

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

JEANE
NAPOLES,

CATHERINE
Petitioner,

CTA EB No. 1655
(CTA AC No. 9354)

Present:

-versus-

DEL ROSARIO, PJ;
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, JJ.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

JUL 26 2019

X- - - - -

[Signature] 3:56 p.m. X

RESOLUTION

Fabon-Victorino, J.:

On October 29, 2018, the Court *En Banc* promulgated a Decision,¹ disposing the instant case in the following fashion:

WHEREFORE, the Petition for Review dated March 3, 2017 filed by Jeane Catherine Napoles is hereby **DENIED**, for utter lack of merit.

Consequently, the assailed Order dated February 16, 2017 and Resolution dated April 10, 2017, both rendered by the Court in Division, are hereby **AFFIRMED**.

SO ORDERED.

¹ *Rollo*, pp. 108-124.

✓

In her Motion for Reconsideration dated March 27, 2019,² petitioner concedes that under Sections 4 and 5, Rule 18 of the Rules of Court, the non-appearance of the plaintiff in a civil case during the pre-trial conference is a ground for its dismissal. Nonetheless, she asserts that the failure of her former counsel to appear during the pre-trial conference scheduled on February 16, 2017 should not adversely affect her case or bind her given that she had no control over the former's negligent act of coming to Court twenty (20) minutes late of the appointed time. She complains that the dismissal of the case is so severe as to amount to deprivation of her right to due process. Further, her case should not be decided on technicalities since the deficiency tax assessments for taxable years (TYs) 2011 and 2012 issued against her were already barred by prescription even prior to the issuance of the Formal Letter of Demand (FLD). With the foregoing, she should be relieved from the adverse consequence of her non-appearance during the scheduled pre-trial on February 16, 2017.

In repudiation,³ respondent counters that procedural rules, particularly the appearance by both parties at the scheduled pre-trial conference are mandatory. He explains that the Court had been very lenient with petitioner and her counsel and allowed them ample opportunity to appear at the pre-trial conference which was reset five (5) times from the original setting on September 29, 2016, the last three of which were all at the instance of petitioner. Yet, she and her counsel still failed to appear on February 16, 2017 setting of pre-trial conference. The circumstances justify the dismissal of the case per Sections 4 and 5, Rule 18 of the Rules of Court.

The Motion lacks merit, hence, should be denied.

Under Rule 1, Section 6 of the 1997 Rules of Civil Procedure, liberal construction of the rules is the controlling principle to effect substantial justice. Thus, litigations should, as much as possible, be decided on their merits and not on technicalities. This does not mean, however, that

² Ibid. at pp. 136-147.

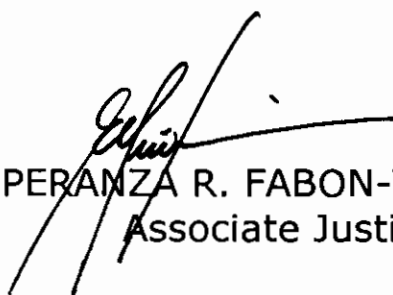
³ Comment/Opposition dated May 21, 2019, id. at pp. 153-159.



procedural rules are to be ignored or disdained at will to suit the convenience of a party.⁴ And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was never intended to forge a bastion for erring litigants to violate the rules with impunity.⁵ As discussed in pages 8-15 of the assailed Decision, petitioner failed to demonstrate any strong and compelling circumstance that would exculpate her from the adverse consequence on her non-appearance at the pre-trial conference which was reset no less than five (5) times. In fine, the dismissal of instant case pursuant to Section 5, Rule 18 of the Rules of Court is in order.

WHEREFORE, petitioner's Motion for Reconsideration dated March 27, 2019 is **DENIED**. The assailed Decision of October 29, 2018 is **AFFIRMED**.

SO ORDERED.

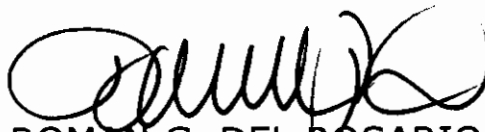


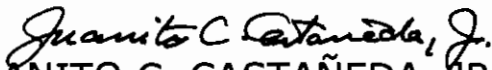
ESPERANZA R. FABON-VICTORINO
Associate Justice

⁴ *Atty. Erlando A. Abrenica vs. Law Firm of Abrenica, Tungol and Tibayan*, G.R. No. 169420, September 22, 2006, citing *Sebastian vs. Morales*, G.R. No. 141116, February 17, 2003.

⁵ *Republic of the Philippines vs. Kenrick Development Corporation*, G.R. No. 149576, August 8, 2006.

We Concur:


ROMAN G. DEL ROSARIO
Presiding Justice


JUANITO C. CASTAÑEDA, JR.
Associate Justice


ERLINDA P. UY
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice

(Took No Part)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(Took No Part)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice