

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

**BARRIO FIESTA
MANUFACTURING
CORPORATION,**

Petitioner,

- versus -

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

CTA CASE NO. 9880

Members:

**DEL ROSARIO, P.J., Chairperson,
FABON-VICTORINO, and
MANAHAN, JJ.**

Promulgated:

NOV 05 2019 ; 11:19a

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RESOLUTION

The **Entry of Appearance** filed on September 26, 2019 by Attys. Alberto R. Bomediano Jr., Lei Adrian V. Gapoy, Arlyn T. Corro, and Ayleen B. Almira as counsels for the respondent is **NOTED**. Accordingly, all notices, orders and resolutions of this Court shall be addressed to said respondent's new counsels at Legal Department, 5/F Revenue Region No. 5, No. 140, Bo. Calaanan, EDSA, Caloocan City.

Anent the **Motion for Reconsideration** filed by the respondent on October 9, 2019, this Court observes that the same lacks the necessary Notice of Hearing required under Section 5, Rule 15 of the Rules of Court, viz.:

Section 5. *Notice of hearing.* The notice of hearing shall be addressed to all the parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

Such deficiency is fatal to respondent's cause since a motion without a notice of hearing is considered a mere scrap of paper. The pronouncement of the Supreme Court in **Alcaraz vs. Gonzales-Asdala**,¹ is instructive:

¹ A.M. No. RTJ-11-2272, February 16, 2011.

Jurisprudence had been categorical in treating a litigious motion without a valid notice of hearing as a mere scrap of paper. In the classic formulation of *Manakil v. Revilla*, such a motion was condemned as:

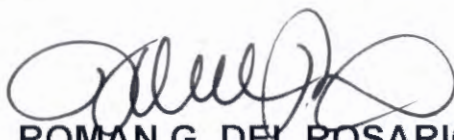
x x x [n]othing but a piece of paper filed with the court. It presented no question which the court could decide. **The court had no right to consider it, nor had the clerk any right to receive it without a compliance with Rule 10** [now Sections 4 and 5 of Rule 15]. **It was not, in fact, a motion.** It did not comply with the rules of the court. It did not become a motion until x x x the petitioners herein fixed a time for hearing of said alleged motion. (Emphasis supplied).

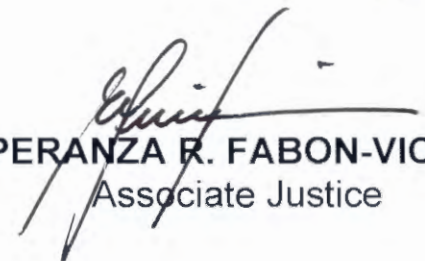
An important aspect of the above judicial pronouncement is the absence of any duty on the part of the court to take action on a motion wanting a valid notice of hearing. After all, the Rules of Court places upon the movant, and not with the court, the obligations both to secure a particular date and time for the hearing of his motion and to give a proper notice thereof on the other party. It is precisely the failure of the movant to comply with these obligations, which reduces an otherwise actionable motion to a mere scrap of paper not deserving of any judicial acknowledgment.

Even if the Court disregards the aforesaid procedural infirmity, perusal of the Motion would reveal that the arguments presented therein are patently without merit; hence, there is no cogent reason to modify the assailed Decision.

WHEREFORE, premises considered, respondent's **Motion for Reconsideration** filed on October 9, 2019 is hereby **DENIED**.

SO ORDERED.


ROMAN G. DEL ROSARIO
Presiding Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


CATHERINE T. MANAHAN
Associate Justice