



Republic of the Philippines
CENTRAL BOARD OF ASSESSMENT APPEALS
Manila

BAY RESOURCES AND
DEVELOPMENT CORPORATION,
Petitioner-Appellant,

-versus-

CBAA CASE NO. L-54
(LBAA Case No. 2003-06)
City of Parañaque

THE LOCAL BOARD OF ASSESSMENT
APPEALS OF THE CITY OF
PARAÑAQUE,
Appellee,

-and-

THE CITY ASSESSOR AND
TREASURER OF PARAÑAQUE CITY,
Respondents-Appellees.

X-----X

ORDER

This is an appeal by petitioner-appellant Bay Resources and Development Corporation (BRADCO), against the Resolution of the Local Board of Assessment Appeals (LBAA) of the City of Parañaque, Appellee, rendered as follows:

“For consideration of this Board is an appeal on the Assessment made by the Assessor of Parañaque involving real properties under Tax Declaration Nos. E-015-06724 and E-015-06725.

This instant appeal is denied.

Basically, this appeal is an appeal on the assessments and/or tax declarations prepared by the Assessor of Parañaque in 1996.

Section 226 of the R.A. 7160 provides: 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 the copies of the tax

declarations and such affidavits or documents submitted in support of the appeal.

The appellant appears to have made no such an appeal within the sixty (60) day period as provided by the abovequoted provision of R.A. 7160.

Wherefore, this appeal is hereby denied.”

Petitioner-Appellant assigned the following errors:

I

THE LOCAL BOARD OF ASSESSMENT APPEALS ERRED IN DISMISSING THE APPEAL BASED SOLELY ON TECHNICALITIES

II

THE LOCAL BOARD OF ASSESSMENT APPEALS ERRED IN NOT ALLOWING THE SET-OFF OF THE AMOUNT DUE FOR THE 1ST AND 2ND QUARTERS OF THE YEAR 2003 WITH THE REMAINING AMOUNT OF PENDING REFUND CLAIMS FOR OVERPAID REALTY TAXES”

A jurisdictional issue, prescription is bound to be resolved first in deference to any other issue. At the Hearing held on January 26, 2005, the parties maintained that a Memorandum is more compliant to that effect, so that both petitioner-appellant and respondents-appellees manifested that they will simultaneously submit their respective Memoranda within thirty (30) days therefrom: This was complied with accordingly.

Petitioner-Appellant’s contention is as follows:

“Petitioner-Appellant respectfully submits that respondent-appellee’s reliance on the provisions of Section 226 is totally misplaced. As aptly worded, Section 226 refers to the action of the provincial, city or municipal assessor. The said provision does not apply to protest on tax delinquency notices from the city treasurer.

Petitioner-appellant’s contentions finds basis on the provisions of the Implementing Rules and Regulations of the Local Government Code of 1991 which provide that in the event the protest of the taxpayer is denied by the city treasurer or in case the City Treasurer failed to act on the protest within sixty days from receipt, the taxpayer may avail of the remedies provided in Article 317 (not 318) and 321 of the Implementing Rules.

Article 317 of the Implementing Rules grants a taxpayer a period of sixty days within which to elevate its grievance to the Local Board of Assessment Appeals. Thus, considering that respondent-appellee City Treasurer's denial of the protest dated 9 September 2003 was received by petitioner-appellant on 17 September 2003, petitioner-appellant, therefore, has sixty-days from 17 September 2003 or until November 16, 2003 within which to appeal to respondent Local Board of Assessment Appeals following the mandate of Article 317 of the Implementing Rules.

It must be emphasized that petitioner's appeal to the respondent-appellee Local Board of Assessment Appeals arose from the denial of petitioner-appellant's protest by respondent-appellee City Treasurer and not by the City Assessor. Clearly, therefore, the provisions of the Implementing Rules on decisions of the City Treasurer applies and not Section 226 as the latter pertains to the action of the provincial, city or municipal assessor."

Apropos, the Resolution of Appellee Local Board is bereft of any finding of fact and rendered what is generally known as a "sin perjuicio" decision, which is a mere pronouncement of its judgment without stating any of the facts in support of its conclusion.

In *Director of Lands vs. Sanz* (45, Phil. 121) the Supreme Court said:

"A reading of the 'sin perjuicio' decision shows that it was nothing more or less than the conclusion of the lower court with reference to the rights of the parties. It did not contain a statement of the facts which were essential to a clear understanding of the issues presented by the respective parties as to the facts involved. Had the appeal come to this court it would, undoubtedly, in view of what it has done heretofore, have returned the record to the lower court, requiring it to comply with the mandatory provisions of said section 133¹. (*Braga vs. Millora*, 3 Phil. 458)"

Forthrightly, the Decision on *Braga vs. Millora*, 3 Phil. 465 reads:

"Therefore, inasmuch as the trial court has failed to make a finding of the ultimate facts upon which he drew his conclusions in this case, and inasmuch as the facts admitted by the pleadings are contrary to the said conclusions, this cause is hereby remanded to the Court of First Instance of the Province of Zambales, and a new trial is hereby ordered."

¹ Sec. 133, Art. No. 190, now Sec. 1 rule 36 of the Revised Rules of Court in the Philippines. Sec. 1, rule 36 of the Revised Rules of Court in the Philippine reads:

"SECTION 1. *Rendition of judgments and final orders.* – A judgment or final order determining the merits of the case shall be in writing personally and directly prepared by the judge, stating clearly and distinctly the facts and the law on which it is based, signed by him, and filed with the clerk of the court."

The respective Memoranda of the parties cannot be relied upon to make a conclusive finding about the fact of prescription: Appellee Local Board likewise, has nothing about it in its Resolution.

IN VIEW THEREOF, and in adherence to jurisprudence, this case is hereby remanded to the Local Board of Assessment Appeals of the City of Parañaque for further proceedings.

SO ORDERED.

Manila, Philippines, October 17, 2011.

(Signed)
OFELIA A. MARQUEZ
Chairman

(Signed)
RAFAEL O. CORTES
Member

(Signed)
ROBERTO D. GEOTINA
Member