

Republic of the Philippines
CENTRAL BOARD OF ASSESSMENT APPEALS
Manila

PANABO MEMORIAL PARK, INC.

Petitioner-Appellant,

CBAA CASE NO. M-18

- versus -

Re: LBAA Case No. 012002

CITY ASSESSOR AND TREASURER
OF PANABO CITY,

Respondents-Appellees,

- and -

LOCAL BOARD OF ASSESSMENT
APPEALS OF DAVAO DEL NORTE,

Appellee.

x ----- x

R E S O L U T I O N

On July 15, 2004 this Board rendered a Decision in the above-entitled case, the dispositive portion of which reads as follows:

“WHEREFORE, this Board, after due consideration of the premises, has decided to AMEND the decision of the Local Board of Assessment Appeals of the Province of Davao del Norte dated April 20, 2003 to read ad follows:

1. Tax Declaration Nos. 98-15003-01680 (for Lot 187) and 98-15003-01678 (for Lot 188) should be revised by using the amounts of the considerations reflected in respective deeds of sale as the fair market values of said properties;

2. Tax Declaration Nos. 99-15003-01699 (for Lot 187) and 99-06003-01697 (for Lot 188) should be revised in accordance with the provisions of Section 220 of R.A. 7160 and Section 4 of Local Assessment Regulations No. 1-92 as soon as the Panabo Memorial Park, Inc. requests for such revisions, which requests for revision must be supported with deeds of conveyance for the alienated burial lots;

3. The real property taxes already paid for the years 1999 and 2000 in the names of the previous owners of Lots 187 and 188 should be deducted from those due from Panabo Memorial Park, Inc. for the same periods.

“SO ORDERED.”

Not satisfied, the City Assessor and the City Treasurer of Panabo City, Respondents-Appellees herein, moved for a reconsideration of this Board’s above-cited decision.

The written motion for reconsideration, wherein Respondents-Appellees alleged to have received a copy of the questioned decision on August 31, 2004,

reached this Board on September 24, 2004. In their said motion, Respondents-Appellees state and argue as follows:

1. That they are taking exception only with regards to the first amendment of the LBAA decision (No. 1, above) on the ground that the discussion in the body of the decision is inconsistent with the dispositive portion thereof;

2. That the valuation of Lots 187 and 188 should be in accordance with the provisions of Section 222 of Rep. Act No. 7160 which provides that, with respect to properties subject to back taxes, said taxes shall be computed on the basis of the applicable schedule of values in force during the corresponding period; and

3. That the considerations stated in the corresponding deeds of sale over Lots 187 and 188 as market values for purposes of the realty tax would only be applicable when there is no applicable schedule of values for the corresponding period.

Except for the schedule of market values approved by the Provincial Board of Davao del Norte as Provincial Ordinance No. 99-003, the records do not show the existence of any other schedule of market values. Apparently, therefore, Respondents-Appellees strongly believed, and still do believe, that the said schedule under Provincial Ordinance No. 99-003 was applicable to the year 1999.

As admitted by Respondents-Appellees in their Answer dated August 1, 2003, Provincial Ordinance No. 99-003, entitled "*An Ordinance Approving the Schedule of Market Values of Real Properties in Davao del Norte Effective Year 2000*", was enacted by the Davao del Norte Provincial Board sometime in 1999. The assessments made in 1999 to take effect beginning the year 2000 for Lots 187 and 188 at the fair market value of P950.00 per square meter were based precisely on this ordinance. For the year 1999, however, the same lots were assessed, also in 1999, at the market value of P700.00 per square meter.

Respondents-Appellees are obviously trying to impress upon this Board that the effectivity of Provincial Ordinance No. 99-003 was retroactive to the year 1999, contrary to what is expressed in the title of the same ordinance. Assuming, *arguendo*, that this assertion by Respondents-Appellees were correct, why then did the City Assessor value the subject lots at P700.00 only per square meter for

the year 1999? Why not P950.00 per square meter? There seems to be no nexus between the arguments and the objective sought.

The decision of this Board on July 15, 2004 to the effect that the market values to be used for the year 1999 for Lots 187 and 188 were the respective considerations reflected in the deeds of sale in favor of Petitioner-Appellant for said lots were predicated on the following facts, to wit: (1) there was no applicable schedule of market values applicable for 1999; (2) Respondents-Appellees failed or did not even bother to substantiate the validity or correctness of P700.00 as the fair market value per square meter for Lots 187 and 188 for the year 1999; and (3) the zonal values adopted by the Bureau of Internal Revenue (BIR) applicable for Lots 187 and 188 for the year 1999 was P500.00 per square meter (BIR Certification dated September 25, 2001 attached as Annex "CC" to Petitioner's Appeal).

Respondent-Appellee's failure to substantiate the validity or correctness of P700.00 per square meter (as market values applicable to Lots 187 and 188 in 1999) could be ascribed to their heavy and total reliance on Provincial Ordinance No. 99-003, albeit, misplaced. Also, the voluntary presentation by Petitioner of said BIR certification gave rise to a reasonable assumption that the zonal value of P500.00 per square meter was lower than the considerations reflected in the deeds of conveyance from the previous owners of said lots to Petitioner.

Although the zonal values adopted by the Bureau of Internal Revenue (BIR) applicable to Lots 187 and 188 have no direct bearing on the "fair market values" for purposes of the real property tax, they (zonal values) may be considered in the absence of any other reasonable values.

WHEREFORE, premises considered, this Board's decision of July 15, 2004 is hereby AMENDED to read as follows:

1. Tax Declaration Nos. 98-15003-01680 (for Lot 187) and 98-15003-01678 (for Lot 188) should be revised by using either the amounts of the considerations reflected in the respective deeds of conveyance executed by the

previous owners of said lots in favor of Petitioner-Appellant or the zonal values adopted by the Bureau of Internal Revenue applicable to said lots in 1999, *whichever is higher*, as the fair market values of said lots for the year 1999 and, for this purpose, the City Assessor is hereby advised to secure official copies of the said deeds either from Petitioner-Appellant or from the Office of the Registrar of Deeds concerned;

2. Insofar as alienated burial lots are concerned, Tax Declaration Nos. 99-06003-01699 (for Lot 187) and 99-06003-01697 (for Lot 188) should be revised in accordance with the provisions of Section 220 of Rep. Act 7160 and Section 4 of Local Assessment Regulations No. 1-92 of the Department of Finance as soon as the Panabo Memorial Park, Inc. requests for such revisions, which requests must be supported with deeds of conveyance for the said alienated lots; and

3. The real property taxes already paid for the years 1999 and 2000 in the names of the previous owners of Lots 187 and 188 should be deducted from those due from Panabo Memorial Park, Inc. for the same periods.

SO ORDERED.

Manila, Philippines, October 28, 2004.

(Signed)
CESAR S. GUTIERREZ
Chairman

(Signed)
ANGEL P. PALOMARES
Member

(Signed)
RAFAEL O. CORTES
Member