

Republic of the Philippines
CENTRAL BOARD OF ASSESSMENT APPEALS
Manila

CJH DEVELOPMENT CORPORATION,
Petitioner-Appellant,

-versus-

HON. ADELINA A. TABANGIN, in her
capacity as CHAIRMAN OF THE BOARD
OF TAX (ASSESSMENT) APPEALS OF
BAGUIO CITY,

CBAA CASE NO. L-37

Appellee,

-and-

HON. ESTRELLA B. TANO, in her
capacity as the CITY ASSESSOR of the
CITY OF BAGUIO,

Respondent-Appellee.

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R E S O L U T I O N

Petitioner-Appellant, CJH Development Corporation filed an Appeal before Appellee, Local Board of Assessment Appeals (LBAA) of Baguio City against the Assessment made by Respondent-Appellee City Assessor of Baguio, on Petitioner-Appellant's various buildings and two (2) parcels of land owned by the Bases Conversion and Development Authority in the Camp John Hay Special Economic Zone, Baguio City, leased out to Petitioner-Appellant. Petitioner-Appellant claims exemption therefrom, under R.A. 7227, otherwise known as the Bases Conversion and Development Act of 1992. In its Resolution, dated July 12, 2002, Appellee Local Board deferred hearing of said Appeal pending compliance by Petitioner-Appellant with Section 7, Rule V of the Rules of Procedure of the Local Boards of Assessment Appeals to wit:

“An appeal shall not suspend the collection of the corresponding realty taxes on the real property subject of the appeal as assessed by the provincial, city or municipal assessor, without prejudice to subsequent adjustment depending upon the outcome of the appeal. An appeal may be entertained but the hearing thereof shall be deferred until the corresponding taxes due on the real property subject of the appeal shall have been paid under protest or the petitioner shall have given a surety bond, subject to the following conditions:

(1) the amount of the bond must not be less than the total realty taxes and penalties dues as assessed by the assessor nor more than double said amount;

(2) the bond must be accompanied by a certification from the Insurance Commissioner (a) that the surety is duly authorized to issue such bond; (b) that the surety bond is approved by and registered with said Commission; and (c) that the amount covered by the surety bond is within the writing capacity of the surety company; and

(3) the amount of the bond in excess of the surety company's writing capacity, if any, must be covered by Reinsurance Binder, in which case, a certification to this effect must likewise accompany the surety bond."

Followed up by a Motion for Reconsideration, the same was "dismissed for lack of merit", on September 20, 2002, hence this Appeal.

Before this Board Petitioner-Appellant raised the following:

"I. Whether or not the Appellee Board of Tax Appeals, in its Resolutions dated 12 July 2002 and 20 September 2002, has legal basis to defer the hearing of the appeal and require the Petitioner-Appellant to first pay the alleged corresponding taxes due on the real property.

"II. Whether or not the Respondent-Appellee Estrella B. Tano has legal basis to issue against the Petitioner-Appellant the subject Assessments with Serial Nos. 01-07040-008887 to 01-07040-008922 for real property taxation of the buildings of the Petitioner-Appellant, a tax-exempt entity, or land owned by the Bases Conversion and Development Authority under lease to the Petitioner-Appellant."

Anent the first issue above-raised: Appellee Local Board's Decision to defer hearing of the case pursuant to the Rules of Procedure before the Local Boards of Assessment Appeals is merely contingent upon the mandate of the law and consistent with the long line of Decisions rendered by this Board on such issue. Petitioner-Appellant's contention, citing Se. 226 of the Local Government Code of 1991 (R.A. 7160), that because its Appeal merely involves contested assessments hence, not subject to the requirement of prior payment, is untenable. The governing provision thereto is Sec. 231 of R.A. 7160 (infra)—not Sec. 226 thereof. Take the case of Manila Electric Company vs. The Provincial Assessor of Batangas and the Provincial Board of Assessment Appeals of Batangas in CBAA Case No. 10, June 06, 1975—this Board declared:

"X x x the present appeal is one from the Provincial Board of Assessment Appeals to this Board, filed under and pursuant to P.D. No. 76 which x x x contains the following provisions:

'The appeal, (referring to appeals to the Provincial or City Board of Assessment Appeals and to the Central Board of Assessment Appeals) however, shall not suspend the collections of the corresponding realty taxes as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal' (3rd par., No. 7)

This provision is explicit and self-explanatory: Collection of the realty taxes as assessed by the provincial or city assessor shall not be suspended by an appeal filed thereunder. X x x. We believe that any other interpretation would defeat or nullify this provision-for if the appeal were entertained without requiring the protestant-appellant to pay the realty tax as assessed by the provincial or city assessor the effect would be that the appeal will have suspended the collection of the said tax, contrary to the express mandate of said provision."

In the ensuing case of Fortune Cement Corporation vs. the Board of Assessment Appeals of Batangas Province and the Provincial Assessor of Batangas, (CBAA Case No. 69, July 06, 1976), this Board asserted:

"X x x, We maintain that as previously ruled in the Manila Electric Company case (CBAA Case No. 10), the realty taxes due on the property as assessed by the Assessor should first be paid before the appeal may be entertained."

The more recent case of Maxon Systems (Phils.), Inc. vs. Board of Assessment Appeals of the Province of Cavite, et al, (CBAA Case No. L-05, August 15, 1994), posited the following:

"The pertinent provision of P.D. 464 provides as follows:

'Sec. 37. Effect of Appeals on the Payment of Real Property Tax. – Appeals on assessment of the real property made under the provisions of this Code shall, in no case suspend the collection of the corresponding realty taxes on the property involved as assessed by the Provincial or City Assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.'

"Comparably, Section 231 of the Local Government Code of 1991 which law repealed P.D. 464 is a mere reproduction of Section 37 of P.D. 464, viz:

'Sec. 231. Effect of Appeal on the Payment of Real Property Tax. – Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal.'

"In application of Section 37 of P.D. 464, this Board had established the following ruling:

"We maintain that as previously ruled in the Fortune Cement case (CBAA CASE NO. 69) the realty taxes due on the property as assessed by the assessor should first be paid before the appeal may be entertained.'

"The Supreme Court in the cases of Collector vs. Avelino (100 Phils. 327) [1956] and Collector vs. Reyes (100 Phils. 822) [1957] opined that 'if the collection of the tax would jeopardize the interest of the taxpayer, the Court may at any stage of the proceedings require the taxpayer either to deposit the

amount claimed or file a surety bond for not more than double the amount with the Court.”

As above-shown, the law providing for real property assessment and taxation has indeed undergone one repeal after another. Significantly, however, the requirement for the collection of the real property tax, pending litigation, suffered no essential change. The alternative is to file a surety bond in lieu of the required cash payment, as provided for under Sec. 7, Rule V, Rules of Procedure before the Local Boards of Assessment Appeals (*supra*). The surety bond should be filled with the LBAA of Baguio City which shall approve the same. This is borne out by such cases as: *Fortune Cement Corporation vs. Board of Assessment Appeals of Batangas* (CBAA Case No. 69, September 29, 1976); *German B. Arañez, Inc., vs. Board of Assessment Appeals of Eastern Samar* (CBAA Case No. 92, June 29, 1977); *Maxon Systems (Phils.), Inc., vs. Board of Assessment Appeals of the Province of Cavite* (CBAA Case No. L-05, August 15, 1994). The Rulings in all these cases are one with each other, with Sec. 7, Rule V, Rules of Procedure of the Local Boards of Assessment Appeals and with law.

The second issue (*supra*), has not yet been proceeded by the Board below hence, it cannot pass upon jurisdiction to the Central Board of Assessment Appeals.

This Board cannot simply ignore the Decision it previously rendered on self-same issue and identical situation and disregard the principle of *stare decisis*. This Board must abide and adhere to decided cases, especially, and more so, when such decisions emanate from the Board itself.

WHEREFORE, the Resolution appealed from is hereby Set Aside and the case Remanded to the Local Board of Assessment Appeals of Baguio City for further proceedings subject to a full and up-to-date payment of the realty taxes on subject properties as assessed by Respondent-Appellee, City Assessor of Baguio City, either in Cash or Bond as required.

SO ORDERED.

Manila, Philippines, May 23, 2003.

(Signed)
CESAR S. GUTIERREZ
Chairman

(Signed)
ANGEL P. PALOMARES
Member

VACANT
Member