

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

NATIONAL FOOD AUTHORITY,
Represented by its Regional
Director Engr. Henry H. Tristeza,
Petitioner,

CTA AC NO. 226

Members:

- versus -

BACORRO-VILLENA, Acting Chairperson,
and
CUI-DAVID, Jr.

CITY GOVERNMENT OF LIGAO,
Represented by its City Legal
Officer AND CITY TREASURER
OF LIGAO,

Respondents.

Promulgated:

APR 15 2024

X - - - - - X

RESOLUTION

[Signature] 1:50 p.m.

BACORRO-VILLENA, J.:

For the Court’s resolution is petitioner’s “Motion for Reconsideration”¹ (MR) filed on 11 December 2023, with respondents’ “Opposition (To the Motion for Reconsideration)”² (**Opposition**) filed via registered mail on 02 January 2024.³ The MR seeks the reversal of the Court’s Resolution dated 20 November 2023⁴ (**assailed Resolution**). The dispositive portion of the Resolution states:

...

WHEREFORE, the foregoing premises considered, petitioner’s Petition for Relief from Judgment filed on 11 October 2022 is hereby **DENIED**.

SO ORDERED.

...

¹ Division Docket, Volume III, pp. 1282-1299.
² Id., pp. 1311-1315.
³ Received by the Court on 08 January 2024.
⁴ Division Docket, Volume III, pp. 1272-1281.

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In support of the MR, petitioner asserts that this Court's Process Server failed to comply with the procedures on personal service before resorting to substituted service. It adds that the rule on service of summons may be made applicable to the service of the pleadings herein. Citing *Ma. Imelda M. Manotoc v. Hon. Court of Appeals, et. al.*⁵ (**Manotoc**), it avers that to resort to substituted service of summons, there must be several attempts by the Court's Process Server to personally serve the summons within a reasonable period which eventually resulted in failure to prove the impossibility of prompt service. It reiterates the phrase "several attempts" to mean at least three (3) tries, preferably on at least two (2) different dates.

Applying the foregoing, petitioner claims that the Process Server merely attempted to serve the Decision dated 22 September 2021 only once in petitioner's old address in contrast to the "several attempts" as held in *Manotoc*. Thus, for failure to comply with the said attempts, both the personal service and the substituted service of the Decision of 22 September 2021 are invalid.

Petitioner also points out that it has an official website which the public can access. If the Court's Process Server indeed exhausted all efforts to make personal service for several attempts, he or she could easily check the website for petitioner's new address. However, he or she did not do so. Hence, petitioner was denied due process for the invalid service of the Decision.

Moreover, petitioner asserts that its failure to file a notice of change of address is a minor technicality lapse which should not be taken as ground to completely deny it of its statutory right to appeal. It argues that the proper reckoning period for the counting of the 15-day reglementary period to file an MR would be the date when the Notice of Decision was served at its new address on 08 March 2022. Thus, it timely filed its MR on 23 March 2022.

Reiterating its previous argument in the Petition for Relief, it also alleges that its failure to file a notice of change of address can be considered as an excusable negligence which is one of the meritorious grounds for relief from judgment under Rule 38 of the Rules of Civil Procedure, as amended. 

⁵ G.R. No. 130974, 16 August 2006.

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In the Opposition, respondents counter that the rule on summons and the rule on service of pleadings, judgments and other papers are governed by two different rules. Thus, petitioner's proposition that the rules on summons in *Manotoc* be made to apply for a service of a court judgment is untenable considering that substituted service under the two rules have different procedures. With its patent non-compliance with the filing of the notice of change of address (which ultimately led to the finality of the Decision of 22 September 2021), respondents claim that this Court did not err in denying the prior Petition for Relief from Judgment.

We resolve.

A perusal of the MR shows clearly that petitioner merely recycled its arguments and that the Court has already resolved and addressed them not only in the assailed Resolution. Similarly, the Resolution dated 04 August 2022⁶, which denied petitioner's belatedly filed "Motion for Reconsideration (of the Decision dated 22 September 2021)"⁷, also discussed the same issues.

To recall, in denying petitioner's "Petition for Relief from Judgment"⁸ filed on 11 October 2022, this Court ruled:

...
While in *VTSI*, a notice from the court was deemed sent when the same was attempted to be served on counsel's address of record despite non-receipt by the addressee due to the latter's failure to inform of the court of his change of address. There, the Supreme Court ruled rather very clearly:

...
Petitioner herein disputes that a first notice was never sent to its counsel of record because "the post office just returned the registered letter and put the stampmark . . . 'Moved'" thereon. To our mind, petitioner's contention is sufficient proof that indeed a first notice was sent to its counsel of record. Its nonreceipt by the addressee, however, was due entirely to his neglect in informing the court of the fact that he had moved and had a new address. To cater to petitioner's rhetorical argument would put a premium on negligence and encourage the nontermination of cases by reason thereof.

⁶ Division Docket, Volume III, pp. 905-911.
⁷ Id., Volume II, pp. 633-667.
⁸ Id., Volume III, pp. 912-955.

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...

Lastly, in *PSDC*, the Supreme Court declared:

...

... The failure of counsel to file brief within the reglementary period and the dismissal of his appeal was of his own doing. He failed to receive the notice to file brief because he transferred his law office without giving the proper notice therefor, or making the necessary arrangements to assure that notices sent to his old address (which was likewise that of his client, the petitioner) would be forwarded to his new address. There was also an apparent failure to check periodically, as an act of prudence, the status of the pending case before the Court of Appeals. ...

...

Following the case of *PSDC*, it appears that petitioner's counsel did make arrangements to ensure its receipt of the Court's notices by leaving a forwarding address at its old address. However, *PSDC* not only requires counsel to timely notify the court of his change of address **but also to check the status of his handled cases from time to time** considering that case updates are readily available on the Court's website.

The Court is not unmindful that special circumstances could lead to a liberal application of the above principles. In *Philippine National Bank v. Spouses Nestor and Felicidad Victor, et al. (PNB)*, the Supreme Court enumerated some of these circumstances, to wit:

...

... "(1) where [the] reckless or gross negligence of counsel deprives the client of due process of law; (2) when [the rule's] application will result in outright deprivation of the client's liberty or property; or (3) where the interests of justice so require." ...

...

In the case at bar, it is noted that petitioner's Memorandum filed through registered mail on 13 August 2020 bore its new address. The Court noted the same in a Resolution dated 07 September 2020. Subsequently, the Court's Resolution dated 22 September 2020 submitting the case for decision was allegedly already received by petitioner at its new address. However, a review of the case records reveals that all communications were still being sent by the Court to petitioner's old address (its address of record at that time) ...

...

As it stands, the Court does not find any of the mentioned circumstances in *PNB* attendant in this case. Considering the above disquisitions, the fault of petitioner's non-receipt of the assailed

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Decision and its belated filing of its MR can be solely attributed to its counsel...⁹

...

While indeed there had been instances where the failure to notify has warranted the liberal application of the rules of procedure, it could not be denied that petitioner's counsel nevertheless failed to discharge what is incumbent upon him. Even if the Court could concede to have sent its correspondence to the new address, the lapse to notify remains. The Court could not also be faulted to have sent the Decision of 22 September 2021 (in this case) since it also relied on petitioner's existing address at the time. As already repeatedly stated, the address in the records remained to be the old address at the time of the service of the said 22 September 2021 Decision. It would be unfair to the Court if it were to sustain petitioner's argument that it should have sent the same to the new address (which it had become aware of) since there was never any notice of change of address from petitioner in the first place. Had the Court pursued the new address and sent the Decision to the alleged new address, would it have been negligent if it continued do so despite the clear absence of a notice (from petitioner) for change of address in the records?

Succinctly, petitioner could not pass the buck to the Court. The responsibility to notify the Court of the change of address lies entirely on its shoulders. For it to expect the Court to take the cudgels for its omission or lapse would be to set aside all settled jurisprudence mandating lawyers to be conscientious in the discharge of their duties.

While, indeed, it is unfortunate that petitioner-taxpayer suffers collateral damage as a result of its counsel's inefficiency, the Court, absent a more compelling reason, could not condone the lapse.

Additionally, while the present MR¹⁰ is not *pro forma* just because it raises mere reiterations of previously passed upon. However, such an instance usually calls for the Court to deal with the same summarily, following the Supreme Court's ruling in the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco and Dolores V. Molina*¹¹ (**Ortigas**). In the said case, the Supreme Court declared:

⁹ Supra at note 4; Citations omitted, emphasis, italics and underscoring in the original text.

¹⁰ Supra at note 1.

¹¹ G.R. No. 109645, 04 March 1996; Emphasis supplied.

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...

The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; **and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity.** It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

...

Finding thus no cogent reason to abandon or modify the assailed Resolution, the Court is inclined to deny the instant motion.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration" filed on 11 December 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:


LANEE S. CUI-DAVID
Associate Justice