

SECOND DIVISION

[G.R. No. 169234, October 02, 2013]

**CAMP JOHN HAY DEVELOPMENT CORPORATION, PETITIONER,
VS. CENTRAL BOARD OF ASSESSMENT APPEALS, REPRESENTED
BY ITS CHAIRMAN HON. CESAR S. GUTIERREZ, ADELINA A.
TABANGIN, IN HER CAPACITY AS CHAIRMAN OF THE BOARD OF
TAX (ASSESSMENT) APPEALS OF BAGUIO CITY, AND HON.
ESTRELLA B. TANO, IN HER CAPACITY AS THE CITY ASSESSOR
OF THE CITY OF BAGUIO, RESPONDENTS.**

DECISION

PEREZ, J.:

A claim for tax exemption, whether full or partial, does not deal with the authority of local assessor to assess real property tax. Such claim questions the correctness of the assessment and compliance with the applicable provisions of Republic Act (RA) No. 7160 or the Local Government Code (LGC) of 1991, particularly as to requirement of payment under protest, is mandatory.

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the 27 July 2005 Decision^[1] of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. E.B. No. 48 which affirmed the Resolutions dated 23 May 2003 and 8 September 2004 issued by the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-37 remanding the case to the Local Board of Assessment Appeals (LBAA) of Baguio City for further proceedings.

The Facts

The factual antecedents of the case as found by the CTA *En Banc* are as follows:

In a letter dated 21 March 2002, respondent City Assessor of Baguio City notified petitioner Camp John Hay Development Corporation about the issuance against it of thirty-six (36) Owner's Copy of Assessment of Real Property (ARP), with ARP Nos. 01-07040-008887 to 01-07040-008922 covering various buildings of petitioner and two (2) parcels of land owned by the Bases Conversion Development Authority (BCDA) in the John Hay Special Economic Zone (JHSEZ), Baguio City, which were leased out to petitioner.

In response, petitioner questioned the assessments in a letter dated 3 April 2002 for lack of legal basis due to the City Assessor's failure to identify the specific properties and its corresponding assessed values. The City Assessor replied in a letter dated 11 April 2002 that the subject ARPs (with an additional ARP on another building bringing the total number of ARPs to thirty-seven [37]) against the buildings of petitioner located within the JHSEZ were issued on the basis of the approved building permits obtained from the City Engineer's Office of Baguio City and

pursuant to Sections 201 to 206 of RA No. 7160 or the LGC of 1991.

Consequently, on 23 May 2002, petitioner filed with the Board of Tax Assessment Appeals (BTAA) of Baguio City an appeal under Section 226^[2] of the LGC of 1991 challenging the validity and propriety of the issuances of the City Assessor. The appeal was docketed as Tax Appeal Case No. 2002-003. Petitioner claimed that there was no legal basis for the issuance of the assessments because it was allegedly exempted from paying taxes, national and local, including real property taxes, pursuant to RA No. 7227, otherwise known as the Bases Conversion and Development Act of 1992.^[3]

The Ruling of the BTAA

In a Resolution dated 12 July 2002,^[4] the BTAA cited Section 7,^[5] Rule V of the Rules of Procedure Before the LBAA, and enjoined petitioner to first comply therewith, particularly as to the payment under protest of the subject real property taxes before the hearing of its appeal. Subsequently, the BTAA dismissed petitioner's Motion for Reconsideration in the 20 September 2002 Resolution^[6] for lack of merit.

Aggrieved, petitioner elevated the case before the CBAA through a Memorandum on Appeal docketed as CBAA Case No. L-37.

The Ruling of the CBAA

The CBAA denied petitioner's appeal in a Resolution dated 23 May 2003,^[7] set aside the BTAA's order of deferment of hearing, and remanded the case to the LBAA 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 the respondent City Assessor of Baguio City, either in cash or in bond.

Citing various cases it previously decided,^[8] the CBAA explained that the deferment of hearings by the LBAA was merely in compliance with the mandate of the law. The governing provision in this case is Section 231, not Section 226, of RA No. 7160 which provides that "[a]ppel 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 addition, as to the issue raised pertaining to the propriety of the subject assessments issued against petitioner, allegedly claimed to be a tax-exempt entity, the CBAA expressed that it has yet to acquire jurisdiction over it since the same has not been resolved by the LBAA.

On 8 September 2004, the CBAA denied petitioner's Motion for Reconsideration for lack of merit.^[9]

Undaunted by the pronouncements in the abovementioned Resolutions, petitioner appealed to the CTA *En Banc* by filing a Petition for Review under Section 11 of RA No. 1125, as amended by Section 9 of RA No. 9282, on 24 November 2004, docketed as C.T.A. EB No. 48, and raised the following issues for its consideration: (1) whether or not respondent City Assessor of the City of Baguio has legal basis to

issue against petitioner the subject assessments with serial nos. 01-07040-008887 to 01-07040-008922 for real property taxation of the buildings of the petitioner, a tax-exempt entity, or land owned by the BCDA under lease to the petitioner; and (2) whether or not the CBAA, in its Resolutions dated 23 May 2003 and 8 September 2004, has legal basis to order the remand of the case to the LBAA of Baguio City for further proceedings subject to a full and up-to-date payment, in cash or bond, of the realty taxes on the subject properties as assessed by the City Assessor of the City of Baguio.^[10]

The Ruling of the CTA En Banc

In the assailed Decision dated 27 July 2005,^[11] the CTA *En Banc* found that petitioner has indeed failed to comply with Section 252 of RA No. 7160 or the LGC of 1991. Hence, it dismissed the petition and affirmed the subject Resolutions of the CBAA which remanded the case to the LBAA for further proceedings subject to compliance with said Section, in relation to Section 7, Rule V of the Rules of Procedure before the LBAA.

Moreover, adopting the CBAA's position, the court *a quo* ruled that it could not resolve the issue on whether petitioner is liable to pay real property tax or whether it is indeed a tax-exempt entity considering that the LBAA has not decided the case on the merits. To do otherwise would not only be procedurally wrong but legally wrong. It therefore concluded that before a protest may be entertained, the tax should have been paid first without prejudice to subsequent adjustment depending upon the final outcome of the appeal and that the tax or portion thereof paid under protest, shall be held in trust by the treasurer concerned.

Consequently, this Petition for Review wherein petitioner on the ground of lack of legal basis seeks to set aside the 27 July 2005 Decision, and to nullify the assessments of real property tax issued against it by respondent City Assessor of Baguio City.^[12]

The Issue

The issue before the Court is whether or not respondent CTA *En Banc* erred in dismissing for lack of merit the petition in C.T.A. EB No. 48, and accordingly affirmed the order of the CBAA to remand the case to the LBAA of Baguio City for further proceedings subject to a full and up-to-date payment of realty taxes, either in cash or in bond, on the subject properties assessed by the City Assessor of Baguio City.

In support of the present petition, petitioner posits the following grounds: (a) Section 225 (should be Section 252) of RA No. 7160 or the LGC of 1991 does not apply when the person assessed is a tax-exempt entity; and (b) Under the doctrine of operative fact, petitioner is not liable for the payment of the real property taxes subject of this petition.^[13]

Our Ruling

The Court finds the petition unmeritorious and therefore rules against petitioner.

Section 252 of RA No. 7160, also known as the LGC of 1991^[14], categorically provides:

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 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 favor of the taxpayer, the amount or portion 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 Two, Book II of this Code.** (Emphasis and underlining supplied)

Relevant thereto, the remedies referred to under Chapter 3, Title Two, Book II of RA No. 7160 or the LGC of 1991 are those provided for under Sections 226 to 231. Significant provisions pertaining to the procedural and substantive aspects of appeal before the LBAA and CBAA, including its effect on the payment of real property taxes, follow:

SEC. 226. *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. 229. *Action by the Local Board of Assessment Appeals.* – (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing, shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.

(b) In the exercise of its appellate jurisdiction, the Board shall have the powers to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue *subpoena* and *subpoena duces tecum*. The proceedings of the Board shall be conducted solely for the

purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.

(c) The secretary of the Board shall furnish the owner of the property or the person having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. **The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board may, within thirty (30) days after receipt of the decision of said Board, appeal to the Central Board of Assessment Appeals, as herein provided. The decision of the Central Board shall be final and executory.**

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.** (Emphasis supplied)

The above-quoted provisions of RA No. 7160 or the LGC of 1991, clearly sets forth the administrative remedies available to a taxpayer or real property owner who does not agree with the assessment of the real property tax sought to be collected.

The language of the law is clear. No interpretation is needed. The elementary rule in statutory construction is that if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. *Verba legis non est recedendum*. From the words of a statute there should be no departure.^[15]

To begin with, Section 252 emphatically directs that the taxpayer/real property owner questioning the assessment should first pay the tax due before his protest can be entertained. As a matter of fact, the words "paid under protest" shall be annotated on the tax receipts. Consequently, only after such payment has been made by the taxpayer may he file a protest in writing (within thirty [30] days from said payment of tax) to the provincial, city, or municipal treasurer, who shall decide the protest within sixty (60) days from its receipt. In no case is the local treasurer obliged to entertain the protest unless the tax due has been paid.

Secondly, within the period prescribed by law, any owner or person having legal interest in the property not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his property may file an appeal with the LBAA of the province or city concerned, as provided in Section 226 of RA No. 7160 or the LGC of 1991. Thereafter, within thirty (30) days from receipt, he may elevate, by filing a notice of appeal, the adverse decision of the LBAA with the CBAA, which exercises exclusive jurisdiction to hear and decide all appeals from the decisions, orders, and resolutions of the Local Boards involving contested assessments of real properties, claims for tax refund and/or tax credits, or overpayments of taxes.^[16]