



Republic of the Philippines
CENTRAL BOARD OF ASSESSMENT APPEALS
Manila

MR. EDGARDO T. RODRIGUEZ,
Petitioner-Appellant,

CBAA CASE NO. V – 25A

-versus-

THE LOCAL BOARD OF ASSESSMENT
APPEALS OF LA CARLOTA CITY,
Appellee,

-and-

THE CITY ASSESSOR OF LA CARLOTA
CITY,
Respondent-Appellee.

X-----X

D E C I S I O N

Appellant Eduardo T. Rodriguez filed a petition with the Local Board of Assessment Appeals of the City of La Carlota (the “Local Board”) on March 13, 2006 questioning the assessment of the poultry site of Lot No. 11-B-2 covered by Transfer Certificate of Title No. T-5505 and situated at Bgy. Haguimit, La Carlota City. The Local Board, on July 3, 2006, disposed of the said petition by saying:

“WHEREFORE, based on the foregoing provision of law and ruling of the Central Board of Assessment Appeals, this Honorable Board could not proceed with the hearing of petition unless the tax due is paid by the Petitioner.”

On August 22, 2006, Appellant appealed to this Board (Central Board of Assessment Appeals), assigning the following issues to be resolved:

“1. Whether or not the re-assessment on the subject property by the City Assessor of La Carlota City is illegal; and

“2. Whether or not payment under protest should be made a condition precedent for the exercise of the right of herein Appellant to question the assessment made by the City Assessor of La Carlota City before the Local Board of Assessment Appeals.”

This Board did not discuss the merits of the first issue since the Local Board, in its Order appealed from, chose not to hear the petition before it.

On the second issue, however, this Board, in a Resolution dated October 4, 2006, ruled that, since the appeal was one taken under the provisions of Section 226 of R.A. 7160 – not under the provisions of Section 252 of the same Code – the hearing of the petition may proceed without requiring Appellant to first pay the taxes due as assessed by the City Assessor. In the same Resolution this Board said:

“WHEREFORE, the Secretary of this Board is hereby instructed to remand the complete records of this case, together with a copy of this Resolution, to the Local Board of Assessment Appeals of La Carlota City. The same Local Board is hereby ORDERED to hear petitioner’s appeal thereat on its merits, without requiring Mr. Eduardo T. Rodriguez to first pay the taxes on the questioned assessment.”

In its Resolution dated May 19, 2008, the Local Board of Assessment Appeals of the City of La Carlota concluded that:

“WHEREFORE, in view of the foregoing, the instant petition is hereby DISMISSED for failure of the petitioner to present substantial and competent evidence to overcome the legal presumption of regularity and correctness of the City Assessor of La Carlota (on the) questioned assessment of the subject property.”

Hence, the instant Appeal by Petitioner dated July 9, 2008 and received by this Board on July 21, 2008 where the Petitioner presents the following issues, viz:

1. Whether or not the re-assessment on the subject property by the City Assessor of La Carlota is unreasonable, unjust or illegal; and
2. Whether or not the Hon. Local Board of Assessment Appeals correctly dismissed the Petition filed by herein Appellant questioning the re-assessment made by the City Assessor of La Carlota City.

The second issue is quite unnecessary since it is tied up with the first. If the questioned assessment is incorrect, it follows that the decision of the Local Board is also incorrect.

Anent the first issue, Petitioner-Appellant argues that the authority bestowed on the Respondent-Appellee City Assessor of La Carlota City Ordinance No. 001, Series of 1993 and No. 082, Series of 1999 were arbitrarily exercised by the City Assessor since such ordinances do not specifically provide for poultry farms and the base unit market value used by the City Assessor for

the poultry site of Appellant is for a “per square meter” basis, not on a “per hectare” basis as provided for under the Local Assessment Regulations No. 1-92 of the Department of Finance; that there were no public hearings on the schedule of fair market values before the enactment of the said ordinances; and that the new assessment effective in the year 2006 is supported by Ordinance No. 007, Series of 2005 which did not also comply with the procedure laid down by law.

Petitioner-Appellant prays that the Resolution of the Local Board of Assessment Appeals of the City of La Carlota dated May 29, 2008 be reversed and the assessment and/or reassessment of the City Assessor of La Carlota City be declared null and void.

In his comment/answer to Appellant’s petition, Respondent City Assessor of La Carlota said that the subject property was assessed on the basis of the general provisions of Ordinance Nos. 1, Series of 1993, and 082, Series of 1999, which categorically state:

“As far as practically applicable, this Schedule of Fair Market Value is controlling, but where the property to be appraised and assessed is of a kind not classified in this Schedule, or of a kind where a value is not herein fixed, the same shall be appraised at the current fair market value prevailing, independent of this schedule, and assessed for taxation purposes in accordance with the provisions of Republic Act No. 7160, its implementing Rules and Regulations and Local Assessment Regulations No. 1-92 dated October 6, 1992 of the Department of Finance.

“Urban Land shall include not only lands actually used for urban purposes but also those which, by reason of their location within a contiguous urban area, should properly be considered as such. The fact that such lands are actually used for agricultural purposes does not preclude them to be urban lands. The best use to which such lands maybe utilized should determine their classification as agricultural or urban lands. And further, lands adjacent to subdivision or residential zone, or commercial and government centers, or religious and educational institutions, due to its accessibility and potentiality, although utilized for agricultural, shall be considered as SPECIAL and shall be valued independently of this schedule, depending upon the prevailing market value as determined by the Assessor, or a case to case basis but not lower than the value of raw lands in the locality.”

On the strength of the above-quoted provisions of La Carlota City’s Ordinance Nos. 1, Series of 1993, and 082, Series of 1999, Respondent City Assessor assessed the poultry site (consisting of 5,000 square meters) of

subject property by estimating its value by using the "Income Capitalization Approach" outlined under Section 21(B) of Local Assessment Regulations No. 1-92 issued by the Department of Finance on October 6, 1992, thus:

INCOME CAPITALIZATION OF POULTRY FARM
As of 1997

Average Annual Production per Hectare:		
No. of Poultry Sheds/Ha.	10	
No. of Heads/Shed	<u>5,000</u>	
No. of Heads/Ha./Cropping	50,000	
No. of Crops/Year	<u>5</u>	
No. of Heads/Ha./Year	250,000	
Survival Rate (1 st Class)	<u>95%</u>	
No. of Live Chicken/Year	237,500	
Price/Chicken (1 kl each)	<u>P 35.00</u>	
ANNUAL GROSS INCOME		<u>P8,312,500.00</u>
LESS: COST OF PRODUCTION:		
A) Cost of 250,000 Chicks (@P12 each)		P3,000,000.00
B) Veterinary Services:		
Technician		
Light & Water		
Feeds & Supplements		
Caretakers (10 persons)	3,456,285.00	
C) Cost of Poultry Sheds, Equipment		
@ P150,000/shed	<u>1,500,000.00</u>	
TOTAL COST OF PRODUCTION		<u>P7,956,285.00</u>
NET INCOME		P 356,215.00 =====

RATE OF CAPITALIZATION

$$\text{RETURN OF INVESTMENT (ROI)} = \frac{100}{3 \text{ YRS}} = 33.33\% \text{ Per Year}$$

$$\text{ROC} = \frac{\text{NITO}}{\text{ROI}} = \frac{\text{P}356,215.00}{33.33\%} = \text{P}1,068,751.88 \text{ or } \text{P}1,068,750.00$$

$$\text{Base Profit/chick} = \frac{\text{P}1,068,750.00}{237,500 \text{ chickens}} = \text{P}4.50$$

Classification	Ave. Annual Production		Base Profit Per Kg	Market Value	
				Per Hectare	Per Sq. M.
1 st Class 95%	237,500	x	P4.50	= P1,068,750.00	= P110.00
2 nd Class 80%	200,000	x	P4.50	= P 900,000.00	= P 90.00
3 rd Class 70%	175,000	x	P4.50	= P 797,500.00	= P 80.00

INCOME CAPITALIZATION OF POULTRY FARM
As of 2000 & 2003

Average Annual Production per Hectare:	
No. of Poultry Sheds/Ha.	10
No. of Heads/Shed	<u>5,000</u>

No. of Heads/Ha./Cropping	50,000	
No. of Crops/Year	<u>5</u>	
No. of Heads/Ha./Year	250,000	
Survival Rate (1 st Class)	<u>95%</u>	
No. of Live Chicken/Year	237,500	
Price/Chicken (1 kl each)	<u>P 45.00</u>	
ANNUAL GROSS INCOME		<u>P10,687,500.00</u>
LESS: COST OF PRODUCTION:		
D) Cost of 250,000 Chicks (@P15 each)	P3,750,000.00	
E) Veterinary Services:		
Technician		
Light & Water		
Feeds & Supplements		
Caretakers (10 persons)	4,270,900.00	
F) Cost of Poultry Sheds, Equipment		
@ P200,000/shed	<u>2,000,000.00</u>	
TOTAL COST OF PRODUCTION		<u>P10,020,900.00</u>
NET INCOME		P 666,600.00
		=====

RATE OF CAPITALIZATION

$$\text{RETURN OF INVESTMENT (ROI)} = \frac{100}{3 \text{ YRS}} = 33.33\% \text{ Per Year}$$

$$\text{ROC} = \frac{\text{NITO}}{\text{ROI}} = \frac{P666,600.00}{33.33\%} = P2,000,000.00$$

$$\text{Base Profit/chick} = \frac{P2,000,000.00}{237,500 \text{ chickens}} = P8.42$$

Classification	Ave. Annual Production	Base Profit Per Kg	Market Value	
			Per Hectare	Per Sq. M.
1 st Class 95%	237,500	x P8.42	= P1,999,750.00	= P200.00
2 nd Class 80%	200,000	x P8.42	= P1,684,000.00	= P170.00
3 rd Class 70%	175,000	x P8.42	= P 1,473,500.00	= P150.00

The entirety of the subject property was assessed by Respondent City

Assessor as follows:

Classification	Area	Market Value Per Hectare	Actual Fair Market Value	Assessment Level	Assessed Value
Effective 1998:					
Agricultural	2.8246 ha.	P 93,000.00	P 262,687.80	30%	P 78,806.34
Poultry Site	0.500 ha.	900,000.00	<u>450,000.00</u>	30%	<u>135,000.00</u>
Totals			P 712,687.80		P 213,806.34
			=====		=====
Effective 2000:					
Agricultural	2.8246 ha.	P 78,523.53	P 221,797.56	20%	P 44,359.51
Poultry Site	0.500 ha.	2,000,000.00	<u>1,000,000.00</u>	20%	<u>200,000.00</u>
Totals			P1,221,797.56		P 244,359.51
			=====		=====

Effective 2003:

Agricultural	2.8246 ha.	P 78,523.53	P 221,797.56	25%	P 55,449.39
Poultry Site	0.500 ha.	2,000,000.00	<u>1,000,000.00</u>	25%	<u>250,000.00</u>
Totals			P1,221,797.56		P 305,449.39
			=====		=====
Effective 2006:					
Agricultural	2.8246 ha.	P 78,523.53	P 221,797.56	25%	P 55,449.39
Poultry Site	0.500 ha.	2,000,000.00	<u>1,000,000.00</u>	25%	<u>250,000.00</u>
Totals			P1,221,797.56		P 305,449.39
			=====		=====

Likewise, the market value of the creek, sugar land and vacant portions of subject property were arrived at by using the "Income Capitalization" approach.

Respondent City Assessor admits that the market value per of poultry sites in both Bago City and the Province of Negros Occidental as of 2000-2003 was only P250,000.00 per hectare while that for poultry sites in La Carlota City, as the poultry site of Appellant, was P2,000,000.00 per hectare. However, Respondent justifies the disparity by showing the then prevailing market price of each harvested chicken which were P5.625 in both Occidental and Bago City, compared P45.00 in La Carlota City.

The main objections of Petitioner-Appellant are: (1) That the applicable ordinances of La Carlota City do not specifically provide for poultry farms; (2) That the base unit market value used by Respondent City Assessor for the poultry site of Petitioner is for a "per square meter" basis, not on a "per hectare" basis as provided for under the Local Assessment Regulations No. 1-92 of the Department of Finance; and (3) That there was no public hearings on the schedule of fair market values before the enactment of the said ordinances.

As to item No. (1) above, although the said ordinances of La Carlota City did not specifically provide for assessment of poultry farms, the third "Whereas" of Ordinance No. 082 did mention the provisions of Section 215 of R.A. 7160 wherein it is provided that, "for purposes of assessment, real property shall be classified as residential, agricultural, commercial, industrial, mineral, timberland,

or special. It is duly noted that the poultry site portion of subject property was assessed at the same level as the other portions of the same property.

As to item No. (2) above, as shown on pages 4 to 6 hereof, the values for the poultry site were computed on a “per hectare” basis before they were reduced on a “per square meter” basis. One (1) hectare consists of ten thousand (10,000) square meters and, therefore, five thousand (5,000) square meters (area of the poultry site) are equal to one-half (1/2) of one (1) hectare. Take, for example, the market value arrived at as of 1997 was P900,000.00 per hectare. Whether the value is expressed on a “per hectare” basis or on a “per square meter” basis, the total market value would still be the same, P450,000.00.

As to Item No. (3), Section 212 of R.A. 7160 provides thus:

“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 fair market values by the provincial, city and the municipal assessors of the municipalities within the Metropolitan Manila Area for the different classes of real property situated in their respective local government units for enactment by ordinance of the sanggunian concerned. The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in tow other conspicuous places therein.”

As it is, it does not really matter whether or not public hearings were conducted on the schedules of fair market values before they were enacted by ordinances by the sanggunian of La Carlota City. The law does not require such hearings.

Petitioner-Appellant states that “the assessment on the subject property by the City Assessor of La Carlota City is unreasonable, unjust or illegal” but offers no evidence sufficient to disturb the decision of the Local Board. Petitioner-Appellant does not even suggest some insight as to what value of the subject property is reasonable, just or legal.

WHEREFORE, premises considered, the instant appeal of Mr. Eduardo T. Rodriquez is hereby DISMISSED for lack of merit.

SO ORDERED.

Manila, Philippines, October 10, 2008.

(Signed)

CESAR S. GUTIERREZ
Chairman

(Signed)

ANGEL P. PALOMARES
Member

(Signed)

RAFAEL O. CORTES
Member