

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10950

R33 CAR EXCHANGE,

Petitioner,

- versus -

BUREAU OF CUSTOMS headed by
the COMMISSIONER OF
CUSTOMS,

Respondent.

NOTICE OF RESOLUTION

To:

OFFICE OF THE COMMISSIONER

Bureau of Customs
G/F, OCOM Building, 16th Street
South Harbor, Port Area, Manila

ASSISTANT SOLICITOR GILBERT U. MEDRANO
ASSOCIATE SOLICITOR II LANZ AIDAN L. OLIVES
ASSOCIATE SOLICITOR II LEANDRO MARI B. MANABAT
ASSOCIATE SOLICITOR I NOE M. BAUTISTA
ASSOCIATE SOLICITOR I JACINTO JERICO D. DELA ROSA IV
Office of the Solicitor General
134 Amorsolo St., Legaspi Village, 1229 Makati City

R. A. TAGLE LAW
702 Tramo Street
Brgy. Manuyo Uno
Las Piñas City

JAT & ASSOCIATES LAW FIRM
Unit 214, SJD Center, National Highway
Barangay San Pedro, Puerto Prinsesa City

GREETINGS:

You are hereby notified by these presents that on July 6, 2023, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, July 12, 2023.

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

R33 CAR EXCHANGE,
Petitioner,

CTA Case No. 10950

Members:

- versus -

DEL ROSARIO, PJ, Chairperson,
MANAHAN, and
REYES-FAJARDO, JJ.

BUREAU OF CUSTOMS
headed by the
COMMISSIONER OF
CUSTOMS,

Respondent.

Promulgated:

JUL 06 2023; 10:15 AM

X-----X

RESOLUTION

In the Pre-Trial Conference (PTC) held on March 23, 2023, respondent moved, and the Court dismissed this case for failure of petitioner's counsel to appear in said proceeding, *sans* valid cause.¹

In its bid² to reconsider said dismissal, petitioner argues that: (1) its Pre-Trial Brief with Manifestation of Change of Address was filed three (3) days prior to PTC; and (2) its counsel indeed failed to appear in such PTC; yet, the latter filed with the Court, and served upon respondent, a Motion for Cancellation and Resetting on March 22, 2023. By these reasons, petitioner prays that the order of dismissal be lifted, along with another setting of PTC.

¹ See Order dated March 23, 2023. Docket, *unpaginated*.

² Petitioner's Motion for Reconsideration, filed on April 4, 2023. *Id. unpaginated*.

RULING

The dismissal stands.

Foremost, we acknowledge that petitioner indeed filed through registered mail, its pre-trial brief on March 20, 2023. However, petitioner **failed to sufficiently justify the non-appearance of its counsel in the PTC.**

Specifically, *Spouses Sibay, et al. v. Spouses Bermudez (Sibay)*³ ruled that the situation justifying counsel's absence is one which is unavoidable and one that could not have been foreseen. *Sibay* added that the reason for counsel's absence in a court proceeding must be duly substantiated:

... We, likewise, find the counsel's absence as "*not unavoidable and one that could not have been foreseen*" considering that the July 29, 2008 hearing was set with prior agreement of the parties and consultation with their respective calendars, four months in advance. In some instances, resort to postponements may be allowed because of extraordinary circumstances - such as a party's or counsel's sudden *death, force majeure* or an act of God rendering impossible the accomplishment of its purpose. Here, no such circumstances existed. Loreto Sibay grounded his motion on an unsubstantiated claim of illness, while his counsel's excuse is conflict of schedule. Even if these were true, there is still no reason why both Loreto Sibay and his counsel could not have submitted his medical certificate, or fix the schedule and file the motion for postponement, seasonably.⁴

Like *Sibay*, petitioner's counsel failed to validate his claim that he transferred to Puerto Princesa, Palawan, as required by Section 3, Rule 15⁵ of the Rules of Court, as amended, through presentation of affidavits and papers. Further, the circumstance claimed by petitioner is not unavoidable or unforeseen. In addition, petitioner's counsel already knew of the scheduled PTC, as early as January 26, 2023.⁶ If he was indeed planning to move to Palawan, he could have *earlier* filed a motion for postponement or resetting. Yet, petitioner's counsel only

³ G.R. No. 198196, July 17, 2017.

⁴ Citations omitted. Italics in the original.

⁵ **Section 3. Contents.** — A motion shall state the relief sought to be obtained and the grounds upon which it is based, and if required by these Rules or necessary to prove facts alleged therein, shall be accompanied by supporting affidavits and other papers. (Boldfacing supplied)

⁶ Par. 1, counsel for petitioner's Motion for Cancellation and Resetting. Docket, *unpaginated*.

filed a Motion for Cancellation and Resetting at the eleventh hour — March 22, 2023, or one (1) day before such scheduled PTC on March 23, 2023. Besides, petitioner contributed to its counsel's non-appearance in the scheduled PTC—the former failed to provide the latter a plane ticket to attend said proceeding.⁷

On the strength of the above observations, respondent may *not* be blamed in moving, and the Court granting, the dismissal of this case, based on petitioner's counsel unwarranted absence to appear in the PTC:

AS DELA ROSA:

Your Honors, upon reading the Motion for Cancellation and Resetting, we respectfully request for the dismissal of this case, your Honors. We oppose the motion and we request for dismissal of this case.

Pursuant to the Revised Rules of Court, a Motion to Postpone is prohibited if it is intended for delay. After perusing, after reading the Motion for Cancellation and Resetting[,] it is indeed just for the purpose of delaying the proceedings.

JUSTICE FAJARDO:

Okay.

Your motion is GRANTED.

The Motion for Cancellation and Resetting dated March 22, 2023 is DENIED for failure to justify the non-appearance today and the rules specifically provide for a meritorious ground which **includes only acts of God and the reason propounded by petitioner is not a meritorious ground for the cancellation of today's pre-trial conference.**

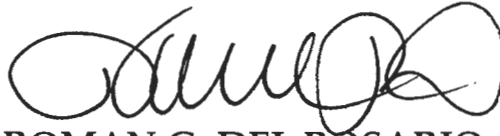
...⁸

WHEREFORE, petitioner's Motion for Reconsideration, filed on April 4, 2023, is **DENIED**, for lack of merit.

⁷ See Par. 3, petitioner's Motion for Cancellation and Resetting. Docket, *unpaginated*.

⁸ Page 3, Transcript of Stenographic Notes of Hearing held on March 23, 2023. Boldfacing supplied.

SO ORDERED.



ROMAN G. DEL ROSARIO
Presiding Justice



CATHERINE T. MANAHAN
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice