

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

THIRD DIVISION

ALLAN U. GARCIA,

Petitioner,

CTA Case No. 9971

- versus -

Members:

**UY, Chairperson, and
RINGPIS-LIBAN, JJ.**

**THE COMMISSIONER OF
CUSTOMS,**

Respondent.

Promulgated:

X ----- **FEB 19 2019** *Com 12:32pm* X

RESOLUTION

In the Resolution dated November 16, 2018, the Court noted that the “***Verification and Certification of Non-Forum Shopping***” attached to the Petition for Review filed on October 18, 2018 executed by Anna Caroline B. Balarbar-Li, allegedly petitioner’s Attorney-in-Fact, is fatally defective, for there was no proof that petitioner authorized Anna Caroline B. Balarbar-Li to cause the filing of the instant petition and to sign the Verification and Certification of Non-Forum Shopping on petitioner’s behalf. Hence, the Court directed petitioner to take appropriate action with the Court’s observations within ten (10) days from notice.

Records show however that petitioner filed several motions for extension of time to file Compliance, which were correspondingly granted by the Court, as follows:

(1) “***Motion for Extension of Time to File Compliance***” filed on December 3, 2018 and granted by the Court in the Resolution dated December 6, 2018. As prayed for, the Court gave petitioner an additional period of fifteen (15) days from November 30, 2018, or until December 15, 2018, within which to file its Compliance;

(2) ***“Partial Compliance -with- Motion for Extension of Time”*** filed on December 17, 2018 and granted by the Court in the Resolution dated December 20, 2018. As prayed for, the Court gave petitioner a final and non-extendible period of fifteen (15) days from December 15, 2018, or until December 30, 2018, within which to file its Compliance; and

(3) ***“Final Motion for Extension of Time”*** filed on January 3, 2019 via registered mail, received by the Court on January 15, 2019 and granted by the Court in the Resolution dated January 23, 2019. As prayed for, the Court gave petitioner a non-extendible period of fifteen (15) days from December 30, 2018, or until January 14, 2019, within which to file its Compliance with a final warning that failure of petitioner to comply with the said period, the Court shall be constrained to act accordingly.

Despite the foregoing extension periods granted to petitioner, it appears that petitioner still failed to comply with the directives of the Court.¹

It must be remembered that as regards “Pleadings filed with the Court”, Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals pertinently provides that the petition must be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court.

As a corollary thereto, Section 5, Rule 7 of the 1997 Revised Rules on Civil Procedure² mandates that it is the petitioner or the

¹ Records Verification Report dated January 7, 2019, Docket, p. 123; Records Verification Report dated January 30, 2019, Docket, p. 129.

² Rule 7, Section 5 of the 1997 Revised Rules on Civil Procedure provides:

“SEC. 5. *Certification against forum shopping.* – The plaintiff or the principal party shall specify 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 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 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.

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principal party who must execute the certification against forum shopping. The reason for this is that the principal party has actual knowledge whether a petition has previously been filed involving the same case or substantially the same issues. If, for any reason, the principal party cannot sign the petition, the one signing on his behalf must have been duly authorized.³ Consequently, a certification which has been signed without the proper authorization is defective and constitutes a valid cause for the dismissal of the petition.⁴

In case of non-compliance with the requirements pertaining to the content and filing of petition, Section 3, Rule 46 of the 1997 Rules of Civil Procedures provides as follows:

“SEC. 3. Contents and filing of petition; effect of non-compliance with requirements. – xxx

xxx

xxx

xxx

The failure of the petitioner to comply with any of the foregoing requirements shall be sufficient ground for the dismissal of the petition.”

In this case, it appears that petitioner failed to submit, despite several extensions granted, the required proof of authority of Anna Caroline B. Balarbar-Li to cause the filing of the instant petition and to sign the Verification and Certification of Non-Forum Shopping on petitioner’s behalf; Furthermore, the Verification and Certificate of Non-Forum Shopping attached thereto is defective as it was signed without any authority to do so. Thus, the dismissal of the instant petition is warranted.

In the case of *Mary Louise R. Anderson vs. Enrique Ho*⁵, the Supreme Court held that, to wit:

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 after hearing. xxx

³ *Art Fuentebella, Park-in-Charge and Rolling Hills Memorial Park, Inc., vs. Darlica Castro*, G.R. No.150865, June 30, 2006.

⁴ *Ibid.*

⁵ G.R. No. 172590, January 7, 2013.

“The need to abide by the Rules of Court and the procedural requirements it imposes has been constantly underscored by this Court. One of these procedural requirements is the certificate of non-forum shopping which, time and again, has been declared as basic, necessary and mandatory for procedural orderliness.”

WHEREFORE, in light of the foregoing considerations, the instant Petition for Review is hereby **DISMISSED** without prejudice on procedural grounds.

SO ORDERED.


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice