

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**SALCEDO RISTORANTE
ITALIANO, INC.,**

Petitioner,

CTA Case No. 8880

Members:

- versus-

**Castañeda, Jr., Chairperson
Casanova, and
Cotangco-Manalastas, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

MAY 21 2015

2:19 PM

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RESOLUTION

For resolution is petitioner's *Motion for Reconsideration* filed through registered mail on March 17, 2015 and received by this Court on March 26, 2015, without respondent's comment despite due notice.

Records show that on December 4, 2014, the Court granted the parties twenty (20) days from said date or until January 5, 2015 (December 24, 2014, being a holiday) within which to file their Joint Stipulation of Facts and Issues (JSFI).

Having failed to file the JSFI, the Court issued a Resolution dated January 29, 2015, ordering the parties' counsels, Attys. Carlos V. Jaurigue and Catherine N. Herrera, to show cause, within ten (10) days from receipt thereof, why they should not be cited for contempt for failure to comply with a lawful order of the Court.

Again, counsels for both parties failed to file their compliance to the show cause order on time. Consequently, the Court issued a Resolution dated February 27, 2015 dismissing the instant case for failure of petitioner to comply with the lawful order of the Court dated December 4, 2014 and for failure of the parties to comply with the lawful order of the Court dated January 29, 2015 (Section 3, Rule 17 of the 1997 Rules of Civil Procedure, as amended).

On February 26, 2015, the Court received respondent's Manifestation and Motion belatedly filed through registered mail on February 17, 2015,

praying that respondent's counsel be not cited for contempt for reason cited therein, which the Court noted and granted in the Resolution dated March 4, 2015.

In the instant Motion for Reconsideration, petitioner's counsel now prays that the order of dismissal be reconsidered and the case reinstated and the proper and reasonable sanction on his failure to comply with the order of this Court be imposed. Petitioner feels that the dismissal of the action was a very severe penalty for the failure of its counsel to prepare and file the JSFI in this case.

Petitioner's counsel admits his shortcoming and failure to comply with the order of the Court but moves for the reconsideration of the penalty imposed for his non-compliance, as the penalty is very grave and the dismissal of the action would greatly affect the interest of petitioner.

In the interest of substantial justice, the Court shall grant petitioner counsel's plea to have the case reinstated so as not to prejudice and prevent petitioner from presenting its case. The Court shall likewise consider the instant Motion for Reconsideration as Atty. Carlos V. Jaurigue's compliance to the show cause order dated January 29, 2015.

However, petitioner's counsel, Atty. Carlos V. Jaurigue, is admonished to be more diligent in complying with the orders of the Court. He should adopt a system that insures that all directives of the Court are complied with on time.

This Court would like to remind petitioner's counsel of his responsibility under Canon 17 and Canon 18, Rule 18.03 of the Code of Professional Responsibility, *to wit*:

CANON 17 - A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 – A lawyer shall serve his client with competence and diligence.

XXX XXX XXX

Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Let this serve as a warning to Atty. Jaurigue to exercise the required competence and diligence in handling his client's case. It bears stressing that a retained counsel is expected to serve the client with competence and diligence and not to sit idly by and leave the rights of his client in a state of uncertainty. To this end, he is oblige to attend scheduled hearings or

conferences, prepare and file the required pleadings, prosecute the handled cases with reasonable dispatch, and urge their termination without waiting for the client or the court to prod him or her to do so.¹

A word of caution to petitioner, the rule in this jurisdiction is that the client is bound by the negligence or failings of counsel.² It is a well-settled rule that the client is bound by his counsel's conduct, negligence, and mistakes in handling the case and the client cannot be heard to complain that the result might have been different had his lawyer proceeded differently.³ Hence, petitioner should be vigilant and conscious of the status of its case.

WHEREFORE, premises considered, the instant *Motion for Reconsideration* is hereby **GRANTED**. Accordingly, the Resolution of the Court dated February 27, 2015, dismissing the instant case, is **WITHDRAWN** and consequently, the instant case is **REINSTATED**.

The parties are granted a final and non-extendible period of twenty (20) days from receipt hereof to file their Joint Stipulation of Facts and Issues.

Petitioner's counsel, Atty. Carlos V. Jaurigue, is hereby **ADMONISHED** to be more diligent in complying with the orders of the Court with a **STERN WARNING** that failure to comply with any future lawful order of the Court shall be dealt with more severely and may lead to the reinstatement of the order of dismissal.

Let a copy of this Resolution be furnished to petitioner's corporate secretary, Ma. Giannina V. Suarez, or any other officer of petitioner for their information.

SO ORDERED.


JUANITO C. CASTANEDA, JR.
Associate Justice

(On Official Business) 
CAESAR A. CASANOVA **AMELIA R. COTANGCO-MANALASTAS**
Associate Justice Associate Justice

¹ *Dagala vs. Quesada*, A.C. No. 5044, December 2, 2013.

² *Republic vs. Jose P. Arro*, G.R. No. L-48241, June 11, 1987.

³ *People vs. Salido*, G.R. No. 116208, July 5, 1996.