REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

NUEVA ECIJA II ELECTRIC COOPERATIVE, INC. – Area 2,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2319
(CTA Case No. 9605)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
MAR 10 2021 10:27 am

x - x

RESOLUTION

On 16 October 2020, this Court's Resolution dated 07 October 2020, directing petitioner Nueva Ecija II Electric Cooperative, Inc. – Area 2 (**NEECO II - Area 2**) to submit its "Verification and Certification Against Forum Shopping" within five (5) calendar days from receipt of such order, was sent by registered mail to petitioner's counsel, Atty. Vicente F. Rovero, Jr. (**Atty. Rovero**), at his address appearing in the records.

Per the Court's Judicial Records Division's Report Verification dated 11 January 2021, petitioner failed to comply with the above directive.

On 14 January 2021, Atty. Rovero filed an *Ex-Parte Manifestation* informing the Court that he has yet to receive a copy of this Court's 07 October 2020 Resolution. He attributed his failure to receive a copy thereof to his subsequent change of office address and his limited office hours. He further explained that he usually monitors the case's status through the Court's website and that his search did not reflect the promulgation of the Court's Resolution. However, he later realized that he was conducting the search using the case number "9605" (the case's docket number before the Court's Division). It was only when one of his associates supplied the correct case number of "2319" (the case's docket number before the Court *En Banc*) that he was apprised of the Court's Resolution.

For the above reasons, Atty. Rovero requested that he be allowed to procure a copy of the 07 October 2020 Resolution through his representative, Randy R. Bautista. According to him, he could only properly comply with the Court's directive to submit petitioner's Verification and Certification Against Forum Shopping if he obtains a copy of the said Resolution.

We resolve.

Atty. Rovero's *Ex-Parte Manifestation* is merely noted without further action.

As evident in the records, petitioner's counsel only filed his "Notice of Change of Address" through registered mail on 02 December 2020. However, the Court's 07 October 2020 Resolution was sent to Atty. Rovero through registered mail as early as 16 October 2020 at his former office address appearing in the case records.[1] Likewise, his representative has already obtained a copy of the said Resolution on 14 January 2021.[2]

Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals[3] (**RRCTA**) provides that every petition for review shall be verified and contain a certification against forum shopping, to wit:

> . . .
> **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 a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided

---

1 The mailing date indicated in the Registry Receipt attached to the Notice of Resolution which was sent by registered mail.

2 The receiving date indicated under counsel's representative's signature on the letter-request addressed to the Clerk of Court of the CTA *En Banc*.

3 A.M. No. 05-11-07-CTA.

> 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.
>
> ...

While Sections 4 and 5, Rule 7 of the Rules of Court (**ROC**), as amended by A.M. No. 19-10-20-SC[4], provide:

> ...
>
> Section 4. *Verification.* — Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified.
>
> ...
>
> **A pleading required to be verified <u>that</u> contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.**
>
> Section 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify 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 or she 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 or her 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 or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five (5) <u>calendar</u> days therefrom to the court wherein his or her aforesaid complaint or initiatory pleading has been filed.
>
> ...
>
> **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 and after hearing**. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his or her counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.[5]
>
> ...

---

4 2019 Amendments to the 1997 Rules of Civil Procedure.

5 Emphasis supplied; Italics and underscoring in the original text.

Clearly from the foregoing provisions, petitioner's failure to file its Verification and Certification against Forum Shopping was immediately fatal to its petition. Nevertheless, this Court, acting in the best interest of justice, allowed petitioner to rectify this mistake by resolving to grant it an additional period of fifteen (15) days to comply with the above requirements. Despite relaxing the rules in its favor, petitioner still failed to file them.

Even with Atty. Rovero's subsequent change of address, the notice of which was filed with the Court only after almost two (2) months from the issuance of the 07 October 2020 Resolution, the non-compliance with the Court's directive could not be excused.

Atty. Rovero's use of the wrong case number on the Court's website to monitor the case's status is likewise not a good reason to excuse his omissions. As he admits in his *Ex-Parte Manifestation*, a copy of the 07 October 2020 Resolution was readily available on the Court's official website (upon input of the correct case number).

At this point, Atty. Rovero is thus reminded that it is his responsibility to timely inform the Court of his change of address in a manner that will ensure his receipt of court processes. It is incumbent upon him to periodically check the case's status by supplying the Court with the proper information.

In a similar case, the Supreme Court upheld the Court of Appeals' dismissal of an appeal for a lawyer's failure to file an appellant's brief in behalf of his client. There, the Supreme Court ruled thusly:

> ...
>
> ...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...[6]
>
> ...

---

6 *Philippine Suburban Development Corporation v. Court of Appeals, et al.*, G.R. No. L-33448, 17 September 1980.

In *Linkod Juane, et al. v. Hon. Gregorio N. Garcia, et al.*[7], the Supreme Court held:

> . . .
> The time has come, we believe, for this Court to remind the members of the Bar that it is their inescapable duty to make of record their correct address in all cases in which they are counsel for a suitor. For, instances there have been in the past when, because of failure to inform the court of the change of address, litigations were delayed. And this, not to speak of inconvenience caused the other parties and the court. Worse still, litigants have lost their cases in court because of such negligence on the part of their counsel. It is painful enough for a litigant to suffer a setback in a legal battle. It is doubly painful if defeat is occasioned by his attorney's failure to receive notice because the latter has changed the place of his law office without giving the proper notice therefor. It is only when some such situation comes about that the negligent lawyer comes to realize the grave responsibility that he has incurred both to his client and to the cause of justice. It is then that the lawyer is reminded that in his oath of office he solemnly declared that he "will conduct" himself "as a lawyer according to the best of his knowledge and discretion". Too late. Experience indeed is a good teacher. To a lawyer, though, it could prove very expensive.
> . . .

Although petitioner subsequently filed its "Manifestation-Compliance" on 19 January 2021 and attached the "Verification and Certification of Non-Forum Shopping", the belated filing could no longer work to excuse the unjustified non-compliance with the requirement under the ROC and with this Court's directive.

WHEREFORE, the foregoing considered, petitioner Nueva Ecija II Electric Cooperative's Petition for Review filed on 03 August 2020 is hereby **DISMISSED**.

SO ORDERED.

ON LEAVE
ROMAN G. DEL ROSARIO
Presiding Justice

---

7 G.R. No. L-21115, 29 October 1968.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice