

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

NEGROS DEL NORTE PLANTERS
ASSOCIATION MULTI-PURPOSE
COOPERATIVE,

Petitioner,

CTA CASE NO. 8225

-versus-

Present:

*Bautista, Chairperson
Palanca-Enriquez, and
Cotangco-Manalastas, JJ.*

COMMISSIONER OF INTERNAL
REVENUE, BIR REGIONAL DIRECTOR,
REGION 12 BACOLOD CITY,

Respondent.

Promulgated:

APR 12 2011

ABFurnado 2:15 p.m.

X-----X

RESOLUTION

BAUTISTA, J.:

On February 17, 2011, the Court promulgated a Resolution dismissing the Petition for Review for failure to comply with Sections 4 and 5 of Rule 7 of the Revised Rules of Court, in relation to Section 2 of Rule 6 and Rule 7 of the Revised Rules of the Court of Tax Appeals. The dispositive portion, to wit:

WHEREFORE, the instant Petition for Review being insufficient in form, is hereby **DENIED DUE COURSE**, and accordingly, **DISMISSED**.

SO ORDERED.

On March 11, 2011, petitioner filed a "Motion for Reconsideration" stating that the failure to attach the Verification and Certification of Non-Forum Shopping was



merely a clerical inadvertence due to the volume of annexes to be attached to the records. Thus, the petitioner prays, as follows:

WHEREFORE, PREMISES CONSIDERED, [p]etitioner most respectfully prays this Honorable Court to reconsider its Resolution dated February 17, 2011 and received on March 4, 2011 and admit the VERIFICATION AND CERTIFICATION dated January 27, 2011 submitted herewith by [p]etitioner which was inadvertently omitted when it filed its Petition for Review and have it attached to the [r]ecord of this case.

Upon examination of the Motion for Reconsideration, the Court, however, finds no reason to reverse the Resolution dated February 17, 2011. As stated in the assailed Resolution, failure on the part of the petitioner to comply with the mandatory requirement is a sufficient ground for the dismissal of the petition,¹ pursuant to Section 3 of Rule 46 of the 1997 Rules of Civil Procedure.

In *Mediserv, Inc. v. Court of Appeals*,² the Supreme Court explained the difference between a verification and certification of non-forum shopping:

Under Rule 46, Section 3, paragraph 3 of the 1997 Rules of Civil Procedure, as amended, petitions for *certiorari* must be verified and accompanied by a sworn certification of non-forum shopping. A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records. The party need not sign the verification. A party's representative, lawyer or any person who personally knows the truth of the facts alleged in the pleading may sign the verification.

On the other hand, a certification of non-forum shopping is a certification under oath by the plaintiff or principal party 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

¹ Loquias v. Office of the Ombudsman, G.R. No. 139396, August 15, 2000. 338 SCRA 62.

² G.R. No. 161368, April 5, 2010.



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.

In the case of *Ferdinand Thomas M. Soller v. COMELEC*,³ the Supreme Court stated that a petition which lacks a proper verification would be treated as an unsigned pleading and therefore must be dismissed.

Further, in the case of *Mandaue Galleon Trade, Inc. v. Bienvenido Isidto*,⁴ the Supreme Court stated that:

In *Spouses Ong v. CA*, we ruled that non-compliance with the required certification is fatal. The filing of the same is not waived by failing to immediately assert the defect, and neither is it cured by its belated submission on the ground that the party was not in any way guilty of actual forum shopping. In cases where the Court tolerated the deficiency, special circumstances or compelling reasons made the strict application distinctly unjustified.

x x x

x x x

x x x

Finally, it bears stressing that while it is true that litigation is not a game of technicalities and that rules of procedure shall not be strictly enforced at the cost of substantial justice, it does not mean that the Rules of Court may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. It must be emphasized that procedural rules should not be belittled or dismissed simply because their non-observance might have resulted in prejudice to a party's substantial rights. Like all rules, they are required to be followed, except only for the most persuasive of reasons.

As correctly pointed out by petitioner, the Supreme Court has, in several occasions, relaxed the rule on the filing of the verification and certification on non-

³ G.R. No. 139853. September 5, 2000, 339 SCRA 685.

⁴ G.R. No. 181051, July 5, 2010.



forum shopping. However, We must also point out that in all these cases, there were special circumstances or compelling reasons to justify the relaxation in the observance of the rules.

In the case at present, petitioner failed to show that there are special circumstances or compelling reasons that would persuade the Court to allow the belated submission of the verification and certification on non-forum shopping.

WHEREFORE, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.



LOVELL R. BAUTISTA
Associate Justice



OLGA PALANCA-ENRIQUEZ
Associate Justice



AMELIA COTANGCO-MANALASTAS
Associate Justice