

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

SECOND DIVISION

**NUEVA ECIJA I ELECTRIC
COOPERATIVE, INC.,**
Petitioner,

CTA CASE NO. 11149

-versus-

Members:

**COMMISSIONER OF INTERNAL
REVENUE and REGIONAL
DIRECTOR EMMANUEL S.
FERRER, JR., in his capacity as
the REGIONAL DIRECTOR OF
REVENUE REGION NO. 4, CITY
OF SAN FERNANDO, PAMPANGA
OF THE BUREAU OF INTERNAL
REVENUE,**

**RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.***

Promulgated:

Respondents.

JUN 22 2023

X-----

-----X

R E S O L U T I O N

Upon perusal of the **Petition for Review** filed on April 28, 2023, the Court notes that petitioner failed to attach the verification, certification against forum shopping, and authorization of the signatories of the petition.

Section 2, Rule 6 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA) requires that the petition for review to be filed before the Court shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court, as amended, *viz*:

SEC. 2. *Petition for review; contents.* – The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The **petition shall be verified and must contain a certification against forum shopping** as provided in Section 3, Rule 46 of the Rules of Court. A clearly legible original or certified true copy of the

decision appealed from shall be attached to the petition. (Boldfacing supplied).

A pleading is **verified** by an affidavit of an affiant duly authorized to sign said verification and shall allege the attestations enumerated in Section 4, Rule 7 of the 2019 Amendments to the 1997 Rules of Civil Procedure.¹

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 [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.²

We are not unaware that the requirement regarding verification of a pleading is formal, not jurisdictional.³ Such requirement is simply a condition affecting the form of pleading, the non-compliance of which does not necessarily render the pleading fatally defective.⁴ 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.⁵ The Court may order the correction of the pleading if verification is lacking or act on the pleading

¹ 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 that the 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 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.

² Section 1, Rule 7 of the 2019 Amendments to the 1997 Rules of Civil Procedure.

³ *Sy vs. Habacon-Garayblas*, 228 SCRA 644 (1996); *Buenaventura vs. Halili-Uy*, 149 SCRA 22 (1987); *Quimpo vs. Victoria*, 46 SCRA 139 (1972); *Valino vs. Munoz*, 35 SCRA 413 (1970); *Republic vs. Lee Wai Lam*, 28 SCRA 1043 (1969).

⁴ *Republic vs. Lee Wai Lam*, *supra*.

⁵ *Buenaventura vs. Halili-Uy*, *supra*; *Republic vs. Lee Wai Lam*, *supra*.

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.⁶

The lack of certification against forum shopping, on the other hand, is generally not curable by the submission thereof after the filing of the petition. The failure of 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 pursuant to Section 5, Rule 7 of the 2019 Amendments to the 1997 Rules of Civil Procedure, which provides:

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 [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 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 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. (Boldfacing supplied)

Assuming petitioner may be ordered to submit the verification, nevertheless, the absence of certification against forum shopping renders the petition fatally defective.

Moreover, the Court notes that the signatories of the Petition for Review, Attorneys Eric R. Recalde, Ma. Karisha Mae C. Orcullo, and

⁶ *Sy vs. Habacon-Garayblas, supra; Republic vs. Lee Wai Lam, supra.*

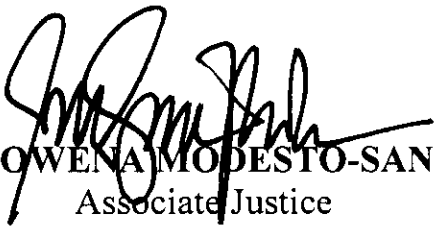
Evangeline R. Villajuan, failed to attach the requisite authorization to sign the said petition which is required under Section 2, Rule 6 of the 2005 RRCTA in relation to Sections 4 and 5, Rule 7 of the 2019 Amendments to the 1997 Rules on Civil Procedure.

Accordingly, the failure of petitioner to comply with the above rules in filing the initiatory pleading shall be a sufficient ground for the dismissal of the case.

WHEREFORE, in view of the foregoing, CTA CASE No. 11149 is **DISMISSED**.

SO ORDERED.


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice