

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellant,

CTA EB CRIM No. 113
(CTA Crim. Case No. O-925)

Present:

- versus -

DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, JJ.

FAIVO PASCUAL BARTOLOME,
Accused-Appellee.

Promulgated:

JUN 02 2023

11:15 am

X- - - - -X

RESOLUTION

Upon perusal of the **Verified Petition for Review (of the Resolution dated February 21, 2023)**, filed through registered mail on March 15, 2023 and received by the Court on March 21, 2023, the Court notes the following:

1. Plaintiff-appellant failed to attach a Verification and Certification of Non-Forum Shopping; and
2. Plaintiff-appellant's representation is by the Bureau of Internal Revenue (BIR).

Section 10, Rule 9 of the Revised Rules of Court of Tax Appeals (CTA) provides that the People of the Philippines shall be represented by the Solicitor General, who may deputize the legal officers of the BIR to appear before the

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CTA.¹ The BIR legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

As regards plaintiff-appellant's failure to attach a Verification and Certification of Non-Forum Shopping to the instant Verified Petition for Review, the Court reiterates Sections 4 and 5 Rule 7 of the 2019 Amendments to Rules of Civil Procedure which require that the Verification and Certification of Non-Forum Shopping be attached to the pleading.² The requirement regarding submission of verification of a pleading is formal, whereas, the lack of a certification against forum shopping, is generally not

¹ **SEC. 10. Solicitor General as counsel for the People and government officials sued in their official capacity.** – The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: *Provided, however,* such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

² **Section 4. Verification.** – Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

- (a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;
- (b) The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
- (c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

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 [or she] 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 [or her] 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 [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.

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 [or her] 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.

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after the filing of the petition and shall be sufficient ground for the dismissal of the case.³

The Supreme Court, in the case of *Shipside Incorporated vs. The Hon. Court of Appeals, et al.*,⁴ has already enunciated certain rules regarding regarding verification and certification against forum shopping, *to wit*:

"The Court has consistently held that the requirement regarding verification of a pleading is formal, not jurisdictional (*Uy v. LandBank, G.R. No. 136100, July 24, 2000*). Such requirement is simply a condition affecting the form of the pleading, non-compliance with which does not necessarily render the pleading fatally defective. Verification is simply intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. The court may order the correction of the pleading if verification is lacking or act on the pleading although it is not verified, if the attending circumstances are such that strict compliance with the rules may be dispensed with in order that the ends of justice may thereby be served.

On the other hand, **the lack of certification against forum shopping is generally not curable by the submission thereof after the filing of the petition.** Section 5, Rule 45 of the 1997 Rules of Civil Procedure provides that **the failure of the petitioner to submit the required documents that should accompany the petition, including the certification against forum shopping, shall be sufficient ground for the dismissal thereof.** The same rules applies to certifications against forum shopping signed by a person on behalf of a corporation which are unaccompanied by proof that said signatory is authorized to file a petition on behalf of the corporation." (Emphasis ours)

Based on the foregoing, non-compliance with the requirement of verification does not necessarily render the pleading fatally defective. This is not so in the case of the submission of the certification against forum shopping. Failure to submit the same is a sufficient ground for the dismissal of the petition.

WHEREFORE, the instant Verified Petition for Review (of the Resolution dated February 21, 2023) is DISMISSED.

SO ORDERED.


ROMAN G. DEL ROSARIO
Presiding Justice

³ *Felipe G. Uy vs. The Land Bank of the Philippines*, G.R. No. 136100, July 24, 2000.

⁴ G.R. No. 143377, February 20, 2001.

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MA. BELEN M. RINGPIS-LIBAN

Associate Justice



CATHERINE T. MANAHAN

Associate Justice



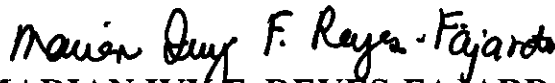
JEAN MARIE A. BACORRO-VILLENA

Associate Justice

(On official business)

MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



MARIAN IVY F. REYES-FAJARDO

Associate Justice



LANEE S. CUI-DAVID

Associate Justice



CORAZON G. FERRER-FLORES

Associate Justice