

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

**ORIENTAL MERCHANTS,
INC.,**

CTA CASE NO. 10214

Petitioner,

Members:

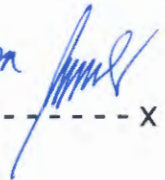
- versus -

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, JJ.

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

OCT 26 2020

1:30 pm 

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RESOLUTION

On the scheduled pre-trial on 12 March 2020, only the counsel for respondent appeared. Thus, pursuant to the Rules of Court, the Court dismissed the case for petitioner's failure to attend the pre-trial and file its pre-trial brief.

On 21 July 2020, petitioner filed a "Motion for Reconsideration (Re: Resolution dated March 12, 2020)" (**MR**) alleging that on 03 March 2020, it filed an "Urgent Motion to Reset Pre-Trial Conference"¹ due to an alleged prior commitment on an equally important case. Petitioner thus prayed for the reversal of the 12 March 2020 Order and for the continuation of the proceedings.

Respondent, on the other hand, filed its "Opposition/Comment on the Motion for Reconsideration" on 03 September 2020 contending that since there are two lawyers handling the case. Moreover, respondent also argued that since the pre-trial conference was already set way back in February 2020, petitioner's counsel should have arranged for the resetting at the earliest opportunity possible. Finally, respondent claimed that the Supreme Court has

¹ With payment of postponement fee under Official Receipt No. 9558034C dated 03 March 2020.

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emphasized the importance of the appearance of parties during the pre-trial conference and the filing of the pre-trial brief citing *Philippine Steel Coating Corp. v. Eduard Quiñones*.²

We now resolve.

Sections 4, 5 and 6 of the Rules of Court, as amended by A.M. No. 19-10-20-SC,³ which took effect on 01 May 2020, read as follows:

...
Section 4. Appearance of Parties. — **It shall be the duty of the parties and their counsel to appear at the pre-trial**, court-annexed mediation, and judicial dispute resolution, if necessary. Then on-appearance of a party and counsel may be excused only for acts of God, force majeure, or duly substantiated physical inability.

A representative may appear on behalf of a party, but must be fully authorized in writing to enter into an amicable settlement, to submit to alternative modes of dispute resolution, and to enter into stipulations or admissions of facts and documents.

Section 5. Effect of failure to appear. — When duly notified, **the failure of the plaintiff and counsel to appear without valid cause** when so required, pursuant to the next preceding Section, shall cause the dismissal of the action. The dismissal shall be with prejudice, unless otherwise ordered by the court. A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence *ex-parte* within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered.

Section 6. Pre-trial brief. — The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) calendar days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:

...

Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.⁴

...

Pursuant to the afore-quoted provisions, non-appearance by the plaintiff in the pre-trial shall be cause for dismissal of the action.

² G.R. No. 194533, 19 April 2017.

³ 2019 Proposed Amendments to the 1997 Rules of Civil Procedure.

⁴ Emphasis supplied.

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However, every rule is not without an exception. In fact, Section 4, Rule 18 of the Revised Rules of Court explicitly provides that the non-appearance of a party may be excused if a valid cause is shown therefor.⁵

In this instant case, although petitioner and its counsel failed to appear during the pre-trial conference set on 12 March 2020, in addition to the fact that petitioner also failed to file its pre-trial brief at least three (3) calendar days before such pre-trial conference, petitioner filed an Urgent Motion to Reset Pre-Trial Conference due to an alleged prior commitment on an equally important case. As such, we find that a valid cause has been shown to exist for petitioner and its counsel's absence during the said pre-trial conference, warranting the relaxation of the rules. While faithful compliance with these rules is undoubtedly desirable, they may be relaxed in cases where their application would frustrate, rather than facilitate, the ends of justice.⁶

In *Bank of the Philippine Islands v. Domingo R. Dando*,⁷ the Supreme Court ruled:

... It is a basic legal construction that where words of command such as "shall," "must," or "ought" are employed, they are generally and ordinarily regarded as mandatory. Thus, where, as in Rule 18, Sections 5 and 6 of the Rules of Court, the word "shall" is used, a mandatory duty is imposed, which the courts ought to enforce.

The Court is fully aware that procedural rules are not to be belittled or simply disregarded for these prescribed procedures insure an orderly and speedy administration of justice. However, it is equally true that litigation is not merely a game of technicalities. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.

This is not to say that adherence to the Rules could be dispensed with. However, exigencies and situations might occasionally demand flexibility in their application. In not a few instances, the Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merit. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and

⁵ *Anson Trade Center, Inc. v. Pacific Banking Corporation*, G.R. No. 179999, 17 March 2009.

⁶ *Angelina Chua and Heirs of Jose Ma. Cheng Sing Phuan v. Spouses Santiago Cheng and Avelina Sihiyon*, G.R. No. 219309, 22 November 2017.

⁷ G.R. No. 177456, 04 September 2009.

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defenses. Technicality and procedural imperfection should, thus, not serve as basis of decisions. In that way, the ends of justice would be better served. For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.⁸

...

Accordingly, in the interest of substantial justice and in order to afford the parties the opportunity to fully ventilate their cases, this Court finds it imperative to grant petitioner's MR.

WHEREFORE, petitioner's Motion for Reconsideration dated 21 July 2020 is hereby **GRANTED**. Set this case for hearing on **18 January 2021 at 9:00 a.m.** for the pre-trial conference. The pre-trial briefs filed by petitioner and respondent dated 21 July 2020 and 09 March 2020, respectively, are **NOTED**.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice