

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

NEGROS CONSOLIDATED
FARMERS MULTI-PURPOSE
COOPERATIVE,

Petitioner,

C.T.A. CASE NO. 8224

Members:

-versus-

BAUTISTA, Chairperson,
PALANCA-ENRIQUEZ, and
COTANGCO-MANALASTAS, JJ

Promulgated:

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

Respondents.

MAR 10 2011 3:16 p.m.

[Signature]

X ----- X

RESOLUTION

This is a Petition for Review filed on February 3, 2011 by
Negros Consolidated Farmers Multi-Purpose Cooperative.

A perusal of the petition for review shows that the petition is
not verified and neither does it contain the requisite certification
against forum shopping, in *violation of Section 2, Rule 6 of the 2005*
Revised Rules of the Court of Tax Appeals, as amended, which provides:

“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 summary statement of the issues

involved in the case, as well as the reason 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 duplicate original or certified true copy of the decision appealed from shall be attached to the petition.”

Corollary thereto, *Sections 6 and 7, Rule 43 of the 1997 Rules of Civil Procedure, as amended*, provide:

“SEC. 6. Contents of the petition.— The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein.”

“SEC. 7. Effect of failure to comply with requirements.—The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.”

Furthermore, petitioner failed to attach an Affidavit of Service to prove that the adverse party was served with a copy of the petition pursuant to *Section 13, Rule 13 of the 1997 Rules of Civil Procedure, as amended*. Thus, the petition must be accompanied by a proof of service, as prescribed under *Rule 13*.

Failure to serve a copy of the petition on the adverse party or to show proof of service thereof is a fatal defect (*Ferrer vs. Villanueva, 531 SCRA 102*), for which the petition can be dismissed.

WHEREFORE, premises considered, the instant **Petition for Review**, being insufficient in form, is hereby **DISMISSED, WITHOUT PREJUDICE**.

SO ORDERED.



LOVELL R. BAUTISTA
Associate Justice



OLGA PALANCA-ENRIQUEZ
Associate Justice



AMELIA R. COTANGCO-MANALASTAS
Associate Justice