REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SERENDRA CONDOMINIUM CORPORATION,
Petitioner,

- versus -

TAGUIG CITY GOVERNMENT, HON. MA. LAARNI CAYETANO, in her capacity as the Mayor of the City of Taguig, and ATTY. J. VOLTAIRE ENRIQUEZ, in his capacity as the Officer-in-Charge, City Treasurer of Taguig City Government,
Respondent.

CTA AC NO. 302

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

JUL 31 2025

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DECISION

RINGPIS-LIBAN, J.:

Before this Court is an *Amended Petition for Review* filed by petitioner Serendra Condominium Corporation, praying that this Court render judgment reversing the Judgment dated 16 June 2023[1] and the Order dated 10 July 2023,[2] both issued by the Regional Trial Court of Taguig City, Branch 271 (RTC), in Civil Case No. 474-TG, entitled *"Serendra Condominium Corporation v. Taguig City Government, Hon. Ma. Laarni Cayetano, in her capacity as the Executive Head and Mayor of Taguig City, and Atty. J. Voltaire Enriquez, in his capacity as the Officer-in-Charge, City Treasurer of Taguig City Government."* Petitioner likewise prays that the Court order respondents City Government of Taguig, Ma. Laarni Cayetano, and Atty. J. Voltaire Enriquez to refund or grant a tax credit for the illegally and erroneously collected taxes and fees in the total amount of ₱5,045,568.88, broken down as follows: ₱2,306,419.68 for service/business taxes,

[1] RTC Docket (Civil Case No. 474-TG) – Vol. 4, pp. 147 to 170.
[2] RTC Docket (Civil Case No. 474-TG) – Vol. 4, pp. 203 to 204.

₱2,738,999.20 for environmental impact fees, and ₱150.00 for business plate/sticker. In addition, petitioner seeks the award of ₱1,000,000.00 as attorney's fees and the payment of costs of suit.

THE PARTIES

Petitioner Serendra Condominium Corporation is a domestic non-stock, non-profit corporation duly organized and existing under Philippine laws, with principal office addresses at Serendra, 11th Avenue, Bonifacio Global City, Taguig City.[3]

Respondent City Government of Taguig is a local government unit. It may be served with notices and other processes of the Court through respondent Ma. Laarni Cayetano, its incumbent executive head and mayor, at Taguig City Hall, Gen. A. Luna Street, Taguig City.[4]

Respondent Ma. Laarni Cayetano is the incumbent mayor of the City of Taguig and was likewise the executive head of the city at the time of the filing of the complaint. She is being sued in her official capacity and may be served with notices and other processes of the Court at Taguig City Hall, Gen. A. Luna Street, Taguig City.[5]

Respondent Atty. J. Voltaire Enriquez is the Officer-in-Charge, City Treasurer of Taguig City. He is also being sued in his official capacity and may be served with notices and other processes of the Court at Taguig City Hall, Gen. A. Luna Street, Taguig City.[6]

THE FACTS

On 19 January 2017, respondents issued to petitioner a Billing Statement[7] in the amount of ₱5,340,048.80 in connection with the latter's application for renewal of business permit for the year 2017. Petitioner paid the said amount on 20 January 2017, as evidenced by Official Receipt No. A-3258030.[8] Based on said receipt, the payment was broken down as follows: (a)

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[3] Par. 4, *Amended Petition for Review*, Docket, p. 169. Refer also to par. 1, *Complaint*, RTC Docket (Civil Case No. 474-TG) - Vol. 1, p. 4.

[4] Par. 5, *Amended Petition for Review*, Docket, p. 169. Refer also to par. 2, *Complaint*, *vis-a-vis* par. 1.1, *Answer (To Plaintiff's Complaint dated 17 January 2019)*, RTC Docket (Civil Case No. 474-TG) – Vol. 1, pp. 5 and 177, respectively.

[5] Par. 6, *Amended Petition for Review*, Docket, p. 169. Refer also to par. 3, *Complaint*, *vis-a-vis* par. 1.1, *Answer (To Plaintiff's Complaint dated 17 January 2019)*, RTC Docket (Civil Case No. 474-TG) – Vol. 1, pp. 5 and 177, respectively.

[6] Par. 7, *Amended Petition for Review*, Docket, p. 169. Refer also to par. 4, *Complaint*, *vis-a-vis* par. 1.1, *Answer (To Plaintiff's Complaint dated 17 January 2019)*, RTC Docket (Civil Case No. 474-TG) – Vol. 1, pp. 5 and 177, respectively.

[7] Exhibit "1", RTC Docket (Civil Case No. 474-TG) – Vol. 4, p. 44.

[8] Exhibit "C ", RTC Docket (Civil Case No. 474-TG) – Vol. 3, p. 366.

Services (Business Tax) – ₱2,306,419.68; (b) Environmental Impact Fee – ₱2,738,999.20; (c) Mayor's Permit – ₱6,000.00; (d) Sanitary Inspection Fee – ₱1,100.00; (e) Medical/Health Fee – ₱10.00; (f) Building Inspection Fee – ₱400.00; (g) Electrical Inspection Fee – ₱400.00; (h) Plumbing Inspection Fee – ₱250.00; (i) Mechanical Inspection Fee – ₱500.00; (j) Fire Permit Fee – ₱200.00; (k) Sticker – ₱150.00; (l) Form Fee – ₱150.00; (m) Signboard Fee – ₱140.00; (n) Fire Code (RA 9514) – ₱274,829.92; and (o) Cedula (corporation) – ₱10,500.00.

On 9 January 2019, petitioner sent respondents a letter dated 7 January 2019,[9] claiming refund or tax credit for allegedly erroneous and illegally collected amounts, specifically: Local Business Tax (LBT) in the amount of ₱2,306,419.68; Environmental Impact Fee in the amount of ₱2,738,999.20; and Business Plate/Sticker Fee in the amount of ₱150.00, for a total of ₱5,045,568.88.

On 18 January 2019, petitioner filed a *Complaint*[10] before the RTC, docketed as Civil Case No. 474, praying that judgment be rendered ordering respondents to refund or grant tax credit for the aforementioned amounts, to pay ₱1,000,000.00 as attorney's fees, and to pay the costs of suit.

After due proceedings and trial, the RTC rendered judgment dismissing the *Complaint.* Petitioner filed a *Motion for Reconsideration*[11] on 30 June 2023, which the RTC denied in its Order dated 10 July 2023.

On 24 August 2023, petitioner filed its *Petition for Review.* In a Resolution dated 7 September 2023,[12] the Court ordered respondents to file their Comment within ten (10) days from notice. Respondents filed their *Comment*[13] on 6 November 2023.

On 12 December 2023, petitioner filed a *Motion for Leave to File and Admit Amended Petition for Review,*[14] attaching thereto the *Amended Petition for Review.*[15] The Court granted the motion and admitted the *Amended Petition for Review* through a Minute Resolution dated 3 January 2024.[16]

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[9] Exhibit "B", RTC Docket (Civil Case No. 474-TG) – Vol. 3, pp. 359 to 365.
[10] RTC Docket (Civil Case No. 474-TG) – Vol. 1, pp. 1 to 17.
[11] RTC Docket (Civil Case No. 474-TG) – Vol. 4, pp. 171 to 201.
[12] Docket, p. 80.
[13] Docket, pp. 81 to 109.
[14] Docket, pp. 162 to 165.
[15] Docket, pp. 167 to 215.
[16] Docket, p. 253.

In the Resolution dated 23 January 2024,[17] respondents were directed to file their comment to the *Amended Petition for Review* within ten (10) days from notice. Respondents filed their *Comment* on 12 February 2024.[18]

Thereafter, in the Minute Resolution dated 15 February 2024,[19] the parties were directed to file their respective Memoranda within thirty (30) days from notice. Pursuant to Section 5(b), Rule 6 of the Revised Rules of the Court of Tax Appeals, the Branch Clerk of Court or the Officer-in-Charge of the RTC was ordered to elevate the original records of Civil Case No. 474-TG to this Court within ten (10) days from notice.

Petitioner filed its *Memorandum*[20] on 22 March 2024, while the *Memorandum (For the Respondents)*[21] was posted on 26 March 2024.

The case was initially deemed submitted for decision on 4 April 2024.[22] However, on 5 April 2024, the Judicial Records Division of this Court reported that the complete original records of the case had not yet been transmitted.[23] Consequently, in a Resolution dated 29 April 2024,[24] the Court reminded the Branch Clerk of Court or the Officer-in-Charge of the RTC to certify and transmit the original records within a non-extendible period of five (5) days from notice.

In the Resolution dated 5 August 2024,[25] the Court recalled its Minute Resolution dated 4 April 2024 and again ordered the elevation of the complete records within ten (10) days from notice.

In compliance, on 22 August 2024, the Officer-in-Charge of RTC transmitted to this Court the entire original records of the case consisting of nine (9) folders, including one (1) folder of the Transcript of Stenographic Notes (TSN).[26] Petitioner likewise transmitted one (1) folder of the TSN dated 13 March 2023 on 6 September 2024.[27]

Accordingly, the case was deemed submitted anew for decision on 17 September 2024.[28]

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[17] Docket, pp. 255 to 256.
[18] Docket, pp. 257 to 292.
[19] Docket, p. 295.
[20] Docket, pp. 296 to 360.
[21] Docket, pp. 367 to 403.
[22] Minute Resolution dated April 4, 2024, Docket, p. 407.
[23] Records Verification dated April 5, 2024 issued by the Judicial Records Division of this Court, Docket, p. 408.
[24] Docket, pp. 411 to 412.
[25] Docket, pp. 415 to 416.
[26] RTC of Taguig City – Branch 271 *Transmittal* dated August 16 and 20, 2024, Docket, pp. 425 to 426.
[27] RTC of Taguig City – Branch 271 *Transmittal* dated September 4, 2024, TSN folder dated March 13, 2023.
[28] Minute Resolution dated September 17, 2024, Docket, p. 431.

THE ISSUES

Petitioner assigns the following errors of fact and law allegedly committed by the RTC, to wit:

> "A. The Court a quo gravely erred in determining that by categorizing the association dues as 'Revenue' in its 2016 Audited Financial Statement, Petitioner Serendra allegedly opened themselves to collection of business tax, despite there being no legal basis for such conclusion. Petitioner is a non-stock, non-profit corporation and association dues are collected to maintain the common areas.
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> B. The Court a quo gravely erred in holding that Petitioner's cause of action had already prescribed since Petitioner allegedly failed to file a timely administrative claim for refund within sixty (60) days from receipt of the Billing Statement. The Billing Statement is not the 'Assessment' contemplated under the law as explained in various Supreme Court jurisprudence. Hence, Serendra's refund claim was timely filed within the required prescriptive period.
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> C. The Court a quo gravely erred in holding that Petitioner failed to convince the Court of any factual, legal and equitable justification in awarding Attorney's Fees. Respondents are liable for Attorney's Fees for their baseless and unlawful impositions of millions of local business taxes to Petitioner Serendra."[29]

ARGUMENTS OF THE PARTIES

Petitioner contends that the RTC gravely erred in dismissing its claim for refund of allegedly erroneously and illegally collected LBT, Environmental Impact Fee, and Business Plate/Sticker Fee. In support of its position, petitioner relies heavily on the Supreme Court's rulings in *Yamane v. BA Lepanto Condominium Corporation*[30] and *Bureau of Internal Revenue v. First E-Bank Tower Corp.*,[31] which, according to petitioner, categorically held that condominium corporations, by their nature, are not considered as being engaged in trade or business.

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[29] Amended Petition for Review, p. 13, Docket, p. 179.
[30] G.R. No. 154993, October 25, 2005 ("*Yamane*").
[31] G.R. Nos. 215801 & 218924, January 15, 2020.

Petitioner emphasizes the following points:

1. The RTC erred in concluding that petitioner became liable for LBT simply because it categorized "association dues" as "Revenue" in its 2016 Audited Financial Statement (AFS),[32] despite the absence of legal basis for such interpretation;

2. Considering petitioner's status as a domestic non-stock, non-profit corporation, the association dues and other fees it collects are intended solely for the administration and maintenance of the common areas, and not for profit;

3. Petitioner does not fall under the definition of "contractor" as provided in the Taguig Revenue Code and is therefore not subject to LBT or the business plate/sticker fee;

4. Petitioner is not engaged in business and cannot be held liable for the Environmental Impact Fee under Taguig City Ordinance No. 116, Series of 2008, which applies only to business entities;

5. Respondents failed to present evidence showing that petitioner was engaged in business or derived any income for calendar year 2017;

6. The RTC erred in ruling that the action had prescribed. The issuance of the Billing Statement does not constitute an assessment under the law, and thus, the date of its issuance cannot be used as the reckoning point for purposes of prescription. It added that its claim for refund was timely filed within the prescriptive period;

7. It is entitled to attorney's fees due to the baseless and unlawful imposition of millions of pesos in LBT and fees by respondents.

On the other hand, respondents argue that the RTC correctly dismissed the *Complaint*. They raise the following counterpoints:

1. The Billing Statement issued to petitioner constitutes an assessment under Section 195 of the Local Government Code (LGC), thereby triggering the 60-day prescriptive period for the filing of a written protest;

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[32] Exhibit "3", RTC Docket (Civil Case No. 474-TG) – Vol. 4, pp. 69 to 98.

2. The RTC correctly ruled that petitioner's cause of action had prescribed due to its failure to file an administrative protest within the prescribed period;

3. *Yamane* is not squarely applicable to the present controversy as the factual circumstances obtaining herein materially differ from those in that case;

4. Petitioner is engaged in an activity involving the sale of services for a fee and is thus liable for LBT under the Taguig Revenue Code;

5. Taguig City Ordinance No. 116, Series of 2008 imposes the Environmental Impact Fee regardless of whether the entity is engaged in business or not;

6. Petitioner's claim for attorney's fees is unwarranted and does not fall under any of the instances enumerated under Article 2208 of the Civil Code.

THE COURT'S RULING

After a judicious evaluation, the Court finds that the *Amended Petition for Review* is partly impressed with merit.

The Court shall first resolve the issue of whether the RTC gravely erred in ruling that petitioner's cause of action had already prescribed, as its resolution necessarily affects the timeliness of the filing of the *Complaint* before the RTC, and, in turn, the jurisdiction of this Court over the present case.

The Billing Statement is not the "assessment" contemplated under Section 195 of the LGC.

Petitioner contends that no formal assessment for LBT was issued or received. It maintains that the Billing Statement relied upon by the RTC merely reflected a computation of estimated tax liabilities in relation to the renewal of its business permit for the year 2017. According to petitioner, the Billing Statement is not the assessment contemplated under Section 195 of the LGC. It lacks the elements of a formal assessment—there was no express demand for payment, no indication of a period within which payment should be made, and no imposition of interest or penalties. Moreover, no proof of receipt by petitioner is found on the face of the Billing Statement. Petitioner asserts that the sixty (60)-day period under Section 195 for the filing of a protest did not commence, and that the proper prescriptive period applicable to its claim is the two-year period under Section 196 of the LGC.

Respondents counter that the Billing Statement was correctly deemed by the RTC as an assessment, the service of which marked the beginning of the 60-day period under Section 195. They argue that petitioner's failure to file an administrative protest within said period rendered its claim for refund barred by prescription, thereby justifying the dismissal of the *Complaint*.

The Court finds that Billing Statement is not the "assessment" contemplated under Section 195 of the LGC.

In *Yamane*, the Supreme Court had its first occasion to squarely address the requisites of a valid "notice of assessment" within the context of local government taxation. In the course of resolving the issue of the non-liability of condominium corporations for LBT, the Court pertinently held:

> "**Ostensibly, the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, <u>should be sufficiently informative to apprise the taxpayer the legal basis of the tax</u>. Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but <u>it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties</u>.** In this case, the notice of assessment sent to the Corporation did state that the assessment was for business taxes, as well as the amount of the assessment. There may have been *prima facie* compliance with the requirement under Section 195. However in this case, the Revenue Code provides multiple provisions on business taxes, and at varying rates. Hence, we could appreciate the Corporation's confusion, as expressed in its protest, as to the exact legal basis for the tax. Reference to the local tax ordinance is vital, for the power of local government units to impose local taxes is exercised through the appropriate ordinance enacted by the *sanggunian*, and not by the Local Government Code alone. What determines tax liability is the tax ordinance, the Local Government Code being the enabling law for the local legislative body." *(Emphasis and underscoring supplied)*

From the details indicated in the Billing Statement, it is evident that the same was issued not for the purpose of assessing a deficiency in LBT, but merely to facilitate the renewal of petitioner's business permit. Particularly significant on this point is the Supreme Court's ruling in *International Container Terminal Services, Inc. v. The City of Manila*[33] where it held that alleged "assessments" **made in connection with the issuance or renewal of**

[33] G.R. No. 185622, October 17, 2018.

business permits cannot be considered as the notice of assessment contemplated under Section 195 of the LGC. Such documents lack any determination of deficiency, surcharges, interest, or penalties. It ruled:

> The 'assessments' from the fourth quarter of 1999 onwards were Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts issued by the Office of the City Treasurer for local business taxes, <u>**which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila.**</u> **While these receipts state the amount and nature of the tax assessed,** <u>**they do not contain any amount of deficiency [taxes], surcharges, interests, and penalties due from petitioner.**</u> **They cannot be considered the 'notice of assessment' required under Section 195 of the Local Government Code.**
>
> When petitioner paid these taxes and filed written claims for refund before respondent City Treasurer, **the subsequent denial of these claims should have prompted resort to the remedy laid down in Section 196, specifically the filing of a judicial case for the recovery of the allegedly erroneous or illegally collected tax within the two (2)-year period.**" *(Emphasis and underscoring supplied; citation omitted)*

The same principle applies herein. The subject Billing Statement does not indicate any deficiency tax, surcharge, or interest. Accordingly, petitioner correctly argues that the Billing Statement does not constitute an assessment within the contemplation of Section 195 of the LGC. As such, the two-year prescriptive period under Section 196, which governs claims for refund or tax credit of erroneously or illegally collected local taxes, properly applies to petitioner's claim.

Timeliness of the Claim for Refund

Under Section 196 of the LGC, an action for the recovery of any local tax erroneously or illegally collected may prosper, provided the following requisites are met: (1) a written claim for refund or tax credit must be filed with the local treasurer, and (2) both the administrative and judicial claims must be filed within two (2) years from the date of payment of the tax or from the date the taxpayer became entitled to the refund or credit.

In this case, petitioner paid the subject LBT for taxable year 2017 on **20 January 2017**,[34] and thereafter filed its administrative claim for refund with the

[34] Exhibit "C", RTC Docket (Civil Case No. 474-TG) – Vol. 3, p. 366.

City Treasurer of Taguig on **9 January 2019**.[35] Subsequently, petitioner filed its judicial claim before the RTC on **18 January 2019**.[36]

The foregoing dates show that both the administrative and judicial claims were filed within the two-year prescriptive period provided under Section 196 of the LGC. Accordingly, petitioner's claim for refund was timely filed.

Jurisdiction over the Environmental Impact Fee and Sticker Fee

Before this Court proceeds to resolve the main issue raised in the *Amended Petition for Review*, it is necessary to preliminarily determine whether it has jurisdiction to rule on petitioner's claim for refund of the Environmental Impact Fee and Business Plate/Sticker Fee.

As a court of special and limited jurisdiction, this Court may only take cognizance of matters clearly falling within its statutory competence. Section 7(a)(3) of Republic Act No. 1125, as amended by Republic Act No. 9282, provides:

> "SEC. 7. *Jurisdiction.* – The CTA shall exercise:
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> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx xxx xxx
>
> (3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction;"

This provision contemplates that the appellate jurisdiction of this Court arises only when the RTC renders judgment in a **local tax case**, that is, a case the subject of which is in the nature of a tax, or which primarily involves a tax issue.[37] Included therein are cases involving real property tax, the validity of tax assessments or ordinances, claims for refund or exemption, tax collection, or the prescription of assessments, among others.[38]

Thus, when the decision of the RTC is not in relation to a local tax, but rather pertains to a regulatory exaction, this Court lacks jurisdiction to review the same.

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[35] Exhibit "B", RTC Docket (Civil Case No. 474-TG) – Vol. 3, pp. 359 to 365.
[36] *Complaint,* RTC Docket (Civil Case No. 474-TG) – Vol. 1, pp. 4 to 17.
[37] *Republic v. City of Surigao, et al.,* G.R. No. 218056, August 31, 2022.
[38] *Mactel Corporation v. City Government of Makati, et al.,* G.R. No. 244602, July 14, 2021 citing *Herarc Realty Corp. v. Provincial Treasurer of Batangas,* G.R. No. 210736, September 5, 2018.

In *Smart Communications, Inc. vs. Municipality of Malvar, Batangas,*[39] the Supreme Court clarified that where the main purpose of an imposition is to regulate—such as requiring compliance with environmental or construction standards—the exaction is a regulatory fee, not a tax. The Court therein reiterated the long-standing distinction that:

> "If the generation of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax. But if regulation is the primary purpose, the fact that revenue is incidentally generated does not make the imposition a tax." [Citing *Progressive Development Corp. v. Quezon City* (254 Phil. 635, 643) and *Victorias Milling Co., Inc. v. Municipality of Victorias* (134 Phil. 180, 189-190)]

Plainly stated, to determine whether an exaction is a tax or a fee, the **primary purpose of the imposition** must be considered—not merely its label.

In this case, the Environmental Impact Fee is imposed pursuant to Section 115 of Ordinance No. 24, Series of 1993, as amended by Ordinance No. 111, Series of 2007, and further governed by Ordinance No. 116, Series of 2008. These ordinances explicitly provide that the Environmental Impact Fee is meant to: (1) compensate for the negative social or environmental cost to the City of Taguig; and (2) defray the cost of hauling and management of solid waste generated by the citizens and businesses therein.

Sections 2 and 4 of Ordinance No. 116, Series of 2008 further reveal that the imposition is based on the area occupied by the business or condominium entity, regardless of whether it is engaged in business. The burden is imposed even on property managers or owners in the event of tenant non-compliance, signifying a regulatory purpose rather than a revenue-raising one.

Accordingly, the Environmental Impact Fee is in the nature of a regulatory fee, and not a local tax. The same conclusion applies to the Business Plate/Sticker Fee, which is a fee imposed as a requirement for securing a business permit. Under Section 147 of the Local Government Code of 1991:

> "SEC. 147. *Fees and Charges.* — The municipality may impose and collect such reasonable fees and charges on business and occupation x x x **commensurate with the cost of regulation, inspection and licensing** before any person may engage in such business or occupation or practice such profession or calling." *(Emphasis added)*

[39] G.R. No. 204429, February 18, 2014.

As such, the Business Plate/Sticker Fee is similarly a regulatory exaction, intended to support the inspection and regulation of businesses operating within the local government's jurisdiction.

In view of the foregoing, the Court holds that both the Environmental Impact Fee and the Business Plate/Sticker Fee are not taxes within the meaning of Section 7(a)(3) of R.A. No. 1125, as amended. Consequently, this Court does not have jurisdiction to rule on the RTC's disposition of petitioner's refund claims insofar as they pertain to the Environmental Impact Fee and Business Plate/Sticker Fee.

This Court shall thus confine its review only to the issue of petitioner's liability for LBT.

Petitioner's Liability for LBT

In the assailed Judgment, the RTC ruled that petitioner's purported "admission"—that it was constrained to classify the membership fees it collected from condominium unit owners as "Revenues" in its 2016 AFS—rendered it liable to pay LBT.

In its *Amended Petition for Review*, petitioner explained that the term "Revenues" in its 2016 AFS refers solely to the "association dues" collected from its members. It emphasized that such classification does not alter its legal nature as a condominium corporation, which, by law, is a non-stock and non-profit entity.

Petitioner further asserted that, as stated in its Master Deed, the income it derives is in the form of "dues," which strictly refer to fees and assessments levied upon condominium units to defray expenses and other charges necessary for the operation and maintenance of the condominium project. Consistent with the Supreme Court's ruling in *Yamane*, such assessments are used merely to cover the necessary expenses related to the condominium project and its common areas. Thus, petitioner maintains that its operations do not involve any business activity or profit-oriented purpose.

Respondents, on the other hand, argue that *Yamane* is not squarely applicable to the present case. They contend that the Supreme Court's decision therein does not constitute a categorical or express grant of exemption that may be invoked as a basis for exemption from the payment of LBT. According to respondents, *Yamane* does not provide the clear and unequivocal legal basis required to sustain a claim for tax exemption, particularly where the facts and circumstances are not identical.

Respondents further claim that the present case demonstrates that petitioner is indeed engaged in business, allegedly consisting of the sale of services for a fee. They assert that the recording of association dues and other collections as "Revenues" in petitioner's AFS constitutes conclusive proof that it is engaged in the conduct of business. Accordingly, they maintain that *Yamane* is not controlling and cannot serve as precedent for the resolution of this case.

Petitioner's position is well-taken.

A careful examination of the factual circumstances reveals that the ruling in *Yamane* is directly applicable to the present case. A brief recapitulation of the relevant facts and the Supreme Court's pronouncement therein is thus warranted.

In *Yamane*, the taxpayer, a condominium corporation, was assessed for LBT by the City Treasurer of Makati on the basis of its collection of assessments from unit owners. The City Treasurer contended that such collections constituted business activity. The taxpayer, however, protested the assessment, asserting that it was neither organized for profit nor engaged in business, consistent with its character as a condominium corporation. Upon denial of its protest, the case was elevated to the Supreme Court, which ruled in favor of the taxpayer. The Court held that, by their nature, condominium corporations are generally not subject to local business taxation under the LGC, regardless of any contrary provision in local ordinances. It declared that the collection of assessments or dues from unit owners does not constitute business activity.

By way of exception, the Court clarified that a condominium corporation may be held liable for business taxes on the ground of *estoppel*, if it is shown to have engaged in profit-oriented activities. The Supreme Court ruled:

> "Still, we can note a possible exception to the rule. It is not unthinkable that the unit owners of a condominium would band together to engage in activities for profit under the shelter of the condominium corporation. Such activity would be prohibited under the Condominium Act, but if the fact is established, we see no reason why the condominium corporation may [not] be made liable by the local government unit for business taxes. Even though such activities would be considered as *ultra vires*, since they are engaged in beyond the legal capacity of the condominium corporation, the principle of estoppel would preclude the corporation or its officers and members from invoking the void

nature of its undertakings for profit as a means of acquitting itself of tax liability."[40]

The Supreme Court's ruling in *Yamane* was reaffirmed in *Bureau of Internal Revenue, et al. vs. First E-Bank Tower Condominium Corp.*,[41] where the Court declared:

> "The issue on whether association dues, membership fees, and other assessments/charges collected by a condominium corporation in the usual course of trade or business is not novel. ***Yamane v. BA Lepanto Condominium Corp.*** positively resolved it, viz.:
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> xxx xxx xxx
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> ***Yamane*** did emphasize that **a corporation condominium is not designed to engage in activities that generate income or profit**. A discussion on the nature of a condominium corporation is, indubitably, in order.
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> The creation of the condominium corporation is sanctioned by Republic Act No. 4726 (RA 4726) (The Condominium Act). Under the law, a condominium is an interest in real property consisting of a separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building. To enable the orderly administration over these common areas which the unit owners jointly own, RA 4726 permits the creation of a condominium corporation for the purpose of holding title to the common areas. The unit owners shall in proportion to the appurtenant interests of their respective units automatically be members or shareholders of the condominium corporation to the exclusion of others.
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> Sections 10 and 22 of RA 4726 focus on the non-profit purpose of a condominium corporation. Under Section 10, the corporate purposes of a condominium corporation are limited to holding the common areas, either in ownership or any other interest in real property recognized by law; management of the project; and to such other purposes necessary, incidental, or convenient to the accomplishment of these purposes. Additionally, Section 10 prohibits the articles of incorporation or by-laws of the condominium corporation from containing any provisions contrary to the provisions of RA 4726, the enabling or master deed, or the declaration of restrictions of the condominium project.
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> Also, under Section 22, the condominium corporation, as the management body, may only act for the benefit of the condominium owners in disposing tangible and intangible personal property by sale

[40] G.R. No. 154993, October 25, 2005.
[41] G.R. Nos. 215801 & 218924, January 15, 2020.

or otherwise in proportion to the condominium owners' respective interests in the common areas.

Further, Section 9 allows a condominium corporation to provide for the means by which it should be managed. Specifically, it authorizes a condominium corporation to collect association dues, membership fees, and other assessments/charges for: a) maintenance of insurance policies; b) maintenance, utility, gardening and other services benefiting the common areas, for the employment of personnel necessary for the operation of the building, and legal, accounting and other professional and technical services; c) purchase of materials, supplies and the like needed by the common areas; d) reconstruction of any portion or portions of any damage to or destruction of the project; and e) reasonable assessments to meet authorized expenditures.

In fine, **the collection of association dues, membership fees, and other assessments/charges is purely for the benefit of the condominium owners**. It is a necessary incident to the purpose to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.

As held in ***Yamane***, '*[t]he profit motive in such cases is hardly the driving factor behind such improvements, if it were contemplated at all. Any profit that would be derived under such circumstances would merely be incidental, if not accidental.*' More, **a condominium corporation is especially formed for the purpose of holding title to the common area and exists only for the benefit of the condominium owners**. Nothing more." *(Emphasis supplied and citations omitted)*

In *Delos Santos vs. Commissioner of Internal Revenue*,[42] the Supreme Court once again affirmed the same principle. It clarified that a condominium corporation is not engaged in trade or business, the association dues are not intended for profit but for the maintenance of the condominium project, and the collection of association dues, membership fees, and other charges is purely for the benefit of the condominium owners.

As will be fully discussed below, the material facts and legal issues in *Yamane* are substantially similar to those obtaining in the present case. Accordingly, the Court finds it proper and necessary to apply *Yamane* as controlling precedent. Moreover, there is nothing on record to indicate that the present case falls within the exception recognized in the said case. Specifically, no evidence has been presented to establish that petitioner engaged in any business activity beyond its avowed statutory corporate purpose.

Petitioner's primary purpose is to hold title to the common areas and to manage the condominium project. This is in accordance with its Articles of Incorporation, the pertinent portion of which reads:

[42] G.R. No. 222548, June 22, 2022.

"ARTICLES OF INCORPORATION
OF
SERENDRA CONDOMINUM CORPORATION

xxx xxx xxx

PRIMARY PURPOSE

> **To own or hold title to the common areas in the condominium project known and identified as SERENDRA,** which has been constituted pursuant to the provisions of the Condominium Act on the property described in and brought under the operations of said Act by: (i) the Master Deed with Declaration of Restrictions dated February 11, 2004 xxx xxx xxx and **to manage and administer the operation of the Project and the affairs of its members pursuant to and in accordance with the provisions of Republic Act No. 4726 and the Master Deed.**"[43] *(Emphasis supplied)*

Further, the Master Deed reveals that the income derived by petitioner consists of "dues," referring strictly to fees and assessments levied upon the condominium units to defray expenses and other charges for the project, thus:

> "**Dues**' shall refer to the fees and assessments to be levied by the Condominium Corporation upon the Units to cover the payment of expenses and other charges for the Project."[44]

As stated above, petitioner was assessed LBT based on the amount of association dues it collected from its members, which were categorized as "Revenues" in its 2016 AFS. The Court, however, does not agree with the RTC's conclusion that petitioner's categorization of association dues as "Revenues" constituted an "admission" that rendered it liable for LBT.

A careful examination of petitioner's 2016 AFS reveals that the item "Revenue" therein consists almost entirely[45] of membership dues. As clarified in the Notes to the Financial Statements,[46] the members of the condominium corporation are the owners of the condominium units. Such membership is inseparable from unit ownership and cannot be transferred, conveyed, encumbered, or otherwise disposed of independently. The collection of association dues is intended solely for the benefit of the condominium unit owners. It is an incident necessary and incidental to the petitioner's statutory

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[43] Exhibit "E-1", RTC Docket (Civil Case No. 474-TG) – Vol. 3, pp. 401 to 402.
[44] Exhibit "D", RTC Docket (Civil Case No. 474-TG) – Vol. 3, p. 368.
[45] Out of the ₱419,971,387 petitioner's total reported revenue in 2016, **99.14%** of which or ₱416,371,168 consists of membership dues. The remaining ₱3,600,219 or less than 1% pertains to interest income.
[46] Par. 13, Notes to Financial Statements, Exhibit "3", RTC Docket (Civil Case No. 474-TG) – Vol. 4, p. 94.

purpose of administering, maintaining, and preserving the common areas of the condominium project, as well as overseeing its governance in accordance with the Condominium Act.

As to respondents' contention that the assessment against petitioner was premised on the imposition of business tax on "Contractors" under Section 75(e), in relation to Section 74 of the Taguig Revenue Code, the same is misplaced.

Section 75(e) of the Taguig Revenue Code provides for the imposition of LBT on contractors and other independent contractors, as defined under Section 74, including a broad enumeration of businesses engaged in the rendering or offering of various services for a fee. The provision, in relevant part, reads:

> "**SECTION 75 - Imposition of Tax** - There shall be levied an annual tax on the following businesses at rates prescribed therefore:
>
> xxx xxx xxx
>
> e) On **Contractors and other independent contractors defined in SECTION 74 of this Code; and on <u>owners or operators of business establishments</u>** rendering or offering services such as advertising agencies, rental of space of signs, signboards, billboard or advertisements, animal hospitals, assaying laboratories, belts and buckle shops, blacksmith shops, bookbinders, booking offices for film exchange, booking office for transportation on commission basis; breeding of game cocks and other sporting animals belonging to others; business management services; collecting agencies; escort services; feasibility studies, consultancy services; garages; garbage disposal contractors; gold and silversmith shops; inspection services for incoming and outgoing cargoes; interior decorating services; janitorial services; job placements or recruitment agencies; landscaping contractors; lathe machine shops; management consultants not subject to professional tax; medical and dental laboratories; mercantile agencies; messengerial services; operators of shoe shine stand; painting shops; perma-press establishments; rent-a-plant services; polo players; school for and/or horseback riding academy; real estate appraisers; real estate brokerages; photostatic; white/blue printing, photocopying, typing and mimeographing services; car rental, rental of heavy equipment, rental of bicycles and/or tricycles; furniture, shoes, watches, household appliances, boats, typewriters, etc.; roasting of pigs, fowls, animals; silkscreen or T-shirt printing shops; stables; travel agencies; vaciador shops; veterinary clinics; video rentals and/or coverage services; dancing school/speed reading/EDP; nursery, vocationally and other schools not regulated by the Department of Education (DepEd), day care centers; etc., xxx." *(Emphasis and underscoring added)*

Meanwhile, Section 74 defines a contractor as:

> "**Contractor** includes **persons**, natural or juridical, not subject to professional tax **whose activity consists essentially of the sale of all kinds of services for a fee** regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees." *(Emphasis and underscoring supplied)*

Guided by the foregoing provisions, petitioner cannot be classified as a "contractor" within the contemplation of Sections 74 and 75(e) of the Taguig Revenue Code. Petitioner does not render administrative services as a business nor for profit. Any fees it collects from unit owners are merely incidental and necessary to the maintenance and upkeep of the condominium, and are not intended for profit or commercial gain.

A condominium corporation, such as petitioner, cannot be deemed engaged in trade or business. The fees or dues it collects are intended solely for the mutual benefit of the condominium unit owners. Accordingly, condominium corporations are not subject to the imposition of LBT—not by reason of tax exemption, but because they are not considered as being engaged in trade or business in the first place.

Respondents' Liability for Attorney's Fees

In *Philippine National Construction Corporation vs. APAC Marketing Corporation*,[47] the Supreme Court extensively discussed the prevailing rules governing the award of attorney's fees. It held that under Article 2208 of the Civil Code, attorney's fees may only be awarded in the instances enumerated therein, and only upon proper factual, legal, and equitable justification. As a general rule, attorney's fees cannot be recovered as part of damages merely because a party prevailed in a suit, in accordance with the policy that no premium should be placed on the right to litigate.

In *ABS-CBN Broadcasting Corporation v. Court of Appeals*,[48] the Court reiterated that even when a party is compelled to litigate with third persons or to incur expenses to protect its rights, attorney's fees may not be awarded where there is no sufficient showing of bad faith on the part of the adverse party.

Similarly, in *Benedicta v. Villaflores*,[49] the Court clarified the dual nature of attorney's fees—ordinarily, as compensation for legal services rendered to a

[47] G.R. No. 190957, June 5, 2013.
[48] G.R. No. 128690, January 21, 1999.
[49] G.R. No. 185020, October 6, 2010.

client; and extraordinarily, as indemnity for damages recoverable from the losing party. In the latter sense, the Court emphasized that attorney's fees may only be awarded in the instances specifically provided under Article 2208, and only upon a clear and distinct finding of factual and legal basis. Courts must not award attorney's fees perfunctorily, and are required to explicitly state the justification for such award in their decisions.

Guided by these jurisprudential pronouncements, the Court finds no error in the ruling of the RTC denying petitioner's claim for attorney's fees. Petitioner failed to establish any factual, legal, or equitable justification to warrant the award. Accordingly, the claim lacks sufficient basis in both fact and law.

ACCORDINGLY, in light of the foregoing considerations, the present *Amended Petition for Review* is **PARTIALLY GRANTED**.

The Judgment dated June 16, 2023, and the Order dated July 10, 2023, of the Regional Trial Court of Taguig City, Branch 271, in Civil Case No. 474-TG, are **REVERSED** and **SET ASIDE** insofar as they dismissed the case on the ground of prescription.

Respondents are **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱2,306,419.68,** representing erroneously or illegally paid local business tax for the year 2017. The denial of the claim for attorney's fees is **AFFIRMED**.

As to the claims for refund of the Environmental Impact Fee and Business Plate/Sticker Fee, the same are **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice