REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

UNIVERSITY OF LUZON, INC., represented by its President, Dr. MacArthur Samson, Sr.,
Petitioner,

- versus -

THE CITY OF DAGUPAN, HON. CITY MAYOR BENJAMIN S. LIM, CITY ADMINISTRATOR VLADIMIR T. MATA, and CITY TREASURER ROMELITA F. ALCANTARA,
Respondents.

CTA AC NO. 98

Members:

Acosta, *Chairperson*
Uy, *and*
Fabon-Victorino, *JJ.*

Promulgated:

DEC 11 2012 ; 11:50 p.m.

x - x

RESOLUTION

UY, *J.*:

This is a Petition for Review filed on November 16, 2012 by petitioner, University of Luzon, Inc., seeking to reverse and set aside the Decision dated April 12, 2012 and Resolution dated October 10, 2012 both issued by the Regional Trial Court (RTC), Branch 41, Dagupan City, in Civil Case No. 2011-0167-D, dismissing its complaint therein for lack of merit.

Notably, the assailed Decision of the Regional Trial Court, Branch 41 of Dagupan City was rendered in the exercise of its original jurisdiction, and the instant Petition for Review was filed pursuant to Sections 7(a)(3) and 11 of Republic Act No. 1125, as amended by R.A. No. 9282 and R.A. No. 9503. Pertinently, said Sections read as follows:

> "**Sec. 7. *Jurisdiction.*** – The CTA shall exercise:
>
> "a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx xxx
>
> "3. <u>Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction</u>;
>
> "**SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.*** – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> "<u>Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA</u> within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: *Provided, however,* That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that

> provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc* (*Underscoring Ours*).

Additionally, Section 4 (a), Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, specifies where to appeal and mode of appeal. It reads:

> "**SEC. 4. *Where to appeal; mode of appeal.* –**
>
> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal. *(Underscoring Ours)*

Clearly from the foregoing legal provisions, appeals filed with this Court assailing a Decision rendered by a Regional Trial Court in the exercise of its original jurisdiction shall be brought before a Division of this Court by way of a Petition for Review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure. Thus, resort under this Rule necessitates compliance the legal and procedural requirements set forth therein, otherwise, the appeal will not prosper.

In this regard, the Court notes that petitioner failed to comply with the requisite proof of service of the instant Petition for Review to the respondents herein. Such omission makes the instant petition subject to dismissal as provided under Section 3, Rule 42 of the 1997 Rules of Civil Procedure, as amended, which reads:

> "**SEC. 3. *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." *(Underscoring Ours)*

The Court painstakingly went over the Petition for Review and the annexes attached thereto in search of proof of service of the said petition to the respondents, but found the same wanting of such proof.

Hence, We find the ruling of the Supreme Court in the case of *Ferrer vs. Villanueva, et al.*[1] most instructive, wherein the High Court emphasized the importance of the rule on proof of service in this light:

> "There is no question that petitioner herein was remiss in complying with the foregoing Rule. In *Cruz v. Court of Appeals* (G.R. No. 123340, August 29, 2002), we ruled that with respect to motions, **proof of service is a mandatory requirement**. We find no cogent reason why this dictum should not apply and with more reason to a petition for certiorari, in view of Section 3, Rule 46 which requires that the petition shall be filed **'together with proof of service thereof.'** We agree with the Court of Appeals that the lack of proof of service is a fatal defect. The utter disregard of the Rule cannot be justified by harking to substantial justice and the policy of liberal construction of the Rules. Technical rules of procedure are not meant to frustrate the ends of justice. Rather, they serve to effect the proper and orderly disposition of cases and thus effectively prevent the clogging of court dockets." *(Emphasis supplied)*

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[1] G.R. No. 155025, August 24, 2007

By analogy therefore, in applying the foregoing principles and provisions of law in the case at bench, We are constrained to dismiss the instant petition as We find no persuasive reason to relax the Rule on proof of service.

It is well-settled that procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. Party litigants and their counsel are well advised to abide by, rather than flaunt, procedural rules for these rules illumine the path of the law and rationalize the pursuit of justice.[2]

By way of reiteration, considering that the instant petition failed to show that it has indeed complied with the mandatory requirement of proof of service and pursuant to the provisions of Section 3, Rule 42 of the 1997 Rules of Civil Procedure, the instant petition will not prosper.

WHEREFORE, in light of the foregoing considerations, the instant Petition for Review is hereby **DENIED DUE COURSE** and accordingly **DISMISSED** on procedural ground.

SO ORDERED.

ERLINDA P. UY
Associate Justice

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[2] *Toshiba Information Equipment (Phils.), Inc. vs. Commissioner of Internal Revenue*, G.R. No. 157594, March 9, 2010.

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice