



Republic of the Philippines
 Department of Finance
CENTRAL BOARD OF ASSESSMENT APPEALS
 7th Floor, EDPC Bldg., BSP Complex
 Roxas Boulevard, Manila

WL MANUFACTURING CORPORATION and SAM LIM CORPORTIONS,

Petitioners-Appellants,

-versus-

CBAA CASE NO. L-124
 (LBAA CASE NO. 2012-001)

LOCAL BOARD OF ASSESSMENT APPEALS OF THE CITY OF VALENZUELA,

Appellee,

-and-

CITY ASSESSOR and CITY TREASURER OF VALENZUELA CITY,

Respondents-Appellees.

X-----X

ORDER

This is an Appeal from the Order rendered by the Local Board of Assessment Appeals of the City of Valenzuela (the "LBAA") on May 17, 2012 in LBAA Case No. 2012-001.

Alleging that they received a copy of the questioned LBAA Order on June 13, 2012, Petitioners-Appellants herein filed the instant appeal on June 25, 2012.

ANTECEDENTS

1. The letter¹ dated 18 October 2011 from the ICO of the City Treasurer's Office, ROSA IRMA ALCORAN, sent addressed to Petitioners-Appellants, is reproduced hereunder:

¹ LBAA Records, p. 12; CBAA Records, p. 30.

"18 October 2011

"**WL MANUFACTURING CORPORATION/
SAME LIM CORPORATION**
"Valenzuela City

"Gentlemen:

"This pertains to the tax liabilities of **WL Manufacturing Corp./Sam Lim Corporation**, in the amount of **P 60,622,398.44 as of October 2011**.

"The City acknowledges your efforts and moves for the settlement of your above tax liabilities under the following terms and conditions:

"1. The City accepts your front end payments for your acknowledged above-cited tax liabilities in the amount of **P 60,622,398.44** as of October 2011 which payments consist of the following:

"1.1 10 million in Manager's Check dated October 18, 2011

"1.2 2.5 million for November 16, 2011 in check payment

"1.3 2.5 million for December 15, 2011 in check payment

"2. The City may allow to subject the said total amount of tax liabilities to a REVALIDATION and allow the taxpayer to produce and present documents and such other pieces of evidence which may warrant or support any adjustments on the computation.

"3. The City agrees to exclude the subject properties from the City's scheduled auction this year 2011.

"SGD: **ROSA IRMA ALOCORAN**
"ICO, City Treasurer's Office

"With my conformity:

"SGD: **MARILYN IBAÑEZ LIM**
"WL Manufacturing Corp./Sam Lim Corporation"

2. On January 12, 2012, the City Administrator/OIC-City Legal Officer, Atty. Teresita R. Capacillo, sent a letter² informing the Petitioners-Appellants that, after the partial payment of P15,000,000.00, Petitioners-Appellants "still has an outstanding balance for the tax liabilities in the amount of P48,924,329.09" as of January 10, 2012 as shown by a "Summary of Statement of Accounts/Billings" attached thereto as Annex "B"³ thereof.

3. In a letter-reply⁴ dated January 25, 2012 and addressed to the City Administrator and OIC-City Legal Officer, Petitioners-Appellants' counsel, Atty. Heraldo A. Dacayo, Jr. stated, among others, that:

"Based on your records, the City's computation of my client's realty tax liabilities as of April 11, 2011 was P54,392,215.02. As of October 2011, the computation became P60,622,398.44.

"There were good reasons to believe, though, that the said computations were erroneous, arbitrary and unjust. The first and foremost

² LBAA Records, p. 13; CBAA Records, p. 31 .

³ LBAA Records, p. 14; CBAA Records, p. 32.

⁴ LBAA Records, p. 15; CBAA Records, p. 33.

ORDER

reason is the lack of clear and fair basis in fixing the market and assessed values. In complete disregard of prudence and the law, our clients were never summoned and required to provide under oath and with supporting documents all necessary and relevant facts and circumstances bearing on the value of the assessed realties . . .

“My clients agreed to pay the P15,000,000.00 since they believed that their total realty tax liabilities do not exceed the said amount. By their own computation (Annex “A” hereof), their realty tax liabilities amount to only P9,667,829.60, exclusive of interest. Based on the computation of R.M. Veluz Accounting Firm in it letter of October 11, 2011 (Annex “B” hereof)⁵, it is only P13,973,970.68, inclusive of interest. Besides, it was reportedly your advice that if revalidation results in a computation lower than P15,000,000.00, the difference would be “carried over” to the following year for my clients.

“Thus, my clients have eagerly waited for the “revalidation” process to be called by the City, while preparing the evidence to prove that their realty tax liabilities are limited to P13,973,970.68. To date, however, they have not been summoned and required to present evidence. Instead of summons, my clients received the final demand to ay P48,924,329.00 more. . .”

4. On January 30, 2012, Petitioners-Appellants received from the City Assessor a Notice of Assessment⁶ dated January 13, 2012 covering supposedly undeclared real properties described in fifteen (15) Tax Declarations⁷, as follows:

T.D. NO.	DATE ISSUED	NEW OR OLD TD#	LOCATION	DESCRIPTION	KIND/CLASS	MARKET VALUE	ASSMT LEVEL	ASSESSED VALUE	TAX BEGINS
C-029-005131	01/06/12	NEW	Punturin	Warehouse	B-I	9,354,240.00	75%	7,015,680.00	2002
C-029-005132	01/06/12	NEW	Punturin	Warehouse	B-I	25,139,520.00	80%	20,111,620.00	2011
C-029-005133	01/06/12	NEW	Punturin	Canteen	B-I	2,129,760.00	70%	1,490,830.00	2004
				Office Bldg.	B-I	1,082,880.00	60%	649,730.00	2004
				Shop	B-I	6,681,600.00	75%	5,011,200.00	2004
C-029-005134	01/06/12	NEW	Punturin	Warehouse	B-I	10,423,296.00	80%	8,338,640.00	2002
					B-I	10,423,296.00	80%	8,338,640.00	2002
					B-I	3,340,800.00	70%	2,338,560.00	2002
C-029-005135	01/06/12	NEW	Punturin	Canteen	B-I	1,647,432.00	60%	988,460.00	2002
				Locker Room	B-I	751,680.00	50%	375,840.00	2002
				Office	B-I	1,094,160.00	60%	656,500.00	2002
C-029-005136	01/06/12	C-029-1816	Punturin	Fact. Bldg.	B-I	7,516,000.00	75%	5,637,000.00	2002
C-029-005137	01/06/12	NEW	Punturin	Fact. Bldg.	B-I	7,948,800.00	75%	5,961,600.00	2004
					B-I	7,603,200.00	75%	5,702,400.00	2004
					B-I	5,524,800.00	75%	4,143,600.00	2004
					B-I	5,644,800.00	75%	4,233,600.00	2004
C-029-005138	01/06/12	C-029-1820	Punturin	Power House	B-I	1,382,400.00	60%	829,440.00	2002
				Warehouse	B-I	1,927,800.00	60%	1,156,680.00	2002
C-029-005139	01/06/12	NEW	Punturin	Shed	B-I	975,200.00	50%	487,600.00	2009
C-029-005140	01/06/12	C-029-1817	Punturin	Fact. Bldg.	B-I	6,767,040.00	75%	5,075,280.00	2002
					B-I	6,767,040.00	75%	5,075,280.00	2002
C-029-005141	01/06/12	C-029-1815	Punturin	Fact. Bldg.	B-I	14,572,800.00	80%	11,658,240.00	2002
					B-I	5,832,000.00	75%	4,374,000.00	2002
C-029-005142	01/06/12	C-029-1814	Punturin	Warehouse	B-I	7,805,952.00	75%	5,854,460.00	2002
					B-I	7,741,440.00	75%	5,806,080.00	2002
C-030-009303	01/06/12	NEW	Bignay	Fact. Bldg.	B-I	25,492,800.00	80%	20,394,240.00	2004
				Shed	B-I	2,826,240.00	70%	1,976,370.00	2004
C-030-009304	01/06/12	NEW	Bignay	Machine Room	B-I	4,677,120.00	70%	3,273,980.00	2006
				Power House	B-I	278,400.00	30%	83,520.00	2006
C-030-009305	01/06/12	NEW	Bignay	Canteen	B-I	672,000.00	50%	336,000.00	2002
				Machine Room	B-I	852,480.00	50%	426,240.00	2002
				Office Bldg.	B-I	291,200.00	30%	87,360.00	2002
				Warehouse .	B-I	9,868,800.00	75%	7,401,600.00	2002
				Warehouse	B-I	8,731,699.20	75%	6,548,770.00	2002
				Warehouse	B-I	6,734,976.00	75%	5,051,230.00	2002

⁵ LBAA Records, pp. 22-29; CBAA Records, pp. 40-47.

⁶ LBAA Records, pp. 35-36; CBAA Records, pp. 53-54.

⁷ LBAA Records, pp. 37-51; CBAA Records, pp. 56-69.

O R D E R

				Res. House	B-R	1,087,200.00	35%	380,520.00	2002
--	--	--	--	------------	-----	--------------	-----	------------	------

5. On January 30, 2012, Petitioners-Appellants received from the City Assessor a Notice of Assessment⁸ dated January 13, 2012 for properties described in three (3) tax declarations,⁹ as follows:

T.D. NO.	DATE ISSUED	NEW OR OLD TD#	LOCATION	DESCRIPTION	KIND/CLASS	MARKET VALUE	ASSMT LEVEL	ASSESSED VALUE	TAX BEGINS
C-029-005126	01/06/12	NEW	Punturin	Fact. Bldg.	B-I	48,631,680.00	80%	38,905,340.00	2002
				Warehouse	B-I	210,470.00	30%	63,140.00	2002
C-029-005127		C-029-2756	Punturin	Fact. Bldg.	B-I	14,442,240.00	80%	11,553,790.00	2002
					B-I	22,512,384.00	80%	18,009,910.00	2002
C-029-005130		NEW	Punturin	Fact. Bldg.	B-I	27,555,840.00	80%	22,044,670.00	2011

6. On January 30, 2012, Petitioners-Appellants received from the City Assessor a Notice of Assessment¹⁰ dated January 16, 2012 for the property described in the following tax declaration¹¹:

T.D. NO.	DATE ISSUED	NEW OR OLD TD#	LOCATION	DESCRIPTION	KIND/CLASS	MARKET VALUE	ASSMT LEVEL	ASSESSED VALUE	TAX BEGINS
C-029-005128	01/06/12	C-030-4949	Punturin	Ind. Lot	L-I	15,181,500.00	50%	7,590,750.00	2011

7. On February 1, 2012, respondent City Treasurer sent by registered mail seventeen (17) Notices of Realty Tax Deficiency¹², all dated January 20, 2012 to Petitioners-Appellants, which the latter acknowledged to have received on February 3, 2012.

8. In a letter-reply addressed to the respondent City Treasurer dated February 20, 2012 (received by the Office of the City Treasurer on February 24, 2012), Petitioners-Appellants, through counsel, stated that "In a letter-reply of January 25, 2012, my client assails the valuations and computations of the City Assessor as erroneous, arbitrary and unjust for the reasons stated therein."

9. On March 27, 2012, Petitioners-Appellants filed its Petition with the LBAA, docketed as LBAA Case No. 2012-01, on the following "GROUNDS FOR APPEAL":

"13. A sedulous reading of all the NOAs, TDRPs and NRTDs readily shows that **they are legally flawed, capricious, unfair and oppressive.**

"14. **First** of all, the NOAs were made on January 13, 2012, but they were made retroactively "effective 2002", in complete disregard of the provisions of Section 221 of the Local Government Code and Section 14 of Ordinance No. 93-78, which read:

SEC. 221. *Date of Effectivity of Assessment and Reassessment.*- All assessment and reassessment made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year xxx".

"SECTION 14. Date of Effectivity of Assessment and Reassessment – All assessment and reassessment made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year xxx".

⁸ LBAA Records, p. 52; CBAA Records, p. 70.

⁹ LBAA Records, pp. 54-56; CBAA Records, pp. 72-74.

¹⁰ LBAA Records, p. 53; CBAA Records, p.71.

¹¹ LBAA Records, p. 57; CBAA Records, p. 75.

¹² LBAA Records, pp. 58-74; CBAA Records, pp. 76-92.

"15. **Second**, as shown by the NOAs, TDRPs, NRTDs as well as petitioners' "List of Market Values Used by the City Assessor" on petitioners' properties in the years 2011, 2010 and 2002, copy of which is attached as Annex "**K**", respondent City Assessor capriciously, unfairly and oppressively doubled and even tripled the market values of the subject properties in 2011, in violation of the fundamental principles of local government taxation under Section 130 of the Local Government Code, that:

"(a) Taxation shall be uniform in each local government unit;

"(b) Taxes, fees, charges and other impositions shall:

"(1) be equitable and based as far as practicable on the taxpayer's ability to pay;

"xxx

"(2) not be contrary to law, public policy, national economic policy, or in restraint of trade."

"16. **Third**, by making capricious, unfair and oppressive assessments on petitioners' properties effective as far back as 2002, respondent City Assessor grossly ignored "the applicable schedule of values in force" during the period from 2002 to 2011, in violation of Section 15 of Ordinance No. 93-78, which mandates that any back taxes "shall be computed on the basis of applicable schedule of values in force during the corresponding period".

"17. **Fourth**, because of the doubling and even tripling of the market values of subject properties in 2011, the NOAs are deemed general revisions of assessment which, in the absence of any clear indications, were made without respondent City Assessor preparing first a new Schedule of Fair Market Values duly enacted into an Ordinance and published by the Sangguniang Panglungsod, in violation of the requirements of Section 212 of the Local Government Code that:

"SEC. 212. *Preparation of Schedule of Fair Market Values.* – Before any general revision of property assessment is made pursuant to the provisions of this Title, there shall be prepared a schedule of air market values by the provincial, city and the municipal assessors ... for enactment by ordinance of the sangguian concerned. The schedule of fair market values shall be published in a newspaper of general circulation xxx."

"18. **Fifth**, prior to the issuance of the NOAs and the TDRPs, respondent City Assessor failed to summon and require petitioners to provide under oath and with supporting documents all necessary and relevant facts and circumstances bearing on the value of the assessed realties (such as but not limited to the costs of construction, dates of completion or occupancy, etc.) and, simply relying on hazy and incompetent Google images, resorted to speculations as to the market values of petitioners' properties, in complete disregard of prudence and of Section 213 of the Local Government Code, which provides:

"SEC. 213. *Authority of Assessor to Take Evidence.* – For the purpose of obtaining information on which to base the market value of any real property, the assessor ... may summon the owners of the properties to be affected or persons having legal interest therein and witnesses, administer oaths, and take deposition concerning the property, its ownership, amount, nature and value."

"19. **Sixth**, in issuing the NOAs and TDRPs, respondent City Assessor also failed to make the required deductions for the depreciation allowance of five percent (5%) per annum on buildings, in violation too of Section 18 of Ordinance No. 93-78, which provides:

"SECTION 18 – Depreciation Allowance for Buildings and Machinerics – For purposes o assessment, a depreciation allowance shall be made or buildings and machinerics at a rate of five percent (5%) of its original cost or its replacement or reproduction cost as the case may be, for each year of use xxx."

"20. **Seventh**, since the NOAs and the NRTDs are made effective to as far back as 2002, respondent City Assessor and City Treasurer are wrongfully assessing and collecting realty taxes after these became due more than five (5) years ago, in violation of the 5-year prescription period under Section 194 of the Local Government Code and Section 50 of Ordinance No. 93-78, both of which we quote:

"SEC. 194. *Periods of Assessment and Collection.* – (a) Local taxes, fees and charges shall be assessed within five (5) years from the date they became due. No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period xxx."

"SECTION 50. – Periods Within Which to Collect Real Property Taxes – The basic realty property tax and any other tax levied under this Title shall be collected within five (5) years from the date they become due. No action for collection of the taxes, whether administrative or judicial, shall be instituted after the expiration of such tax period. In case of fraud or intend to evade payment of the tax, such action may be instituted for collection thereof within ten (10) years from the discovery of such fraud or intent to evade payment.

"21. **Eight**, (*sic*) the NOAs and NRTDs are at best premature since respondents City Assessor and City Treasurer have not yet acted upon or otherwise resolved the issues raised in the letter-reply dated January 25, 2012 of petitioners' counsel, protesting the assessments and requesting for a reassessment of subject properties and revalidation of petitioners' payment of P15,000,000.00 in settlement of their realty tax liabilities for 2002 to 2011.

"22. **Ninth**, in failing and refusing to reassess petitioners' properties in spite of their request therefor in the letter-reply of January 25, 2012, respondents have also violated the mandates of Section 220 of the Local Government Code an Section 13 (c) of Valenzuela's Ordinance No 93-78, as amended, both of which we quote:

"SEC. 220. *Valuation of Real Property.* – In case where (a) real property is declared and listed for taxation purposes for the first time; (b) there is an ongoing general revision of property classification an assessment; or (c) a request is made by the person in whose name the property is declared, the provincial, city or municipal assessor ... make a classification, appraisal and assessment of the real property listed and described in the declaration irrespective of any previous assessment or taxpayer's valuation thereon xxx."

SECTION 13. Valuation of Real Property – In cases where

xxx

(c) a request is made by the person in whose name the property is declared, the (city) assessor or his duly authorized deputy shall, in accordance with the provisions of this Rule, make a classification, appraisal and assessment of the real property listed and described in the declaration irrespective of any previous assessment xxx."

"23. **Tenth**, since the cover alleged tax liabilities of petitioners as early as 2002, the NOAs an NRTDs to petitioners WL Manufacturing Corporation and Sam Lim Corporation are not valid for, under the compromise agreement embodied in respondent City Treasurer's letter of October 18, 2011, petitioners have already fully paid the amount of P15,000,000.00 in settlement of their realty tax liabilities for 2002 to 2011, subject only to revalidation.

"24. Any claim to the contrary notwithstanding, petitioners' payment of P15,000,000.00 constitutes full settlement of their 2002 to 2011 realty tax liabilities for the following reasons:

'(a) As explained in letter dated January 25, 2012 of petitioners' counsel to the City Administrator and City Legal Officer –

"My clients agreed to pay the P15,000,000.00 since they believed that their total realty tax liabilities do not exceed the said amount. By their own computation (Annex "A" hereof), their realty tax liabilities amount to only **P9,667,829.60, exclusive of interest**. Based on the computation of the R.M. Veluz Accounting Firm in its letter of October 11, 2011 (Annex "B" hereof), it is only **P13,973,970.68, inclusive of interest**. Besides, it was reportedly your advice that if revalidation results in an computation lower than P15,000,000.00, the difference would be "carried over" to the following year as tax credit for my clients."

'(b) Respondents were furnished copies of the letter dated January 25, 2012 of petitioners' counsel to the City Administrator and City Legal Officer, but have not issued any denial or refutation of petitioners' computations to date. And –

'(c) Respondents have not in interested in revalidation of petitioners' payment of P15,000,000.00 since they never bothered to resort thereto.

"25. As a result of the payment of P15,000,000.00 in full settlement of their realty tax obligations for 2002 to 2011, petitioners should not be required to pay any other amount in relation to their letter-replies and this appeal.

"PRAYER

"WHEREFORE, it is respectfully prayed of the Honorable Board that, after notice and hearing, Judgment be rendered –

"1. Annuling and setting aside respondent City Assessor's NOAs and TDRPs;

"2. Annuling and setting aside respondent City Treasurer's NRTDs;

"3. Declaring that petitioners have fully paid their realty tax obligations for the years 2002 to 2011; and

"4. Requiring respondent City Assessor to allow petitioners to present evidence to prove the correct market/assessed values of the subject properties effective 2012, pursuant to Section 220 of the Local Government Code.

"Other reliefs just and proper are also respectfully prayed for.

"Quezon City, for Valenzuela City, March 26, 2012."

10. On May 17, 2012, the LBAA issued the assailed Order, which is quoted hereunder, thus:

"After going over the records of the case, the Board is constraint (*sic*) to deny the Petition pursuant to Rule V, Section 1 of the Rules of Procedure Before the Local Boards of Assessment Appeals, which states:

'Rule V

Appeal to the Local Board

Section 1. Who May Appeal. – Any owner or administrator of real property, or any person having legal interest therein, who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may appeal to the Local Board of Assessment Appeals of the province, city or municipality within the Metropolitan Manila Area, where the property is located. A real property taxpayer who is aggrieved by the decision, action or inaction of the provincial, city or municipal treasurer over excessive realty **tax paid under protest**, or on claim for refund of illegally or erroneously collected real property tax, including special levies on real property, may likewise appeal to the Local Board of Assessment Appeals as provided in this Rule.'

"An examination of the receipts of payment or the offer of payment for the taxes due, nothing would show that petitioners ever made any protest. What is clear therein, is that the petitioners offered the said amounts paid which they presumed to be the subject of a compromise agreement.

"Viewed from the foregoing, the Petition is hereby **Denied**, without prejudice of refiling the same.

"SO ORDERED.

"May 17, 2012. City of Valenzuela.

SGD: "Atty. DALISAY V. SACDALAN
"Chairman

SGD: "Atty. TERESITA R. CAPACILLO
"Member

SGD: "City Prosecutor HILDA F. IBUYAN SGD: "MA. PRACELI S. NELSON
"Member Member"

Hence, the instant Appeal.

On July 4, 2012, ICO-City Treasurer Rosa Irma Alcoran and Acting City Assessor Cecilynn R. Andrade filed jointly their Comment/Opposition by registered mail, which Comment/Opposition reached this Board on July 11, 2012.

On June 13, 2013, Petitioners-Appellants filed with this Board their Memorandum.

On June 14, 2013, Respondents-Appellees, through the City Legal Office of Valenzuela represented by Atty. Teresita R. Capacillo, OIC, City Legal Office, and Atty. Eileen P. Suanding, filed with this Board their joint Memorandum.

On July 4, 2013, Petitioners-Appellants filed their Reply to Appellees' Memorandum with this Board.

On August 2, 2013, Respondents-Appellees' Rejoinder to Petitioners-Appellants' Reply reached this Board.

Paragraphs 13 to 25 of the instant Appeal are a verbatim reproduction of paragraphs 13 to 25 of Petitioners-Appellants' Petition before the LBAA.

Petitioners-Appellants raised the following grounds for their Appeal, thus:

- I. THE LBAA SERIOUSLY ERRED IN DENYING THE PETITION FOR NON-PAYMENT OF REALTY TAX UNDER PROTEST SINCE THE LBAA RULES OF PROCEDURE REQUIRE PAYMENT UNDER PROTEST ONLY IN APPEALS QUESTIONING SOLELY THE DECISION, ACTION OR INACTION OF A LOCAL TREASURER, AND NOT TO APPEALS SUCH AS THE PETITION ASSAILING TOO THE ASSESSMENTS OF A LOCAL ASSESSOR;
- II. THE LBAA SERIOUSLY ERRED IN DENYING THE PETITION FOR NON-PAYMENT OF REALTY TAX UNDER PROTEST SINCE IT IS WELL-SETTLED RULE THAT PAYMENT UNDER PROTEST IS NOT REQUIRED IF THE

TAXPAYER IS CONTESTING THE LEGALITY OF THE ASSESSMENT ITSELF;
AND –

- III. THE LBAA SERIOUSLY ERRED IN DENYING THE PETITION FOR NON-PAYMENT OF REALTY TAX UNDER PROTEST SINCE THE LBAA RULES OF PROCEDURE REQUIRE THAT APPEALS MAY BE ENTERTAINED BUT THE HEARING SHALL BE DEFERRED TILL THE TAXES ARE PAID OR THE PETITIONER FILES A SURETY BOND.

Attached to Petitioners-Appellants' Petition before the LBAA are/were, among others, the following Annexes, to wit:

1. Annex "A" – Respondent City Treasurer's letter dated October 18, 2011 addressed to Petitioners-Appellants;
2. Annex "B" – City Administrator/OIC City Legal Officer's letter dated January 12, 2012 addressed to Petitioners-Appellants;
3. Annex "C" – Petitioners-Appellants' letter-reply dated January 25, 2012 addressed to the City Administrator/OIC City Legal Officer; and
4. Annex "J" – Petitioners-Appellants' letter-reply dated February 20, 2012 addressed to respondent City Treasurer.

All of the above-listed Annexes or letters involved communications between the Petitioners-Appellants, on one hand, and the Treasurer and/or Administrator/Legal Officer of Valenzuela City, on the other. None of them was or is from or to the respondent City Assessor.

After "going over" the above-listed annexes, the LBAA might have been misled into believing that the Petitioners-Appellants' appeal/petition was primarily, nay, solely, against the City Treasurer under the provisions of Section 252 of R.A. 7160, otherwise known as the Local Government Code of 1991 ("LGC").

A reading of paragraphs 13 to 25 of the appeal/petition, however, would reveal that Petitioners-Appellants questioned, not only the realty taxes embodied in the Notices of Realty Tax Deficiency

(NRTDs), but also the assessments as embodied in the Tax Declarations attached to the Notices of Assessments.

There seems to be a confusion over the provisions of Sections 226 and 252, which are quoted hereunder, thus:

"SEC. 266. *Local Board of Assessment Appeals.* - Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from the date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal."

"SEC. 252. *Payment Under Protest.* - (a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest". The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within the Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.

(b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.

(c) In the event that the protest is finally decided in favour of the taxpayer, the amount of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.

(d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code."

As contemplated under Section 226, the term "Assessment" is "the act or process of determining the value of property, or portion thereof subject to tax, including the discovery, listing, classification, and appraisal of properties."¹³ This act or process of assessment is the duty and function of the assessor.

Section 252, above-quoted, does not exactly lay out the "grounds" or "reasons" under or for which any protest may be lodged

¹³ Section 199(f), *ibid.*

against the treasurer. It would, however, be quite absurd and unfair to blame or condemn the treasurer for the actions of the assessor.

As stated, the assessor has the sole duty and responsibility to make assessments of real property. Upon the other hand, the treasurer is responsible for the collection of the real property taxes based on the assessments made by the assessor.¹⁴ To arrive at the tax due on an assessment, the treasurer merely "calculates" the tax due thereon by applying the rates (approved by the sanggunian concerned) to the assessed value as determined by the assessor. The treasurer does not take notice of the assessment until the assessor furnishes the treasurer with the assessment roll.¹⁵

The provisions of Section 252 of the LGC, therefore, would apply only in a case where the taxpayer-appellant believes that the **assessment made by the assessor is satisfactory or correct**, but that the **treasurer's computation or calculation of the tax due thereon is erroneous or illegal**.

Although Petitioners-Appellants are questioning the realty taxes computed or calculated by the treasurer, the latter is not the primary or principal respondent in this case. The proximate cause of Petitioners-Appellants' appeal was the action of the City Assessor in the assessment of subject properties. If the assessments were later on adjudged to be illegal or erroneous, such judgment would be enforced against the assessor first. Unless the assessments are

¹⁴ Section 247, R.A. 7160

¹⁵ Section 248, *ibid.*

changed as to assessed and taxable values, the treasurer is obligated to do his duty.

In light of the provisions of Section 252(d) and, for that matter, Section 253, par. 2 of the LGC, the provisions of Section 226 thereof should be read as follows:

"SEC. 226. *Local Board of Assessment Appeals.* - Any owner or person having legal interest in the subject property (a) who is not satisfied with the action of the assessor in the assessment of his property, or (b) who is not satisfied with the action or inaction of the treasurer on his claim for refund or credit of taxes paid under protest, or (c) who is not satisfied with the action or inaction of the treasurer on his claim for refund or credit of taxes paid but found to be illegal or erroneous by competent authority, may appeal to the Local Board of Assessment Appeals of the province or city, or municipality within the Metropolitan Manila Area, where the subject property is situated, within the following periods:

(a) If the subject matter of the appeal is the perceived error or errors in the assessment of the property concerned, the appeal to the Local Board of Assessment Appeals, with the concerned assessor as the respondent, shall be filed within sixty (60) days from the appellant's receipt of the written notice of assessment from the assessor; or

(b) If the subject matter of the appeal is the denial by the treasurer of a claim for refund or credit of realty taxes paid under protest, without questioning the validity or correctness of the assessment made by the assessor, the appeal shall be filed with the Local Board of Assessment Appeals, with the treasurer as the respondent, within sixty (60) days after appellant's receipt of the written notice from the treasurer denying the claim, if such denial is made by the treasurer within sixty (60) days after the treasurer's receipt of the claim for refund or credit; or, if the treasurer fails to act on the claim within sixty (60) days from his receipt thereof, the appeal shall be filed with the Local Board of Assessment Appeals within sixty (60) days after the lapse of sixty (60) days from the date the claim was filed with the treasurer; or

(c) If the appeal refers to the denial by the treasurer of a claim for refund or credit of realty taxes, or any other tax levied under Title Two, Book II of R.A. 7160, paid but later found to be illegal or erroneous by competent authority, the appeal shall be filed with the Local Board of Assessment Appeals, with the treasurer as the respondent, within sixty (60) days after appellant's receipt of the written notice from the treasurer denying the claim, if such denial is made by the treasurer within sixty (60) days after the treasurer's receipt of the claim for refund or credit; or, if the treasurer fails to act on the claim within sixty (60) days from his receipt thereof, the appeal shall be filed with the Local Board of Assessment Appeals within sixty (60) days after the lapse of sixty (60) days from the date the claim was filed with the treasurer."

The LBAA does not have the right to refuse to entertain an appeal filed with it on the ground that the appellant neither paid

under protest the corresponding realty tax nor filed a formal protest with the treasurer. It is the treasurer who is expressly prohibited from entertaining a formal claim for refund or credit for realty taxes paid under protest. Unless, a denial by the treasurer of a claim for refund of realty taxes paid under protest is actually appealed to the LBAA, the latter has no business being concerned as to whether or not the appellant has paid under protest the corresponding realty tax and a formal claim for refund or credit therefor has been filed with the treasurer.

In a formal hearing of this case before this Board in the afternoon of April 16, 2013, Atty. Heraldo A. Dacayo, Jr., counsel for the Petitioners-Appellants; Atty. Eileen P. Suanding, Counsel for Respondent-Appellee Valenzuela City; and Ms. Adelia E. Soriano, ICO Office of the City Treasurer, Valenzuela City, appeared. During that hearing, where the respondent City Assessor was noticeably absent, the following interaction transpired:¹⁶

"COMM. GEOTINA	:	These industrial lots, do any of these lots contain any buildings?
ATTY. DACAYO	:	Ah.
MS. SORIANO	:	Meron, meron. Meron po, meron din po.
ATTY. DACAYO	:	No, kasama raw ba...
MR. SORIANO	:	Kasi undeclared. The buildings were undeclared. Pero yung dalawang lote kasama dun sa...
ATTY. DACAYO	:	Ah undeclared.
COMM. MONTENEGRO	:	Undeclared yung building?

¹⁶ TSN, April 16, 2013, pp. 24-30.

ATTY. SUANDING : Yes, Your Honor, undeclared. Undeclared po yun. Na search ko po yun sa google.

ATTY. DACAYO : It's not among the 17 or 19 na pinag-aawayn natin dito?

ATTY. SUANDING : Including.

ATTY. DACAYO : Ha.

COMM. GEOTINA : Excuse me, excuse me..

ATTY. SUANDING : Included ho yun.

COMM. GEOTINA : Just for the record and for the information of Board...

COMM. MONTENEGRO : Undeclared so the back taxes...

COMM. GEOTINA : What are the sized of these buildings?

ATTY. SUANDING : Sizes?

ATTY. DACAYO : Varied.

ATTY. SUANDING : The problem here sir is, WL refused to accommodate the representatives of the City Assessor.

ATTY. DACAYO : Debatable yan. That is a question of fact. Sa amin, ang alam naming we invited them...

ATTY. SUANDING : After.

ATTY. DACAYO : ...we allow them...

ATTY. SUANDING : After the compromise but before that we understand that they were refused. The representatives from the City Assessor were refused the entrance.

ATTY. DACAYO : So dapat cured na yun dun sa...

ATTY. SUANDING : So the option of the city was through google. We they had accommodated them, wala sanang problema yung area, this is second story.

ATTY. DACAYO : Ah ganun?

MS. SORIANO : Meron kasing mga undeclared properties at saka re-assessment, yung re-assessment at saka undeclared.

ATTY. DACAYO : Hindi ko na alam yan, but the **fact is they** were allowed subsequently.

COMM. GEOTINA : Do you have the measurement on this?

MS. SORIANO : Wala po ditto.

COMM. GEOTINA : What about the floor area?

MS. SORIANO : Wala din po.

ATTY. DACAYO : Meron kaming materials that will...

MS. SORIANO : Sa City Assessor po kasi yun.

ATTY. DACAYO : Ah.

MS. SORIANO : Ang sa akin lang po ay yung computation, computation po ng kanilang...

ATTY. DACAYO : We have documents mas complete. Our document will describe what kind of building it is, is it pure concrete, di ba may plus plus pa? Dun yata nag kakatalo ngayon.

MS. SORIANO : Nasa Assessors's office po yun.

ATTY. DACAYO : Ah nasa assessor's office.

MS. SORIANO : Sa assessor's office po ginawa yun.

ATTY. SUANDING : Kasi sir may fault din po kasi kayo. Ayaw nyong papasukin, so paano...

ATTY. DACAYO : You said that earlier, pero I think that should have been cured by this subsequent development that they were allowed in.

ATTY. SUANDING : I think we were only be allowed, di ba meron...

ATTY. DACAYO : Yes. In fact, I have a letter to you, I think former treasurer and the assessor saying that "give us a copy of your findings because we allowed your Engineer", so and so and another one to enter into the property and inspect but "where is our copy of their report?", gumanun pa nga ako.

COMM. GEOTINA : So just for the record the parties agree on the subject matter, the particular building, the number of buildings and sizes, and the location of each particular building. So you're only dispute is...

ATTY. DACAYO : The legality. Are there violations of laws? Yun lang naman."

From the foregoing, it can be gleaned that Respondent City Assessor relied on Google images in the assessments of the subject buildings without actual or physical inspection. Building Permits and Certificates of Occupancy issued by the Building Official were not even considered. These documents could have shown data as to estimated costs of the buildings and when they were occupied.

The assailed Order itself is a nullity. Atty. Teresita R. Capacillo, the counsel of respondents-appellees in her capacity as the Legal Officer/Administrator of Valenzuela City, signed the assailed Order of the LBAA as the second of the four (4) members of the same Board. Nowhere in the provisions of Section 227 of the LGC is it provided that a local board shall be composed of four (4) members and that one of them must be the legal officer and/or administrator of the province or city concerned.

Therefore, to avert a miscarriage of justice, it is imperative that this case be remanded to the LBAA concerned for trial on the merits.

WHEREFORE, the Order of the Local Board of Assessment Appeals for the City of Valenzuela dated May 17, 2012 is hereby VACATED.

O R D E R

Accordingly, it is hereby ORDERED that the records of this case be remanded to the said Local Board and the same Board is hereby ORDERED to conduct a formal hearing of this case as soon thereafter.

SO ORDERED.

Manila, Philippines, August 12, 2013.

SIGNED
OFELIA A. MARQUEZ
Chairman

ABSTAINED
ROBERTO D. GEOTINA
Member

SIGNED
CAMILO L. MONTENEGRO
Member