REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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IRISH FE N. AGUILAR and RUTH C. MANGROBANG, *Petitioners,*	**CTA *EB* NO. 2088** (CTA Case No. 9299)
	Present:
-versus-	**DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: AUG 06 2019 9:42 a.m.

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> 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.
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> 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. xxx (*Underscoring ours*)

This was clarified by the Supreme Court in its discussion quoted below:

> As to the verification and certification of non-forum shopping, the Court, in *Altres, et al. v. Empleo, et al.*, laid down the following guidelines:
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> For the guidance of the bench and bar, the Court restates in capsule form the jurisprudential pronouncements already reflected above respecting non-compliance with the requirements on, or submission of defective, verification and certification against forum shopping:
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> 1) A distinction must be made between non-compliance with the requirement on or submission of defective verification, and non-compliance with the requirement on or submission of defective certification against forum shopping.
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> 2) As to verification, non-compliance therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict

compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.

3) Verification is deemed *substantially complied* with when one has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) **As to certification against forum shopping, non-compliance therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of "substantial compliance" or presence of "special circumstances or compelling reasons."**

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

6) **Finally, the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.**

Section 5, Rule 7 of the Rules of Court provides that the certification against forum shopping must be executed by the plaintiff or principal party. The reason for this is that the plaintiff or the principal knows better than anyone, whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.

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> It was held that when an SPA was constituted precisely to authorize the agent to file and prosecute suits on behalf of the principal, then it is such agent who has actual and personal knowledge whether he or she has initiated similar actions or proceedings before various courts on the same issue on the principal's behalf, thus, satisfying the requirements for a valid certification against forum shopping. The rationale behind the rule that it must be the "petitioner or principal party himself" who should sign such certification does not apply. Thus, the rule on the certification against forum shopping has been properly complied with when it is the agent or attorney-in-fact who initiated the action on the principal's behalf and who signed the certification against forum shopping.
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> However, there was no duly executed SPA appended to the complaint to prove Cañiza's supposed authority to file and prosecute suits on behalf of Gabriel. xxx There was also no evidence of substiantial compliance with the rules or even an attempt to submit an SPA after filing of the complaint.
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> xxx
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> The Court expounded that the complaint filed for and in behalf of the plaintiff by one who is unauthorized to do so is not deemed filed. An unauthorized complaint does not produce any legal effect. Hence, the court should dismiss the complaint on the ground that it has no jurisdiction over the complaint and the plaintiff.[2] (*Underscoring and emphasis in the original*)

Considering that the instant Petition for Review is supported by a Verification and Certification Against Forum Shopping, not signed by the petitioners themselves, and also not supported with a requisite Special Power of Attorney, the Court finds that the petition should be dismissed.

WHEREFORE, the Petition for Review is **DISMISSED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[2] *Heirs of Josefina Gabriel v. Secundina Cebrero, et al.*, G.R. No. 222737, November 12, 2018.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice