Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

FEDERAL EXPRESS CORPORATION, Petitioner,	**G.R. No. 225050**
	Present:
- versus -	GESMUNDO, *C.J., Chairperson,* CAGUIOA, LAZARO-JAVIER, LOPEZ, M., and LOPEZ, J., *JJ.*
AIRFREIGHT 2100, INC. and the COMMISSIONER OF INTERNAL REVENUE, Respondents.	Promulgated: SEP 14 2021

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DECISION

GESMUNDO, *C.J.*:

Before the Court is a Petition for Review on *Certiorari*[1] filed by petitioner Federal Express Corporation *(FedEx)* under Rule 19.37 of the Special Rules of Court on Alternative Dispute Resolution *(ADR)*,[2] otherwise known as the Special ADR Rules. It is one of the multiple cases which traces its roots from arbitration proceedings between FedEx and respondent Airfreight 2100, Inc. *(AF2100)*.

Antecedents

A. Arbitration Case

FedEx is a foreign corporation licensed to do business in the Philippines, and primarily engaged in international air carriage, logistics, and

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[1] *Rollo*, pp. 3-28.
[2] A.M. No. 07-11-08-SC dated September 1, 2009.

freight forwarding. AF2100 is a domestic corporation which is also involved in the freight forwarding business. Because of several disputes arising from the Global Service Program contracts between the two corporations, FedEx initiated on June 24, 2011 an international commercial arbitration case *(Arbitration Case),* docketed as Case No. 51-2011, before the Philippine Dispute Resolution Center, Inc. *(PDRCI)* against AF2100. An Arbitral Tribunal was accordingly constituted.

Among the issues raised in the *Arbitration Case* was whether or not AF2100 is entitled to withhold amounts due to FedEx on the ground that AF2100 paid Value Added Tax *(VAT)* to the Bureau of Internal Revenue *(BIR)* on behalf of FedEx. In relation to this issue, FedEx filed with PDRCI a pleading denominated as Request for Production of Documents,[3] praying that an order be issued by the Arbitral Tribunal directing AF2100 to produce the following documents: (1) the monthly and quarterly VAT returns of AF2100 for the period of November 2000 to February 2008; and (2) copies of receipts and other relevant documents showing the creditable input VAT of AF2100 from its other operations which it supposedly used to apply to its VAT liabilities for the period of November 2000 to February 2008 *(Requested Documents).*

AF2100 opposed the request of FedEx contending that: (a) the Request was premature as the parties had not yet agreed on specific procedural rules, including rules on interim reliefs and discovery, to govern the arbitration proceedings; (b) the Request was unreasonable and oppressive as the Requested Documents were too broad and voluminous, spanning a period of eight years; and (c) due deference and courtesy should be given to whatever action the Regional Trial Court of Pasig City, Branch 271 *(RTC Pasig City-Br. 271),* might take in SCA No. 3694-TG, a Petition for *Certiorari* filed by AF2100 to challenge the appointment of the FedEx's appointed arbitrator[4] *(Appointment Case).*

After hearing, the Arbitral Tribunal issued Procedural Order *(PO)* No. 5[5] dated June 25, 2011[6] requiring AF2l00 to produce the Requested Documents within 10 days from receipt of said order. AF2100 filed a motion for reconsideration of PO No. 5 but the same was denied by the Arbitral Tribunal in its PO No. 6[7] dated July 13, 2012.

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[3] *Rollo,* pp. 107-111.
[4] Id. at 116-124.
[5] Id. at 603-610.
[6] As stated in: PO No. 6, id. at 611; Petition for Review on *Certiorari,* id. at 8; and, Petition for Assistance in Taking Evidence, id. at 198.
[7] Id. at 611-612.

AF2100 persistently refused to produce the Requested Documents and, through a Manifestation and Motion[8] dated July 17, 2012, it requested once more from the Arbitral Tribunal to reconsider its PO Nos. 5 and 6. In its PO No. 10[9] dated October 1, 2012, the Arbitral Tribunal reiterated its directive on AF2100 to produce the Requested Documents immediately.

Eventually, the Arbitral Tribunal rendered a Final Award[10] dated February 3, 2014 in the *Arbitration Case* which was favorable to FedEx. The Arbitral Tribunal did not give credence to the claim of AF2100 that it paid VAT to the BIR in the total amount of ₱618,791,708.00 on FedEx's behalf, noting the failure of AF2100 to present the VAT returns to prove such payment despite the explicit directives of the tribunal and the trial court. It held that the "dogged refusal" of AF2100 to produce the VAT returns gave rise to the inference that had they been so produced, they would have been adverse to AF2100.

AF2100 filed a Petition to Set Aside the Award *(PSAA Case)* before Pasig City RTC-Branch 266 *(RTC Pasig City-Br. 266),* docketed as Special Proceedings No. 12649 (TG). However, before FedEx received notice of AF2100's Petition in the *PSAA Case,* it had already filed a Petition for Recognition and Enforcement of Final Arbitral Award *(PREFAA Case)* before RTC Pasig City-Br. 271, docketed as Special Proceedings No. 12650 (TG).

B. Petition for Interim Relief (PIR) Case

With the refusal of AF2100 to comply with PO Nos. 5 and 6 of the Arbitral Tribunal, FedEx filed a Petition for Interim Relief[11] dated August 3, 2012 *(PIR Case)* before RTC Pasig City-Br. 271, seeking assistance in the enforcement of said orders and praying that AF2100 be directed to produce copies of the Requested Documents, pursuant to Rules 5.6[12] and 5.16[13] of the Special ADR Rules. The Petition was docketed as SP-Proc. No. 12461-TG.

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[8] Id. at 596-601.

[9] Id. at 644-645.

[10] Id. at 229-352; signed by the Arbitral Tribunal composed of Chairman Gregorio S. Navarro and Arbitrators Salvador S. Panga, Jr. and Eduardo R. Ceniza.

[11] Id. at 132-139.

[12] **Rule 5.6.** *Type of interim measure of protection that a court may grant.* - The following, among others, are the interim measures of protection that a court may grant:

x x x x

e. Assistance in the enforcement of an interim measure of protection granted by the arbitral tribunal, which the latter cannot enforce effectively.

[13] **Rule 5.16.** *Court assistance should arbitral tribunal be unable to effectively enforce interim measure of protection.* - The court shall assist in the enforcement of an interim measure of protection issued by the arbitral tribunal which it is unable to effectively enforce.

AF2100 filed its Comment to the Petition.

After receiving its copy of the Arbitral Tribunal's PO No. 10 on October 1, 2012, which directed it to immediately produce the Requested Documents in the *Arbitration Case,* AF2100 filed a Motion for Issuance of Protective Order[14] in the *PIR Case* before RTC Pasig City-Br. 271 pursuant to Section 10.1[15] of the Special ADR Rules, averring that the Requested Documents were confidential in nature and that AF2100 would be materially prejudiced by the production and inspection of said documents.

RTC Pasig City-Br. 271 issued a Resolution[16] dated August 12, 2013 granting the Petition for Interim Relief of FedEx while denying the Motion for Issuance of Protective Order of AF2100.

To justify its favorable action on the Petition for Interim Relief of FedEx, RTC Pasig City-Br. 271 cited Rule 5.6(e) of the Special ADR Rules which gave it the right to assist in the enforcement of the interim measure of protection granted by the Arbitral Tribunal but which it could not enforce effectively. The continued refusal of AF2100 to comply with PO Nos. 5 and 6, and the more recent PO No. 10, in the *Arbitration Case,* had rendered the Arbitral Tribunal and its orders ineffective necessitating the application of Rule 5.6(e) of the Special ADR Rules.

In resolving the Motion for Protection Order of AF2100, RTC Pasig City-Br. 271 ruled that the VAT returns of AF2100 were not confidential in nature. It reasoned that the Requested Documents of FedEx were actually culled from the pleadings of AF2100, with AF2100 actually declaring said VAT to be one of its causes of action against FedEx. The VAT returns also did not constitute trade secrets and hence, they are not covered by the proscriptions against unlawful divulgence of trade secrets and/or the

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[14] *Rollo,* pp. 165-175.

[15] **Rule 10.1**. *Who may request confidentiality.* - A party, counsel or witness who disclosed or who was compelled to disclose information relative to the subject of ADR under circumstances that would create a reasonable expectation, on behalf of the source, that the information shall be kept confidential has the right to prevent such information from being further disclosed without the express written consent of the source or the party who made the disclosure.

[16] *Rollo,* pp. 1490-1504; penned by Presiding Judge Paz Esperanza M. Cortes.

procurement thereof under Secs. 270[17] and 278[18] of the National Internal Revenue Code *(NIRC),* respectively. Otherwise, AF2100 would not have presented them among its defenses in the *Arbitration Case.* Moreover, RTC Pasig City-Br. 271 refuted the averment of AF2100 that the disclosure of its VAT returns would result in its material loss and damage, stressing that the arbitration proceedings were confidential as provided under Article 5.42[19] of the Department Circular No. 98 (series of 2009) of the Department of Justice *(DOJ),* otherwise known as the Implementing Rules and Regulations of the Alternative Dispute Resolution Act of 2004. A protective order under Rule 10.1 of the Special ADR Rules would only be effective against disclosures made outside the ADR proceedings. It could not be availed of to protect a party from making disclosures in the ADR proceedings.

In the end, RTC Pasig City-Br. 271 adjudged as follows:

> **WHEREFORE,** premises considered, the Petition for Interim Measure of Protection Under Rule 5 of the Special Rules of Court on Alternative Dispute is hereby **GRANTED.**
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> The Protection Order No. 5 of the Arbitral Tribunal is hereby **ORDERED** to be **IMPLEMENTED.**
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> Airfreight 2100, Inc. is hereby **ORDERED** to comply immediately with said Protection Order No. 5 of the Arbitral Tribunal. This is without

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[17] **Section 270.** *Unlawful Divulgence of Trade Secrets.* - Except as provided in Section 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, shall upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (₱50,000) but not more than One hundred thousand pesos (₱100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both.

[18] **Section 278.** *Procuring Unlawful Divulgence of Trade Secrets.* - Any person who canses or procures an officer or employee of the Bureau of Intemal Revenue to divulge any confidential information regarding the business, income or inheritance of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, and which it is unlawful for him to reveal, and any person who publishes or prints in any manner whatever, not provided by law, any income, profit, loss or expenditure appearing in any income tax return, shall be punished by a fine of not more than Two thousand pesos (₱2,000), or suffer imprisonment of not less than six (6) months nor more than five (5) years, or both.

[19] **Article 5.42.** *Confidentiality of Arbitration Proceedings.* - The arbitration proceedings, including the records, evidence and the arbitral award and other confidential information, shall be considered privileged and confidential and shall not be published except -

(1) with the consent of the parties; or

(2) for the limited purpose of disclosing to the court relevant documents in cases where resort to the court is allowed herein:

Provided, however, that the court in which the action or the appeal is pending may issue a protective order to prevent or prohibit disclosure of documents or information containing secret processes, developments, research and other information where it is shown that the applicant shall be materially prejudiced by an authorized disclosure thereof.

prejudice to any subsequent grant, modification, amendment, revision, or revocation thereof by the Arbitral Tribunal.

The Petition for Protection Order of AF2100 is hereby **DENIED.**

SO ORDERED.[20]

C. Petition for Assistance in Taking Evidence (PATE) Case

As it turned out, on August 3, 2012, the same day FedEx filed its Petition in the *PIR Case* before RTC Pasig City-Br. 271, it likewise filed a Petition for Assistance in Taking Evidence[21] *(PATE Case)* under Rule 9 of the Special ADR Rules, which was docketed as SP. Proc. No. Q 12-71760 before the RTC of Quezon City, Branch 222 *(RTC QC)*. In said Petition, FedEx sought the issuance of a subpoena against respondent Commissioner of Internal Revenue *(CIR)* for the production of the copies of the Requested Documents in the possession of the BIR.

The CIR opposed the Petition in the *PATE Case* by invoking Sec. 270 of the NIRC which penalizes the unlawful divulgence of trade secrets with criminal prosecution.

In its Decision[22] dated November 5, 2012 in the *PATE Case,* the RTC QC granted the Petition of FedEx. According to the RTC QC, there is nothing in the law which prohibits the disclosure of the VAT returns of AF2100. Sec. 270 of the NIRC was not applicable as it pertained only to trade secrets or confidential information appurtenant to the business operations of the company which sets it apart from other companies and, therefore, did not include VAT returns. The RTC QC additionally pointed out that the rules and regulations issued by the Secretary of Finance, upon the CIR's recommendation, on the inspection of returns which became part of public records, referred to in Sec. 71[23] of the NIRC, only cover income tax returns and not VAT returns. Lastly, assuming *arguendo* that the Requested Documents are confidential in nature and cannot be divulged without the consent of the taxpayer (AF2100), the RTC QC opined that AF2100, by basing its allegations and claims on the said documents, should be deemed to

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[20] *Rollo*, p. 1504.

[21] Id. at 469-480.

[22] Id. at 212-214; penned by Judge Edgar Dalmacio Santos.

[23] **Section 71.** *Disposition of Income Tax Returns, Publication of Lists of Taxpayers and Filers.* - After the assessment shall have been made, as provided in this Title, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the Office of the Commissioner and shall constitute public records and be open to inspection as such upon the order of the President of the Philippines, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

The Commissioner may, in each year, cause to be prepared and published in any newspaper the lists containing the names and addresses of persons who have filed income tax returns.

have effectively waived the confidentiality of such documents with respect to the pending arbitration proceeding between itself and FedEx. The dispositive portion of the RTC QC judgment reads:

> WHEREFORE, premises considered, [CIR] is hereby directed to allow [FedEx] to examine and reproduce the requested documents above-mentioned under its supervision and in the presence of AF2100 and the PDRCI.
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> SO ORDERED.[24]

The RTC QC subsequently denied the Motion for Reconsideration of the CIR *via* its Order dated January 25, 2013.

The CIR filed a Notice of Appeal[25] but it was denied by the RTC QC in its March 22, 2013 Order[26] because "the order granting assistance in taking evidence shall be immediately executory and not subject to consideration or appeal." The RTC QC then issued a Writ of Execution[27] on April 5, 2013.

The CIR filed a Manifestation and Motion to Recall Writ of Execution,[28] plus a Supplement to the Manifestation and Urgent Motion to Recall Writ of Execution[29] *(Manifestations/Motions to Recall)*. The CIR maintained therein that the VAT returns of AF2100 were confidential under Sec. 270 of the NIRC and, considering that this involved a civil case between two private entities, the BIR could not allow the examination and reproduction of the VAT returns of AF2100 by FedEx without the request and authorization of AF2100. The CIR further contended that she still had the opportunity to file a petition for *certiorari* and that the imposition of the Writ of Execution would make such remedy futile. Also, the CIR argued that the VAT returns of AF2100 contained reports of sales and disbursements in totals only, without information on any specific client or supplier and, consequently, FedEx would not be able to obtain any of its needed information from the said returns. The CIR asserted that the request of FedEx for the said documents was a mere fishing expedition. Hence, the CIR prayed that the Writ of Execution be recalled and cancelled.

AF2100, claiming that it only found out about the *PATE Case* and the RTC QC's Decision dated November 5, 2012 rendered therein during the

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[24] *Rollo*, p. 214.
[25] Id. at 670-671.
[26] Id. at 672.
[27] Id. at 673-674.
[28] Id. at 676-679.
[29] Id. at 680-686.

hearing on April 22, 2013 in the *Arbitration Case* before the Arbitral Tribunal, filed on May 20, 2013 a Motion for Intervention[30] in the former case. To justify its intervention in the *PATE Case,* AF2100 averred that: (a) AF2100, an indispensable party in the *PATE Case,* was neither impleaded nor informed of the same, thus, the Decision dated November 5, 2012 as well as the entire proceedings of the case were rendered null and void for being in violation of the constitutional right of AF2100 to due process; (b) the Petition of FedEx in the *PATE Case* should be dismissed for blatant forum shopping because it prayed for reliefs identical to those in FedEx's Request for the Production of Documents in the *Arbitration Case* before PDRCI and its Petition in the *PIR Case* before RTC Pasig City-Br. 271; (c) the Requested Documents, which contained information regarding the business and income of AF2100, were confidential in nature under the NIRC and relevant BIR revenue regulations; and (d) counsel for FedEx willfully and deliberately committed forum shopping in its institution of the *PATE Case* and fraudulently excluded AF2100 from the said case, in direct contempt of court and in violation of the Code of Professional Responsibility. AF2100 ultimately prayed that it be allowed to intervene in the *PATE Case* and that after notice and hearing, for the RTC QC to recall its Decision dated November 5, 2012 as well as subsequent orders, and dismiss the Petition in the said case.

The RTC QC issued an Order[31] dated February 11, 2014 in which it ruled upon the Motion for Intervention of FedEx and the Manifestations/Motions to Recall of the CIR, among other pending incidents in the *PATE Case.*

The RTC QC denied the Motion for Intervention of AF2100 declaring that said movant was not an indispensable party in the *PATE Case* because the Petition therein was anchored on Rule 9 of the Special ADR Rules which was precisely the remedy for when a party to an arbitration proceeding requires assistance in taking of evidence from a person or entity other than a party therein. In the *PATE Case,* the entity other than a party in the *Arbitration Case* was the CIR who had custody of the documents to be inspected. Moreover, AF2100 was not deemed an indispensable party in the *PATE Case* because PO Nos. 5 and 6 of the Arbitral Tribunal remained standing and unreversed and it was already pronounced therein that the Requested Documents were relevant in the *Arbitration Case* and could be ordered produced. The RTC QC further held that there was no violation of the rule against forum shopping because even though the same documents were sought to be produced and inspected in both the *PIR Case* and *PATE Case,* respondents in these two cases had different interests, *i.e.,* the interest of the CIR in the *PATE Case* was that of the custodian of the Requested Documents,

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[30] Id. at 690-712.
[31] Id. at 100-104; penned by Judge Edgar Dalmacio Santos.

while the interest of AF2100 in the *PIR Case* was that of the owner of the said documents. More importantly, per the RTC QC, the judgment it rendered in the *PATE Case* did not amount to *res judicata* in the *PIR Case,* and *vice versa.*

The RTC QC similarly denied the CIR's Manifestations/Motions to Recall, holding that the allegations therein were mere rehash of the grounds raised by the CIR during the oral arguments and were already considered and passed upon by the trial court in arriving at its assailed Decision dated November 5, 2012. The RTC QC also ruled that the *PATE Case* did not fall under any of the exceptions which allowed the recall of a writ of execution. The RTC QC noted that the Decision dated November 5, 2012 had already attained finality and, thus, was immutable and could not be modified. Any error of the courts in the interpretation/ appreciation of a particular provision of law was a mere error of judgment and not an error in jurisdiction which would render the decision void. To reverse the subject decision and recall the Writ of Execution issued pursuant to the same based on the CIR's arguments would be in violation of the doctrine of immutability of final judgment.

The RTC QC ultimately decreed in its foregoing Order:

> WHEREFORE, premises considered, Airfreight 2100, Inc.'s Motion to Admit Sur-Rejoinder is hereby granted. [FedEx's] Motion to Expunge, Airfreight 2100, Inc.'s Motion for Intervention and [CIR's] Manifestation and Urgent Motion to Recall Writ of Execution as well as the Supplement to the aforesaid motion are hereby denied.
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> SO ORDERED.[32]

Apparently, the CIR no longer took any action in the *PATE Case* following the Order dated February 11, 2014 of the RTC QC.

AF2100, for its part, filed on February 20, 2014 a Manifestation and Motion in the *PATE Case* informing the RTC QC that the Arbitral Tribunal had already issued a Final Award dated February 3, 2014 in the *Arbitration Case.* It alleged that with the issuance of said Final Award, the presentation by FedEx and AF2100 of their respective evidence, as well as the entirety of the arbitration proceedings, had already concluded. Accordingly, the Petition in the *PATE Case,* requesting the production of evidence for the *Arbitration Case,* was rendered moot and academic by said supervening events. AF2100 prayed for the RTC QC to: (a) recall its Decision dated November 5, 2012 and subsequent orders for being null and void and for being issued without

[32] Id. at 103.

jurisdiction; and (b) dismiss the Petition of FedEx for being moot and academic.

AF2100 subsequently received, on March 5, 2014, a copy of the Order dated February 11, 2014 of the RTC QC denying its Motion for Intervention in the *PATE Case.* It then filed on March 11, 2014 another Manifestation and Motion, submitting that the Order dated February 11, 2014 should be reversed and set aside and reiterating its prayer for the dismissal of the *PATE Case* on account of mootness.

After an exchange of pleadings by the parties, the RTC QC issued an Order[33] dated April 30, 2014 denying the two latest motions of AF2100. It declared that since AF2100 had been denied the right to intervene, it could not ask for any relief from the court. AF2100 not being a party to the case had no standing to question the decision of the court, likewise the execution thereof. AF2100 received said RTC QC Order on May 26, 2014.

On July 25, 2014, AF2100 filed a Petition[34] for *certiorari* and prohibition with application for issuance of injunctive writs before the Court of Appeals *(CA),* praying for judgment declaring the Decision dated December 5, 2012 and Orders dated February 11, 2014 and April 30, 2014, of the RTC QC, in the *PATE Case* null and void; and making the injunction permanent. The Petition was docketed as CA-G.R. SP No. 136370.

The CA, in its Decision[35] dated June 1, 2016, found that: (1) since the RTC QC already considered its Decision dated November 5, 2012 final and executory, then the remedy of appeal was no longer available to AF2100 and so it correctly availed itself of the remedy of *certiorari;* (2) AF2100 filed its petition for *certiorari* within the prescribed 60-day period from its receipt of a copy of the Order dated April 30, 2014 denying its Manifestation and Motion; (3) AF2100 was an indispensable party who should have been irripleaded in the *PATE Case;* (4) the Petition in the *PATE Case* before the RTC QC was rendered moot and academic by the issuance of the Final Award by the Arbitral Tribunal on February 3, 2014; and (5) FedEx was guilty of forum shopping as the *Arbitration Case* before the Arbitral Tribunal, the *PIR Case* before RTC Pasig City-Br. 271, and the *PATE Case* before the RTC QC all similarly involved the prayer of FedEx for the production of the very same Requested Documents. The appellate court disposed thus:

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[33] Id. at 105-106.

[34] Id. at 60-93.

[35] Id. at 44-59; penned by Associate Justice Maria Elisa Sempio Diy with Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios, concurring.

WHEREFORE, the instant petition for *certiorari* and prohibition is hereby **GRANTED.**

The Decision dated November 5, 2012 and the Orders dated February 11, 2014 and May 30, 2014 in SP Proc. Case No. Q-12-71760 rendered by Branch 222, Regional Trial Court of Quezon City are **NULLIFIED** and **SET ASIDE.**

Accordingly, the court *a quo* is hereby permanently **ENJOINED** from further executing or implementing its Decision dated November 5, 2012.

SO ORDERED.[36]

D. Indirect Contempt Case

Soon after learning of the *PATE Case* before the RTC QC and filing its Motion for Intervention therein, AF2100 filed on June 3, 2013 a Petition[37] for Indirect Contempt *(Indirect Contempt Case)* against FedEx and FedEx's counsel, Atty. Jay Patrick R. Santiago *(Atty. Santiago),* before RTC Pasig City-Br. 266, which was docketed as SCA No. 3832-TG. AF2100 grounded its Petition on the following allegations: that after instituting the *PIR Case* before RTC Pasig City-Br. 271 on August 3, 2012, FedEx also clandestinely instituted the *PATE Case* before the RTC QC on the same day; Atty. Santiago's Verification and Certification attached to FedEx's Petition in the *PIR Case* was clearly false as the reliefs prayed for therein were similar to those prayed for in FedEx's Petition in the *PATE Case;* FedEx and Atty. Santiago failed to inform RTC Pasig City-Br. 271, before which the *PIR Case* was pending, of the pendency of the *PATE Case* before the RTC QC; and that these acts constitute indirect contempt under Rule 7, Sec. 5[38] of the Rules of Court.

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[36] Id. at 58-59.

[37] Id. at 353-365.

[38] **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 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.

The Instant Petition

The instant Petition for Review on *Certiorari* filed by FedEx assails the Decision dated June 1, 2016 of the CA in the *PATE Case* based on the following grounds:

A.

THE COURT OF APPEALS FAILED TO APPLY, OR OTHERWISE MISAPPLIED, RULES 2.1, 9 AND 22 OF THE SPECIAL ADR RULES RESULTING TO ITS ERRONEOUS FINDING THAT AF2100 IS AN INDISPENSABLE PARTY IN THE PETITION FOR ASSISTANCE[;]

B.

THE COURT OF APPEALS FAILED TO APPLY, OR OTHERWISE MISAPPLIED, SECTION 28 OF THE ADR ACT, ARTICLE 4.17 OF THE ADR AC.T IRR AND RULES 5 AND 9 OF THE SPECIAL ADR RULES RESULTING TO ITS ERRONEOUS FINDING THAT FEDEX COMMITTED FORUM SHOPPING[;]

C.

THE ASSAILED DECISION CAUSES SUBSTANTIAL PREJUDICE TO FEDEX[; and,]

D.

THE ASSAILED DECISION DEFEATS THE PUBLIC POLICY ON PROMOTING ALTERNATIVE DISPUTE RESOLUTION AS A DISPUTE RESOLUTION MECHANISM.[39]

In its Supplement to the Petition for Review on *Certiorari,*[40] FedEx additionally argues that: (1) the assailed Decision was based on false and misleading statements of AF21 00 in its Petition before the CA; and (2) the issue of forum shopping was not among those submitted by AF2100 for resolution by the CA as said issue was already the subject of a separate proceeding pending before another court.

FedEx prays that the Court renders judgment:

a) Reversing and setting aside the Assailed Decision dated 1 June2016 in CA G.R. SP No. 136370;
b) Declaring that FedEx did not commit forum shopping in respect of the Arbitration, the Petition for Interim Relief and the Petition for Assistance; and

[39] *Rollo*, pp. 13-14.
[40] Id. at 1285-1292.

c) Directing the Bureau of Internal Revenue to allow FedEx to examine and/or reproduce the Requested Documents.

Other reliefs just and equitable in the premises are likewise prayed for.[41]

In their respective Comments, AF2100 and the CIR assert that the Petition of FedEx in the *PATE Case* before the RTC QC had been rendered moot and academic by the Final Award dated February 3, 2014 of the Arbitral Tribunal in the *Arbitration Case.* In addition, AF2100 maintains that the filing by FedEx of a Request for Production of Documents in the *Arbitration Case,* the Petition in the *PIR Case,* and the Petition in the *PATE Case* constitutes forum shopping; while the CIR asserts that the present Petition for Review of FedEx under Rule 19.37 of the Special ADR Rules is an improper remedy and that FedEx should have filed a Petition for Review under Rule 45 of the Rules of Court since it is assailing the Decision dated July 1, 2016 of the CA on the Petition for *Certiorari* filed by AF2100 under Rule 65 also of the Rules of Court. AF2100 and the CIR similarly pray for the Court to deny the present Petition for Review of FedEx.

FedEx submitted separate Replies to the Comments of AF2100 and the CIR. In both Replies, FedEx contends that the Petition in the *PATE Case* is not moot because the *PSAA Case* instituted by AF2100 is still pending before RTC Pasig City-Br. 266. There is a risk, however remote, that the trial court may require the parties to go back to the Arbitral Tribunal under Rule 12.11 of the Special ADR Rules "to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside." In any event, assuming without admitting that the Petition in the *PATE Case* had been rendered moot and academic by the Final Award dated February 3, 2014 of the Arbitral Tribunal, the Court is not precluded from resolving issues so that "principles may be established for the guidance of the bench, bar, and the public."

The Court's Ruling

Indeed, the *Arbitration Case* between FedEx and AF2100 has resulted in numerous other cases instituted by both parties which are now simultaneously pending in various stages before different trial and appellate courts. While these cases are all seemingly related and/or interconnected, it should be kept in mind that the Petition at bar solely arises from the *PATE Case.*

[41] Id. at 1290.

In this Petition, FedEx is essentially contesting the following findings of the CA in its Decision dated June 1, 2016: (a) that the RTC QC committed grave abuse of discretion in denying the Motion for Intervention of AF2100; (b) that the RTC QC committed grave abuse of discretion in refusing to dismiss the Petition in the *PATE Case* for being moot and academic; and (c) that FedEx committed forum shopping.

After a judicious review of the records of the instant Petition, the Court finds reversible error on the part of the CA only as regards its ruling on the issue of forum shopping and partially grants the Petition of FedEx.

The right of AF2100 to intervene in the PATE Case as an indispensable party

Whether or not AF2100 was an indispensable party in the *PATE Case* is a preliminary issue that needs to be resolved because it determines the legal personality of AF2100 to file the Petition for *Certiorari* and Prohibition before the CA.

FedEx filed its Petition in the *PATE Case* before the RTC QC under Rule 9 of the Special ADR Rules. Rule 9.5 of said Rules specifically describes the type of assistance a party to the arbitration may petition from the trial court, *viz.*:

> **Rule 9.5.** *Type of assistance.* - A party requiring assistance in the taking of evidence may petition the court to direct **any person,** including a representative of a corporation, association, partnership or other entity **(other than a party to the ADR proceedings or its officers)** found in the Philippines, for any of the following:
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> a. To comply with a subpoena *ad testificandum* and/or subpoena *duces tecum;*
> b. To appear as a witness before an officer for the taking of his deposition upon oral examination or by written interrogatories;
> c. To allow the physical examination of the condition of persons, or the inspection of things or premises and, when appropriate, to allow the recording and/or documentation of condition of persons, things or premises *(i.e.,* photographs, video and other means of recording/documentation);
> d. To allow the examination and copying of documents; and
> e. To perform any similar acts. (emphases supplied)

FedEx argues that AF2100 had no right to intervene in the *PATE Case* because: (a) the respondent under Rule 9.5 of the Special ADR Rules is a

person other than a party to the arbitration proceedings or its officers; (b)the rule on compulsory joinder of indispensable parties under Rule 3, Sec. 7 of the Rules of Court does not apply to arbitration proceedings; and (c) a Motion for Intervention is not allowed under the Special ADR Rules.

The Court is unpersuaded.

While it is true that the relief under Rule 9.5 of the Special ADR Rules is directed against a person not a party to the arbitration proceedings, it does not mean that the actual parties to the arbitration proceedings are to be excluded from the Petition under said Rule. It is worthy to stress that the *PATE Case* is merely ancillary to the main *Arbitration Case* in which AF2100 was a party, together with FedEx, and whatever evidence FedEx might have acquired in the former case could be used against and affect the rights and interests of AF2100 in the latter case. Moreover, the Requested Documents being sought by FedEx from the BIR in the *PATE Case* were filed with the BIR by AF2100 as a taxpayer. The information contained in the Requested Documents pertained to AF2100 and its business. In fact, the BIR repeatedly stated in its defense that the Requested Documents involved trade secrets that were confidential in nature and it could not open the same for inspection reproduction without the consent or authorization of AF2100 as taxpayer. Without having to delve into the merits of the BIR's defense of confidentiality, it is undeniable that AF2100 had legal interest in the Requested Documents subject of the *PATE Case* even though they were in the physical custody of the BIR.

An indispensable party has been defined as "one whose interest will be affected by the court's action in the litigation, and without whom no final determination of the case can be had. The party's interest in the subject matter of the suit and in the relief sought are so inextricably intertwined with the other parties that his legal presence as a party to the proceeding is an absolute necessity. In said party's absence, there cannot be a resolution of the dispute of the parties before the Court which is effective, complete, or equitable.[42] Based on this definition, AF2100 was properly considered as an indispensable party in the *PATE Case* by the CA.

In *Neptune Metal Scrap Recycling, Inc. v. Manila Electric Company,*[43] the Court laid down the procedural guidelines for a motion for intervention:

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[42] *Servicewide Specialists, Inc. v. Court of Appeals,* 376 Phil. 602, 612 (1999).
[43] 789 Phil. 30 (2016).

> Intervention is a remedy by which a third party, who is not originally impleaded in a proceeding, becomes a litigant for purposes of protecting his or her right or interest that may be affected by the proceedings. Intervention is not an absolute right but may be granted by the court when the movant shows facts which satisfy the requirements of the statute authorizing intervention. The allowance or disallowance of a motion to intervene is within the sound discretion of the court.
>
> Section 1, Rule 19 of the Rules provides that a court may allow intervention (a) if the movant has legal interest or is otherwise qualified, and (b) if the intervention will not unduly delay or prejudice the adjudication of rights of the .original parties and if the intervenor's rights may not be protected in a separate proceeding. Both requirements must concur.
>
> Section 2, Rule 19 of the Rules requires a movant to file the motion for intervention before the RTC's rendition of judgment and to attach a pleading-in-intervention. The court may allow intervention after rendition of judgment if the movant is an indispensable party.[44] (citations omitted)

Since it was not originally impleaded in the *PATE Case* by FedEx, AF2100 aptly resorted to the filing of a Motion for Intervention in order to protect its rights and interest in the said case. Although intervention might not be an absolute right, the RTC QC should have granted the Motion of AF2100 when the latter was able to comply with the requirements set by rules and jurisprudence. AF2100 had established its legal interest in the *PATE Case* as the taxpayer who submitted the Requested Documents to the BIR and as the party in the main *Arbitration Case* where the evidence acquired would be ultimately used by FedEx. With a legitimate interest in the *PATE Case,* it could not be said that AF2100 moved to intervene in the case merely to delay the proceedings or to prejudice the adjudication of the rights of the original parties FedEx and the BIR. Also, AF2100 could not have protected its rights and interest in a separate proceeding.

FedEx asserts that the Motion for Intervention of AF2100 would have further delayed the proceedings in the *PATE Case* as it would have required the re-hearing or revival of the Petition before the RTC QC after a decision had already been rendered, and was, in effect, a motion for reconsideration or appeal, a motion for new trial or for reopening of trial, or a petition for relief from judgment, which is prohibited under the Special ADR Rules. However, the Court points out that it became necessary for AF2100 to file a Motion for Intervention in the *PATE Case* because FedEx did not implead it as a party in said case in the first place, despite AF2100 being an indispensable party. Thus, any delay resulting from the Motion for Intervention of AF2100 was a consequence of FedEx's own willful action and it could not be allowed to use

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[44] Id. at 37-38.

the same as reason to oppose AF2100's intervention to the further detriment of AF2100. Due process should never be sacrificed for expediency.

Moreover, contrary to the claims of FedEx, impleading AF2100 in the *PATE Case* would not have caused delay in the proceedings. The participation of AF2100 in the case would not change its nature as a summary proceeding. The RTC QC, in the conduct of proceedings in the *PATE Case,* would have still been bound by the provisions on summary hearings and time periods under the Special ADR Rules.

Under ordinary circumstances, the rules require that the motion for intervention be filed before rendition of judgment. Yet, because of the exceptional circumstances in this case, the Motion for Intervention of AF2100 could still be granted by the RTC QC even though there was already a final and executory judgment and a writ of execution in the *PATE Case* considering that AF2100, an indispensable party in the case, was not informed and left unaware of all prior proceedings therein.

The Court cannot sustain the contention of FedEx that the provisions of the Rules of Court on compulsory joinder of parties and motion for intervention are not applicable in the instant case because they were not incorporated or referred to in the Special ADR Rules, invoking Rules 2.1 and 22.1 of said Rules, which provide:

> **Rule 2.1.** *General policies.* - It is the policy of the State to actively promote the use of various modes of ADR and to respect party autonomy or the freedom of the parties to make their own arrangements in the resolution of disputes with the greatest cooperation of and the least intervention from the courts. To this end, the objectives of the Special ADR Rules are to encourage and promote the use of ADR, particularly arbitration and mediation, as an important means to achieve speedy and efficient resolution of disputes, impartial justice, curb a litigious culture and to de-clog court dockets.
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> **The court shall exercise the power of judicial review as provided by these Special ADR Rules. Courts shall intervene only in the cases allowed by law or these Special ADR Rules.**
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> x x x x
>
> **Rule 22.1.** *Applicability of Rules of Court.* - The provisions of the Rules of Court that are applicable to the proceedings enumerated in Rule 1.1 of these Special ADR Rules **have either been included and incorporated in these Special ADR Rules or specifically referred to herein.**

> In connection with the above proceedings, the Rules of Evidence shall be liberally construed to achieve the objectives of the Special ADR Rules. (emphases supplied)

The Special ADR Rules may not have explicitly incorporated or referred to the provisions of Rule 3 of the Rules of Court on Parties to Civil Actions, but the provisions thereof are so general that they may find application in civil actions and, as far as practicable, also in special proceedings that are filed in courts. The requirement imposed by Rule 3, Sec. 7 on compulsory joinder of indispensable parties goes beyond rules of procedure. It is a basic imposition intended to protect a person's right not be deprived of property without due process of law, guaranteed by no less than the Constitution.[45] So even though the rules may be silent, the constitutional guarantee to due process behooves the RTC QC to allow AF2100, an indispensable party, to intervene in the *PATE Case.*

As for motions for intervention, it can be observed that it is not among the prohibited submissions explicitly enumerated under Rule 1.6 of the Special ADR Rules, to wit:

> **Rule 1.6.** *Prohibited submissions.* - The following pleadings, motions, or petitions shall not be allowed in the cases governed by the Special ADR Rules and shall not be accepted for filing by the Clerk of Court:
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> a. Motion to dismiss;
> b. Motion for bill of particulars;
> c. Motion for new trial or for reopening of trial;
> d. Petition for relief from judgment;
> e. Motion for extension, except in cases where an ex-parte temporary order of protection has been issued;
> f. Rejoinder to reply;
> g. Motion to declare a party in default; and
> h. Any other pleading specifically disallowed under any provision of the Special ADR Rules.
>
> The court shall *motu proprio* order a pleading/motion that it has determined to be dilatory in nature be expunged from the records.

Under the legal maxim *expressio unius est exclusio alterius,* the express mention of one thing in a law, means the exclusion of others not expressly

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[45] See *Bulawan v. Aquende,* 667 Phil. 714, 728 (2011), citing *National Housing Authority v. Evangelista,* 497 Phil. 762, 770-771 (2005).

mentioned.[46] As a motion for intervention is not among those enumerated as prohibited submissions, then it is deemed allowed.

The PATE Case becoming moot and academic because of the Final/Award dated February 3, 2014 of the Arbitral Tribunal

In *Garcillano v. House of Representatives Committee on Public Information,*[47] the Court elucidated on when a case should be dismissed for being moot and academic:

> The Court, however, dismisses G.R. No. 170338 for being moot and academic. Repeatedly stressed in our prior decisions is the principle that the exercise by this Court of judicial power is limited to the determination and resolution of actual cases and controversies. By actual cases, we mean existing conflicts appropriate or ripe for judicial determination, not conjectural or anticipatory, for otherwise the decision of the Court will amount to an advisory opinion. The power of judicial inquiry does not extend to hypothetical questions because any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Neither will the Court determine a moot question in a case in which no practical relief can be granted. A case becomes moot when its purpose has become stale. It is unnecessary to indulge in academic discussion of a case presenting a moot question as a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be enforced.[48]

On February 3, 2014, the Arbitral Tribunal rendered its Final Award in the *Arbitration Case.* In its Final Award, the Arbitral Tribunal disallowed the amounts withheld by AF2100 from FedEx as purported payment for the latter's VAT liabilities. According to the Arbitral Tribunal, it could be presumed from the obstinate refusal of AF2100 to present the Requested Documents, that said documents would have been adverse to AF2100 if produced. The Final Award is now the subject of the *PSAA Case* before RTC Pasig City-Br. 266 and the *PREFAA Case* before RTC Pasig City-Br. 271.

The Court quotes with approval the following pronouncements of the CA on this matter:

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[46] *Spouses Delfino v. St. James Hospital, Inc.*, 532 Phil. 551, 567 (2006).
[47] 595 Phil. 775 (2008).
[48] Id. at 796-797.

> Under Rule 9.2 of the Special ADR Rules provides that the assistance in taking evidence may be sought in the course of the arbitration proceedings. It follows that a petition for assistance is merely auxiliary to and dependent upon the pendency of the ongoing arbitration proceeding since said petition was filed to compel the production of documents intended to be used as evidence in said arbitration proceedings before the PDRCI. Considering that PDRCI already rendered the Final Award, it is clear that the arbitration proceedings had already been terminated. Thus, the relief sought through a Petition for Assistance would be of not practical use or value anymore. Accordingly, the Petition for Assistance in Taking Evidence before the RTC had been rendered moot and academic by the foregoing supervening event.[49]

The rendition of the Final Award on February 3, 2014 by the Arbitral Tribunal marked the termination of the *Arbitration Case.* There are no more arbitration proceedings in which FedEx could present the Requested Documents. To still order, at this point, the examination and reproduction of the Requested Documents in the possession of the BIR would no longer serve any practical purpose. lrrefragably, the *PATE Case* had become moot and academic.

Notably, in its Final Award, the Arbitral Tribunal had already resolved the issue, in which the Requested Documents would have been relevant, favorable to FedEx and adverse to AF2100. Nevertheless, FedEx still maintains that the *PATE Case* has not become moot and academic because with the pendency of the *PSAA Case,* there is still the remote possibility that the Final Award will be set aside and/or the arbitration proceedings resumed.

First, FedEx itself recognizes that the possibility of the Final Award being set aside is "remote." This is because the Final Award enjoys the presumption in favor of its confirmation. Rule 12.2 of the Special ADR Rules lays down the presumption "that an arbitral award was made and released in due course and is subject to enforcement by the court, unless the adverse party is able to establish a ground for setting aside or not enforcing an arbitral award."

And second, there are various possible outcomes for a petition to set aside an international commercial arbitration award, as identified under Rules 12.11 and 12.3 of the Special ADR Rules:

> **Rule 12.11.** *Suspension of proceedings to set aside.* - The court when asked to set aside an arbitral award may, where appropriate and upon request by a party, **suspend the proceedings** for a period of time

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[49] *Rollo*, pp. 54-55.

> determined by it to give the arbitral tribunal an opportunity to **resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.** The court, in referring the case back to the arbitral tribunal may not direct it to revise its award in a particular way, or to revise its findings of fact or conclusions of law or otherwise encroach upon the independence of an arbitral tribunal in the making of a final award.
>
> The court when asked to set aside an arbitral award may also, when the preliminary ruling of an arbitral tribunal affirming its jurisdiction to act on the matter before it had been appealed by the party aggrieved by such preliminary ruling to the court, suspend the proceedings to set aside **to await the ruling of the court on such pending appeal or, in the alternative, consolidate the proceedings to set aside with the earlier appeal.**
>
> **Rule 12.13.** *Judgment of the court.* - Unless a ground to set aside an arbitral award under Rule 12.4 above is fully established, the court shall **dismiss the petition.** If, in the same proceedings, there is a petition to recognize and enforce the arbitral award filed in opposition to the petition to set aside, the court shall **recognize and enforce the award.**
>
> In resolving the petition or petition in opposition thereto in accordance with the Special ADR Rules, the court shall either set aside or enforce the arbitral award. The court shall not disturb the arbitral tribunal's determination of facts and/or interpretation of law. (emphases supplied)

The resumption of the arbitration proceedings is only one of the possible outcomes. Even then, it does not necessarily mean that the Arbitral Tribunal will take on the very same issues as before and revive its previous processes and issuances, such as its PO Nos. 5, 6, and 10 (which directed AF2100 to produce the Requested Documents), or that the Requested Documents would even be relevant. As stated in Rule 12.11 of the Special ADR Rules, the resumption of arbitration proceedings before the Arbitral Tribunal will only be for the purpose of eliminating the grounds for setting aside the arbitral award. Basically, what FedEx seeks from the Court is a form of "safety net" - a directive for the BIR to still allow the examination and reproduction of the Requested Documents - in case of the resumption of the arbitration proceedings or the setting aside of the Final Award in the future, something which the Court is not inclined to grant. The resumption of arbitration proceedings or the setting aside of the Final Award is only conjectural or anticipatory at this point.

Indeed, the Court may pass upon issues which supervening events had rendered the petition moot and academic, but it does so only when there is grave violation of the Constitution; when paramount public interest is involved; when the constitutional issue raised requires formulation of controlling principles to guide the bench, the bar and the public; or when the

case is capable of repetition yet evading review.[50] FedEx though fails to convince the Court that any of these exceptional circumstances exist in the instant case to compel it to still resolve a moot and academic petition for the purpose of formulating guiding and controlling constitutional principles, precepts, doctrines or rules for future guidance of both bench and bar. The issues concerning the examination and reproduction of the Requested Documents in the *PATE Case* call for an appraisal of factual considerations which are peculiar only to the transactions and parties involved in the controversy, namely, FedEx, AF2100, and the BIR. Said issues do not call for a clarification of any constitutional principle or are of paramount public interest. Perforce, the Court dispenses with the need to adjudicate the same when the *PATE Case* had become moot and academic.[51]

The finding of the CA that FedEx committed forum shopping

In its Decision dated June 1, 2016, the CA came to the legal conclusion that FedEx committed forum shopping when it instituted the *PATE Case* before the RTC QC despite the pendency of its Request for Production of the Requested Documents in the *Arbitration Case* before the Arbitral Tribunal and the *PIR Case* before RTC Pasig City-Br. 271. Thus, it stated that the RTC QC committed a reversible error when it failed to dismiss the *PATE Case* on this ground alone.

FedEx prays in the instant Petition for a declaration by this Court that it did not commit forum shopping as it only availed itself of the different reliefs available under the Special ADR Rules. The cases involved different parties, rights asserted, and reliefs prayed for, and the decision in one case is not tantamount to *res judicata* in the other. FedEx further added that the CA should not have even decided the issue of forum shopping because it was not among the issues raised by AF2l00 in its Petition for *Certiorari* and Prohibition.

A cursory review of the records of the case easily reveals that in its Petition for *Certiorari* and Prohibition before the CA, AF2l00 did expressly submit that the RTC QC should have dismissed the Petition in the *PATE Case* due to FedEx's blatant forum shopping.[52] The manifestation of AF2l 00 in its Petition that the issue of forum shopping was then pending in the *Indirect Contempt Case* before RTC Pasig City-Br. 266 did not automatically deprive

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[50] *Heirs of Del Fonso v. Guingona,* G.R. No. 213457, March 18, 2019 (Resolution).
[51] *Mattel, Inc. v. Francisco,* 582 Phil. 492, 504 (2008).
[52] *Rollo,* pp. 79-80.

the CA of its jurisdiction to take cognizance of the issue, at least to the extent that it is relevant to the *PATE Case.*

Nonetheless, the ruling of the CA that the *PATE Case* had become moot and academic because of the Arbitral Tribunal's Final Award dated February 3, 2014 should be deemed to also encompass the issue of FedEx's forum shopping. It should be noted that the appellate court made a finding of forum shopping on the part of FedEx only to declare that for this reason, the RTC QC should have dismissed the *PATE Case* from the very beginning. At this point, however, there is no more *PATE Case* to dismiss. There already being a resolution of the principal issue of the *PATE Case* being moot and academic, there was no more need for the appellate court to still delve into other ancillary issues that would have no effect on the conclusion of the case. The CA should have already refrained from still ruling on the issue of FedEx's forum shopping as the same became merely academic, without any practical legal effect and incapable of enforcement. Therefore, the pronouncements made by the appellate court on the issue of FedEx's forum shopping in the assailed Decision should be set aside.

Then again, the Court clarifies that its ruling in the immediately preceding paragraph is not a declaration that FedEx did not commit forum shopping at all. It simply means that with the *PATE Case* already moot and academic, then this is not the proper case to thoroughly resolve the issue of FedEx's forum shopping. As manifested by both parties, there is an *Indirect Contempt Case* still pending before RTC Pasig City-Br. 266, wherein FedEx's alleged forum shopping is the pivotal issue.

WHEREFORE, the Petition is **PARTIALLY GRANTED.** Portions of the Decision dated June 1, 2016 of the Court of Appeals, in CA-G.R. SP No. 136370, on petitioner Federal Express Corporation being guilty of forum shopping are **DELETED,** while the rest of said Decision stands.

SO ORDERED.

ALEXANDER G. GESMUNDO
Chief Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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