have to be determined by the parties. Neither should such statement be regarded as an admission by petitioner because the latter's complaint was anchored chiefly on the alleged fraud and irregularity in the issuance and transfer of the TCCs, with both the transferee (PSPC) and transferor (FWI) impleaded as defendants.

In its Comment, PSPC claims that during the pre-trial hearing, the Solicitor General's representative admitted that PSPC had no participation in the issuance of the subject TCCs. However, perusal of the transcript of stenographic notes (TSN) reveals that what was admitted by petitioner was only the fact of issuance and eventual transfer/assignment to PSPC of the TCCs. The succeeding portions of the TSN, omitted in the Comment, clearly showed that Sr. State Solicitor Bustria repeatedly denied Atty. Lopez's (PSPC's counsel) proposed stipulations on the valuable consideration for the TCCs, the approval by the concerned agencies of the deed of the said assignment/transfer and related matters.⁴⁴

Fraud, in its general sense, is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust or confidence justly reposed, resulting in the damage to another, or by which an undue and unconscionable advantage is taken of another. It is a question of fact and the circumstances constituting it must be alleged and proved in the court below.⁴⁵ Petitioner's allegations

⁴² Supra note 12, at 579.

⁴³ Supra note 10.

⁴⁴ *Rollo*, pp. 372-383.

⁴⁵ *Chevron Philippines, Inc. v. Commissioner of the Bureau of Customs*, 583 Phil. 706, 723 (2008), citing *Commissioner of Internal Revenue v. Estate of Benigno P. Toda, Jr.*, 481 Phil. 626, 640 (2004) and *Commissioner of Internal Revenue v. Ayala Securities Corporation*, 162 Phil. 287, 296 (1976).

of fraud and irregularity in the issuance to FWI and eventual transfer to PSPC of the subject TCCs require presentation of evidence in a full-blown trial. PSPC, in turn, can present its own evidence to prove the status of a purchaser or transferee in good faith and for value. The solidary liability of PSPC and FWI for the amount covered by the TCCs depends on the good faith or lack of it on the part of PSPC.

In ascertaining good faith, or the lack of it, which is a question of intention, courts are necessarily controlled by the evidence as to the conduct and outward acts by which alone the inward motive may, with safety, be determined.⁴⁶ Good faith connotes an honest intention to abstain from taking undue advantage of another, even though the forms and technicalities of law, together with the absence of all information or belief of facts, would render the transaction unconscientious.⁴⁷ The ascertainment of good faith, or lack of it, and the determination of whether due diligence and prudence were exercised or not, are questions of fact.⁴⁸

Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial.⁴⁹ As certain facts pleaded are contested by the parties in this case, rendition of summary judgment is not proper.

Prescription

As already mentioned, BOC's collection suit is not based on any new or revised assessment because the original assessments which had long become final and uncontestable, were already settled by PSPC with the use of the subject TCCs.

With the cancellation of the TCCs, the tax liabilities of PSPC under the original assessments were considered unpaid, hence BOC's demand letters and the action for collection in the RTC. To repeat, these assessed customs duties and taxes were previously assessed and paid by the taxpayer, only that the TCCs turned out to be spurious and hence worthless certificates that did not extinguish PSPC's tax liabilities.

The applicable provision is Section 1204 of the Tariff and Customs Code, which states:

Section 1204. ***Liability of Importer for Duties.*** — Unless relieved by laws or regulations, the liability for duties, taxes, fees and other charges

⁴⁶ *Philippine National Bank v. Heirs of Estanislao and Deogracias Militar*, 526 Phil. 788, 798 (2006), citing *Expresscredit Financing v. Spouses Velasco*, 510 Phil. 342, 352 (2005).

⁴⁷ *Id.*, citing *University of the East v. Jader*, 382 Phil. 697, 705 (2000).

⁴⁸ *Id.* at 799.

⁴⁹ *Asian Construction and Development Corporation v. Philippine Commercial International Bank*, supra note 36, at 179, citing *Evadel Realty and Development Corporation v. Spouses Soriano*, 409 Phil. 450, 461 (2001).

attaching on importation constitutes **a personal debt due from the importer to the government which can be discharged only by payment in full** of all duties, taxes, fees and other charges legally accruing. It also constitutes a lien upon the articles imported which may be enforced while such articles are in the custody or subject to the control of the government. (Emphasis supplied)

As we held in *Pilipinas Shell Petroleum Corporation v. Republic*⁵⁰:

Under this provision, import duties constitute a personal debt of the importer that must be paid in full. The importer's liability therefore constitutes a lien on the article which the government may choose to enforce while the imported articles are either in its custody or under its control.

When respondent released petitioner's goods, its (respondent's) lien over the imported goods was extinguished. Consequently, respondent could only enforce the payment of petitioner's import duties in full by filing a case for collection against petitioner.⁵¹

Stare Decisis

The doctrine of *stare decisis* is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.⁵² Accordingly, when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue.⁵³

The RTC and CA both ruled that *Pilipinas Shell Petroleum Corporation v. CIR*⁵⁴ applies to the present case, stating that the legal issues have already been settled by this Court such as the ineffective cancellation by the Center of TCCs which have been fully utilized by the importer/taxpayer and the sole responsibility under the Liability Clause in the TCC of the original grantee for its fraudulent issuance by the Center.

We disagree.

*Pilipinas Shell Petroleum Corporation v. CIR*⁵⁵ involved TCCs used by PSPC that were also cancelled for alleged fraud in their issuance and transfer. However, in the said case, there was a finding, on the basis of

⁵⁰ Supra note 10.

⁵¹ Id. at 426.

⁵² *Fermin v. People*, 573 Phil. 278, 287 (2008), citing *Castillo v. Sandiganbayan*, 427 Phil. 785, 793 (2002).

⁵³ *Chinese Young Men's Christian Association of the Philippine Islands v. Remington Steel Corporation*, 573 Phil. 320, 336-337 (2008).

⁵⁴ Supra note 16.

⁵⁵ Id.

evidence presented before the CTA, that PSPC is a transferee in good faith and for value and that no evidence was adduced that it participated in any way in the issuance of the TCCs to the corporations who in turn conveyed the same to PSPC.

PSPC's status as transferee in good faith of the TCCs assigned to it by FWI is yet to be established or proven at the trial. In fact, this Court in upholding the jurisdiction of the RTC directed it to proceed with the pre-trial and trial proper. Petitioner should be given the opportunity to substantiate its allegations of fraud in the issuance and transfer of the TCCs which PSPC used to pay for the customs duties and taxes due on its oil importations. Whether *Pilipinas Shell Petroleum Corporation v. CIR*⁵⁶ applies squarely to the present case may be determined only after such trial. If it is shown that PSPC was a party to the fraud as when it did not obtain the TCC for value or has knowledge of its fraudulent issuance, it will be liable for the taxes and for the fraud committed as provided for by law.

As to the full utilization of the TCCs being claimed by PSPC, our ruling in *Pilipinas Shell Petroleum Corporation v. CIR* is clear that the taxpayer must have no participation in the fraud, *viz.*:

Sec. 3, letter l. of AO 266, in relation to letters a. and g., does give ample authority to the Center to cancel the TCCs it issued. Evidently, the Center cannot carry out its mandate if it cannot cancel the TCCs it may have erroneously issued or those that were fraudulently issued. It is axiomatic that when the law and its implementing rules are silent on the matter of cancellation while granting explicit authority to issue, an inherent and incidental power resides on the issuing authority to cancel that which was issued. A caveat however is required in that while the Center has authority to do so, it must bear in mind the nature of the TCC's immediate effectiveness and validity for which **cancellation may only be exercised before a transferred TCC has been fully utilized** or cancelled by the BIR after due application of the available tax credit to the internal revenue tax liabilities of an innocent transferee for value, **unless of course the claimant or transferee was involved in the perpetration of the fraud in the TCC's issuance, transfer, or utilization. The utilization of the TCC will not shield a guilty party from the consequences of the fraud committed.**⁵⁷ (Emphasis supplied)

In sum, the CA erred in affirming the RTC orders granting summary judgment in favor of PSPC considering that there exists a genuine issue of fact and that *stare decisis* finds no application in this case.

WHEREFORE, the petition is **GRANTED**. The Decision dated February 13, 2013 and Resolution dated June 3, 2013 of the Court of Appeals in CA-G.R. CV No. 95436 are **REVERSED** and **SET ASIDE**.

The case is hereby **REMANDED** to the Regional Trial Court of Manila, Branch 49 for the conduct of trial proceedings in Civil Case No. 02-

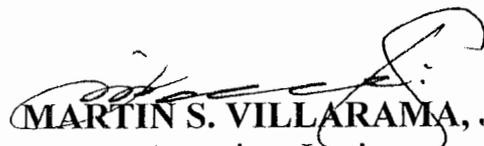
⁵⁶ Id.

⁵⁷ Id. at 652.

103191 with utmost **DELIBERATE DISPATCH.**

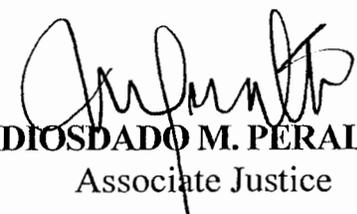
No pronouncement as to costs.

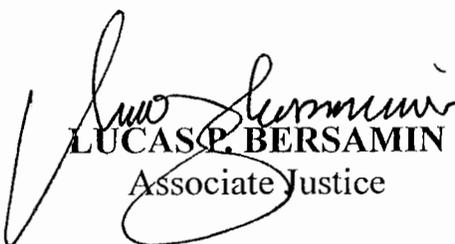
SO ORDERED.

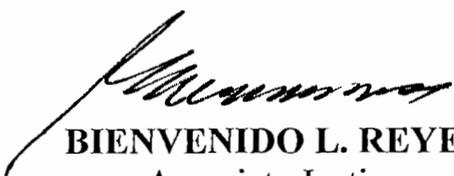

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice

ATTESTATION

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


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

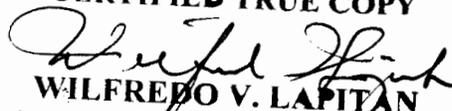
CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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.



MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY



WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

JAN 08 2016

