REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL IRRIGATION ADMINISTRATION (NIA),
Petitioner,

- versus -

SAMUEL A. MARINAY, in his Capacity as Provincial Treasurer of Ifugao, and ESTRELLA S. ALIGUYON, in her capacity as Municipal Treasurer of Alfonso Lista, Ifugao,
Respondents.

CTA EB NO. 1055
(CBAA Case No. L-118)

Present:

Del Rosario, *P.J.*,
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, *JJ.*

Promulgated:

SEP 04 2015
3:35 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

In this Petition for Review, petitioner National Irrigation Administration seeks for the reversal of the Decision[1] dated February 27, 2013 and the Resolution[2] dated July 11, 2013, both issued by the Central Board of Assessment Appeals.

The dispositive portion of the assailed Decision reads:

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[1] Central Board of Assessment Apeals (CBAA), Records, Folder 1, pp. 238-260; Court *En Banc* Docket, pp. 47-69.
[2] CBAA Records, Folder 2, pp. 322-325; Court *En Banc* Docket, pp. 42-44.

> "**WHEREFORE**, the instant appeal is hereby DISMISSED for lack of merit.
>
> **SO ORDERED**."

On the other hand, the dispositive portion of the assailed Resolution reads:

> "WHEREFORE, absent any cogent reason to disturb the questioned Decision, the instant Motion for Reconsideration is hereby DENIED.
>
> SO ORDERED."

THE FACTS

Petitioner National Irrigation Administration is a body corporate created by virtue of Republic Act No. 3601 that was approved on June 22, 1963.[3]

Respondents Samuel A. Marinay and Estrella S. Aliguyon are the Provincial Treasurer of Ifugao and Municipal Treasurer of Alfonso Lista, Ifugao, respectively.

Petitioner filed its Tax Declaration of Real Property Nos. 1999-03020-00260[4] and 1999-03020-0263,[5] respectively, covering a real property described as a dam located at Susok, Baranggay Sto. Domingo, A. Lista, Province of Ifugao. On the basis thereof, the Office of the Municipal Assessor, Municipality of Alfonso Lista, sent several Notices of Assessment with attached Computation of Tax Due and Statements of Account.[6] As of January 25, 2010, said real property was determined to be subject to P13,382,009.96 real property tax (RPT), which is the subject of the instant Petition.[7]

On March 8, 2010, petitioner received a collection letter[8] dated January 22, 2010 from the Office of the Provincial Treasurer of the Province of Ifugao. The letter pertinently reads:

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[3] Republic Act No. 3601, *An Act Creating the National Irrigation Administration*, Section 1. *Name and Domicile.* A body corporate is hereby created which shall be known as the National Irrigation Administration hereinafter called NIA for short, which shall be organized immediately after the approval of this Act. It shall have its principal seat of business at the City of Manila and shall have representative in all provinces for the proper conduct of its business.

[4] Local Board of Assessment Appeals (LBAA) Records, p. 15.

[5] LBAA Records, p. 16.

[6] LBAA Records, pp. 62-68.

[7] Statement of Account, Real Property Tax as of January 25, 2010, LBAA Records, p. 67.

[8] LBAA Records, p. 14.

> "This has reference with the letter dated November 11, 2009 of the Municipal Treasurer of Alfonso. Lista, this province, requesting for the assistance of this office in the collection of real property taxes of that Administration (NIA).
>
> It appears that the Provincial Assessor, this province, issued Tax Declaration of Real Property, ARP No. 1999-03020-0060 and 1999-03020-00263 and while the Municipal Assessor the Notice of Assessment. On the basis of these assessment documents the Municipal Treasurer, said municipality, issued a Statement of Account (Real Property Tax).
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> xxx xxx xxx
>
> Please be informed that the National Food Authority (NFA) and the Banaue Hotel, a subsidiary of the Philippine Tourism Authority (PTA) are paying their annual real property taxes to the province.
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> In view of the foregoing, it is our contention that NIA is liable to pay real property tax especially on the two (2) tax declarations cited above."

Subsequently, on April 27, 2010,[9] petitioner filed with the Local Board of Assessment Appeals (LBAA) of the Province of Ifugao its Protest. In the said Protest, petitioner argued that it is not a government-owned and controlled corporation (GOCC) but an instrumentality of the government and as such, it is exempted from payment of RPT. Likewise, irrigation canals, dams, land and buildings of petitioner are owned by the national government. As such, said properties are exempt from real property taxation.

On August 26, 2010, respondents filed with the LBAA a Motion to Dismiss,[10] arguing that the LBAA did not acquire jurisdiction over the case for failure of petitioner to pay under protest. Likewise, respondents argued that the protest is premature. In its Comment[11] filed on September 24, 2010, petitioner reiterated that it is exempt from RPT and as such, payment under protest under Section 252 of the Local Government Code of 1991 is not required.

On October 26, 2010, the LBAA issued an Order[12] denying respondents' Motion to Dismiss.

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[9] Protest, LBAA Records, pp. 1-9.
[10] Motion to Dismiss, LBAA Records, pp. 30-35.
[11] Comment, LBAA Records, pp. 37-43.
[12] LBAA Records, p. 48.

On December 9, 2010, respondents filed their Answer with Affirmative Defenses.[13] Respondents argued therein that there is no express provision of law exempting petitioner from RPT; that being a GOCC subject to tax, the irrigation canals, dams, lands and buildings owned and administered by petitioner are subject to RPT; and that petitioner failed to satisfy a condition precedent, which is to pay under protest under Section 252 of the Local Government Code of 1991.

On January 11, 2011, the LBAA issued an Order[14] requiring the parties to submit their Memoranda, which respondents submitted on February 3, 2011.[15] Meanwhile, petitioner did not submit its Position Paper before the proceedings *a quo*.

On August 12, 2011, the LBAA issued its Resolution[16] denying petitioner's Protest. The dispositive portion thereof reads:

> "**WHEREFORE**, premises considered, the petition is **DENIED**. NIA's dam and land located at Susok, Sto. Domingo, Alfonso Lista, Ifugao covered by Tax declaration Nos. 1999-03020-00260 and 1999-03020-00263 is declared subject to payment of real property taxes.
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> **SO ORDERED**."

On September 22, 2011, petitioner filed before the Central Board of Assessment Appeals (CBAA) its Notice of Appeal[17] together with the Appeal.[18]

On December 15, 2011, the CBAA issued an Advice to Answer Appeal.[19] On January 17, 2012, the respondents filed their Answer.[20]

On September 20, 2012, the CBAA issued an Order,[21] directing the parties to submit their Memoranda/Position Papers within thirty (30) days from receipt thereof. Petitioner filed its Position Paper[22] on November 22, 2012, while respondents filed the same on November 26, 2012.[23]

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[13] LBAA Records, pp. 51-59.
[14] LBAA Records, p. 71.
[15] Respondents' Position Paper, LBAA Records, pp. 72-80.
[16] LBAA Records, pp. 92-96.
[17] CBAA Records, Folder 1, pp. 2-3.
[18] CBAA Records, Folder 1, pp. 4-25.
[19] CBAA Records, Folder 1, p. 143.
[20] CBAA Records, Folder 1, pp. 144-152.
[21] CBAA Records, Folder 1, pp. 180-181.
[22] CBAA Records, Folder 1, pp. 184-206.
[23] CBAA Records, Folder 1, pp. 210-218.

On March 4, 2013, the CBAA issued the assailed Decision denying the appeal. Thereafter, on April 11, 2013, petitioner filed its Motion for Reconsideration.[24] Consequently, on July 11, 2013, the CBAA issued the assailed Resolution denying petitioner's motion for reconsideration.

On August 23, 2013,[25] petitioner filed the instant Petition for Review. Meanwhile, on October 1, 2013, the Court *En Banc* required petitioner to amend its Petition for Review,[26] to which petitioner complied[27] on November 14, 2013 and submitted its Amended Petition for Review.

On March 11, 2014, the Court *En Banc* required the parties to submit their memoranda within a period of thirty (30) days from receipt of the Resolution.[28] Petitioner filed its Memorandum on April 22, 2014[29] while the respondents filed their Memorandum through registered mail on May 7, 2014.[30]

In the meantime, the Court *En Banc* required the CBAA to elevate the records of the instant case.[31] On May 5, 2015, the CBAA complied with the said directive of this Court and hence, on June 17, 2015, the case was submitted for Decision.[32]

Hence, this Decision.

THE ISSUES

Petitioner raised the following issues before this Court:

> "a. The Honorable CBAA committed grave error when it ruled that the subject properties of Petitioner-Appellant NIA are not properties of public dominion;
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> b. The Honorable CBAA committed grave error when it ruled that Petitioner-Appellant is a government corporation attached to the Department of Public Works and Highways; thus, cannot be considered as instrumentality as it is INTEGRATED within a department framework, meaning it is included, incorporated

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[24] CBAA Records, Folder 2, pp. 261-286.
[25] Petition for Review, Court *En Banc*Docket, pp. 1-39.
[26] Resolution dated October 1, 2013, Court *En Banc* Docket, pp. 125-127.
[27] Court *En Banc* Docket, pp. 128-169.
[28] Court *En Banc* Docket, pp. 176-177.
[29] Court *En Banc* Docket, pp. 178-214.
[30] Court *En Banc* Docket, pp. 215-225.
[31] Resolution dated January 7, 2015, Court *En Banc* Docket, pp. 234-236; Resolution dated May 5, 2015, Court *En Banc* Docket, pp. 239-240.
[32] Resolution dated June 17, 2015, Court *En Banc* Docket, pp. 243-244.

or attached to a department under the executive branch of the government; and

c. The Honorable CBAA committed grave error when it ruled that the Petitioner-Appellant's Protest with the Honorable LBAA was filed beyond the reglementary period."[33]

THIS COURT'S RULING

We deny the Petition.

This Court has no jurisdiction to take cognizance of the instant Petition

Petitioner argues that under Section 252 of the Local Government Code of 1991 (LGC of 1991), payment under protest is required when the taxpayer/real property owner questions the excessiveness or reasonableness of the assessment. However, the same is not applicable in this case where petitioner questions not the excessiveness, reasonableness or correctness of the assessment, but the legality of the assessment on account of the taxpayer's claim that it is exempt from tax.

Moreover, petitioner asserts that the strict application of the rules *vis a vis* the reglementary period should not be applied in this case.

Section 252 of the LGC of 1991 provides:

"**Section 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

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[33] Petition for Review, Assignment of Errors, Court *En Banc* Docket, p. 7.

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 II, Book II of this Code**."*(Emphasis supplied)*

Under the afore-quoted provision, No protest shall be entertained unless the taxpayer pays the tax, which must be filed within 30 days from payment thereof and shall be decided within 60 days from receipt of the protest. In the event of the denial of the protest or upon the lapse of the 60-day period, the aggrieved taxpayer may avail of the remedies provided for under Chapter 3, Title II, Book II of the LGC of 1991.

In relation thereto, Sections 226 and 230 of the LGC of 1991 provides:

"**Section 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 provincial 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."*(Emphasis supplied)*

"**Section 230.** *Central Board of Assessment Appeals.* - xxx The Board shall have appellate jurisdiction over all assessment cases decided by the Local Board of Assessment Appeals."

Under Sections 226 and 230 of the LGC of 1991, an aggrieved taxpayer must pay under protest before elevating the case to the LBAA and subsequently to the CBAA, in case of an unfavorable decision.

However, the foregoing procedure is premised on the condition that the issues raised are cognizable by the LBAA. In this regard, Section 229 of the LGC of 1991 provides:

"**Section 229**. *Action by the Local Board of Assessment Appeals.* –
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xxx xxx xxx

> (b) In the exercise of its appellate jurisdiction, the Board shall have the power 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.
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> xxx xxx xxx" *(Emphasis supplied)*

In the case of *Alejandro B. Ty v. The Hon. Aurelio C. Trampe,*[34] the respondent assessor sent notices of assessment to petitioner's real properties. Consequently, petitioner requested the municipal assessor to reconsider the subject assessments. Not satisfied with the unfavorable resolution, petitioner elevated the case to the Regional Trial Court where it filed a Petition for Prohibition with prayer for a restraining order and/or writ of preliminary injunction to declare null and void the new assessments and to enjoin the collection of real estate taxes. On this score, it is noteworthy that petitioner therein did not pay under protest.

One of the issues raised therein is whether the case is premature for failure of the petitioner to pay under protest under Section 252 of the LGC of 1991, among others. In ruling that payment under protest is not necessary, the Supreme Court held that:

> "In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Sec. 229 (b) that "(t)he proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts . . . ." It follows that appeals to this Board may be fruitful only where questions of fact are involved. Again, the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. In the case at bench however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of *any* increase." 9r

[34] G.R. No. 117577, December 1, 1995, 250 SCRA 500.

Thus, in the *Ty* case, the Supreme Court categorically declared that when the issues involved are not factual, the taxpayer need not pay under protest. Incidentally, the petitioner therein elevated the case to the Regional Trial Court and not before the LBAA.

In other words, as early as when the *Ty* case was promulgated on December 1, 1995, the Supreme Court already had the occasion to rule that payment under protest is not necessary where no factual issue is involved. Moreover, in that case, petitioner commenced its action before the regular courts and not before the LBAA. Thus, it is apparent that when no factual issue is involved, it is the regular courts, not the LBAA, which has jurisdiction to take cognizance of the case.

In the recent case of *National Power Corporation v. Municipal Government of Navotas* promulgated on November 24, 2014,[35] the Supreme Court clarified the correct remedy of the aggrieved party/taxpayer when no factual issue is involved and when payment under protest is not necessary in cases where the party disputes the RPT assessments. Thus:

> "In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Sec. 229 (b) that "(t)he proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts . . . ." It follows that appeals to this Board may be fruitful only where questions of fact are involved. Again, the protest contemplated under Sec. 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or municipal treasurer will not act on his protest. In the case at bench, however, the petitioners are questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These are not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase.
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> **Accordingly, if the only issue is the legality or validity of the assessment – a question of law – direct recourse to the RTC is warranted.**"[36] *(Emphasis supplied)*

The *National Power Corporation* case reiterated and clarified the *Ty* case, such that when the issue involved is the legality or validity of the

[35] G.R. No. 192300, November 24, 2014.
[36] Citing Ty v. Trampe, see Note 35.

assessment – a question of law – direct recourse to the regular courts is warranted.

Interestingly, in the case of *Dr. Pablo R. Olivares v. Mayor Joey Marquez*,[37] the petitioner therein filed a petition for certiorari, prohibition and *mandamus* before the Regional Trial Court of Parañaque to question the levy made by the Office of the City Treasurer of Parañaque City on petitioner's properties. As in the *Ty* case and *National Power Corporation* case, petitioner therein did not pay under protest before commencing action before the regular courts.

In ruling against petitioner, the Supreme Court held that:

> "The Court is not convinced with petitioners' argument that their recourse of filing a petition before the trial court is proper as they are questioning the very authority of respondents to assess and collect the real estate taxes due on their properties, and not merely the correctness of said amount.
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> The well-established rule is that the allegations in the complaint and the character of the relief sought determine the nature of an action. A perusal of the petition before the RTC plainly shows that what is actually being assailed is the correctness of the assessments made by the local assessor of Parañaque on petitioners' properties. The allegations in the said petition purportedly questioning the assessor's authority to assess and collect the taxes were obviously made in order to justify the filing of the petition with the RTC. In fact, there is nothing in the said petition that supports their claim regarding the assessor's alleged lack of authority. What petitioners raise are the following: (1) some of the taxes being collected have already prescribed and may no longer be collected as provided in Section 194 of the Local Government Code of 1991; (2) some properties have been doubly taxed/assessed; (3) some properties being taxed are no longer existent; (4) some properties are exempt from taxation as they are being used exclusively for educational purposes; and (5) some errors are made in the assessment and collection of taxes due on petitioners' properties, and that respondents committed grave abuse of discretion in making the "improper, excessive and unlawful the collection of taxes against the petitioner[s]." Moreover, these arguments essentially involve questions of fact. Hence, the petition should have been brought, at the very first instance, to the LBAA.

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[37] G.R. No. 155591, September 22, 2004, 438 SCRA 679.

Under the doctrine of primacy of administrative remedies, an error in the assessment must be administratively pursued to the exclusion of ordinary courts whose decisions would be void for lack of jurisdiction. But an appeal shall not suspend the collection of the tax assessed without prejudice to a later adjustment pending the outcome of the appeal.

Even assuming that the assessor's authority is indeed an issue, it must be pointed out that in order for the court *a quo* to resolve the petition, the issues of the correctness of the tax assessment and collection must also necessarily be dealt with.

In *Ty vs. Trampe*, cited by petitioners, the Court held that jurisdiction over the case was properly vested with the trial court because what was being questioned is the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax, and not merely of amounts of the increase in the tax. The petitioners therein were questioning the increased real estate taxes imposed by and being collected in Pasig City effective from the year 1994, premised on the legal question of whether or not P.D. No. 921 was repealed by R.A. No. 7160. P.D. No. 921, particularly Section 9 thereof, requires that the schedule of values of real properties in the Metropolitan Manila area shall be prepared *jointly* by the city assessors in the districts created therein; while Sec. 212 of R.A. No. 7160 states that the schedule shall be prepared by the provincial, city or municipal assessors of the municipalities within the Metropolitan Manila Area for the different classes of real property situated in their respective local government units for enactment by ordinance of the *sanggunian* concerned.

In the present case, the authority of the assessor is not being questioned. Despite petitioners' protestations, the petition filed before the court *a quo* primarily involves the correctness of the assessments, which are questions of fact, that are not allowed in a petition for *certiorari*, prohibition and *mandamus*. The court *a quo* is therefore precluded from entertaining the petition, and it appropriately dismissed the petition."[38]

In the *Dr. Pablo R. Olivares* case, the Supreme Court ruled that the RTC has no jurisdiction over petitioner's action because the issue involved is not purely legal, based on the allegations of the Petition. In other words, when the issues involved are not purely legal, i.e., the correctness of the tax

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[38] *Id.*, citing *International Flavors and Fragrances (Phil.), Inc., vs. Argos*, G.R. No. 130362, September 10, 2001, 364 SCRA 792, 797; and *Manila Electric Company vs. Barlis*, G.R. No. 114231, May 18, 2001, 357 SCRA 832, 843.

assessment and collection are likewise in issue, it is the LBAA, not the regular courts, which has jurisdiction over the case.

Hence, the *Ty* case, *National Power Corporation* case and *Dr. Pablo R. Olivares* case instruct that when the issue/s involved is/are (1) purely factual in nature; or (2) both factual and legal in nature, jurisdiction over RPT assessments is lodged on the LBAA. However, when the issues involved are pure questions of law, jurisdiction is conferred upon the regular courts.

We now examine whether the Petition before the LBAA is either (1) purely factual in nature; (2) both factual and legal in nature; or (3) purely questions of law, to determine whether the LBAA has jurisdiction over the case, whose adverse decision is appealable to the CBAA and eventually, to the Court *En Banc*.

Based from the Petition, the main issues presented by petitioner are the following: (1) whether the properties being subjected to RPT are properties of public dominion; and (2) whether petitioner is a GOCC and not an instrumentality of the government.

We rule that the issues presented by petitioner are pure questions of law.

Clearly, the determination of whether the subject properties, *i.e.*, portion of the Magat Dam traversing Alfonso Lista, Ifugao, canals connected thereto, etc. may be subjected to RPT, and whether petitioner is a GOCC and not an instrumentality, are pure questions of law. These matters solely affect the propriety of the issuance of the assessment, without necessitating the presentation of evidence to determine whether the amount assessed is correct.

In fact, during the hearing conducted on July 26, 2012[39] before the CBAA, even both parties are convinced that the issues involved are mere questions of law, thus:

ATTY. SELDA	:Well, actually, Your Honor, with respect to our appeal, we prayed for the exemption of our canals and dams located at Alfonso Lista. Considering, your Honor, that based on the defenses laid down by... we go first to the substantive

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[39] Transcript of Stenographic Notes (TSN) dated July 26, 2012, pp. 9-15.

with respect to that, we're not exempt because we are GOCC. We lay down our basis in our appeal that GOCC per se within the meaning or within the spirit of the meaning of the GOCC. Because we are not a stock corporation actually all of our, we are subsidized by the government, all of our projects and also with respect to the properties that is being taxed by the respondent-appellee is actually canals, dams, embankments which is under the Civil Code as could be referred as property under the public dominion, hence, we are not liable by real property tax, Your Honor. And with respect to the issue of… going back, so if we are, just in case that we are a GOCC within the meaning of the law, how come that a dam or all of the canals: lateral canals, sub-lateral canals connecting to the dam will be levied by the respondent-appellee and be sold to private persons. Xxx

CHAIRMAN	: On the part of respondent, what can you say?
ATTY. NGIPOL	: Well, we beg to disagree, your Honor, we believe exactly the object, Your Honor, we believe that they are a GOCC for all intent and purposes, they are subject to real property taxes. Xxx

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CHAIRMAN	: And you are saying that the appellant should have made its payment under protest before…
ATTY. NGIPOL	: They filed in the LBAA.
ATTY. SELDA	: On that ground, Your Honor, under the law, payment under

	protest is only applicable if you are protesting the amount or how the property was assessed if there is an incorrect assessment of the property. However, Your Honor, we are saying that the National Irrigation Administration properties including buildings, dams, canals are exempted from the real property tax. Hence, we are not going to, we are not liable to pay the amount before filing the protest. And also, Your Honor, considering that the properties being taxed by the respondent-appellees are the dam or the canals itself, it is by, it is very elementary that it is not subject to real property tax.
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CHAIRMAN	: Was the province able to inspect the dams and canals that the appellant is saying?
ATTY. NGIPOL	: Yes, Your Honor.
CHAIRMAN	: And to your.. .You believe that those dams and canals are real properties and are subject to taxation?
ATTY. NGIPOL	: Yes, Your Honor.
Xxx	xxx xxx
CHAIRMAN	: You are ready to present evidence next meeting?
ATTY. SELDA	: Yes, Your Honor.
ATTY. NGIPOL	: Your Honor please, we believe these are mere questions of law. May we know from the good counsel what...?

CHAIRMAN	: Where are these properties located, in Kalinga Apayao?
ATTY. NGIPOL	: Ifugao, Your Honor.
CHAIRMAN MARQUEZ	: Ah, Ifugao.
ATTY. SELDA	: But I believe it is part of the Magat Dam.
ATTY. NGIPOL	: Yes, within the Ifugao jurisdiction.
ATTY. SELDA	: Yes. So, Your Honor, if that...
CHAIRMAN	: Magat Dam is the Ifugao?
ATTY. SELDA	: Actually the Magat Dam is so large that it's just a portion of it covered by the Ifugao Area it is within the Isabela...
ATTY. NGIPOL	: It's situated, Your Honor, in the boundary of Isabela, Ifugao on Ramon Isabela on the other side and Alfonso Lista, Ifugao on the other side. We have just assessed those which were located in the jurisdiction of the Province of Ifugao, Your Honor."

Considering that the issues involved are pure questions of law, petitioner is correct in arguing that it is not incumbent upon it to pay under protest.

However, while petitioner need not pay under protest, it availed of the wrong remedy by appealing its case to the LBAA, albeit knowing that the issues involved are purely legal in nature. Applying the rulings laid down by the Supreme Court in the above-quoted cases, this Court rules that petitioner erroneously filed its appeal before the LBAA – whose jurisdiction only involves questions of fact, or mixed questions of fact and of law, in RPT assessments.

Consequently, because of petitioner's erroneous appeal to the LBAA, it resulted to an equally erroneous appeal before the CBAA of the adverse decision of the LBAA, rendered by the LBAA despite want of jurisdiction.

Therefore, the decision rendered by the CBAA is likewise a nullity for lack of jurisdiction.

Since petitioner wrongfully elevated its case before the LBAA and consequently before the CBAA, this Court, similarly, has no jurisdiction to take cognizance of the instant Petition under Section 2€, Rule 4 of the 2005 Revised Rules of the CTA, as amended, *viz*:

> "SEC. 2. *Cases within the jurisdiction of the Court en banc*. – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
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> Xxx xxx xxx
>
> € Decisions of the Central Board of Assessment Appeals (CBAA) **in the exercise of its appellate jurisdiction** over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals;"*(Emphasis supplied)*

To conclude, the Court *En Banc* cannot take cognizance of a case where the CBAA renders a decision in the wrongful exercise of its appellate jurisdiction. It is as if no decision was rendered by the CBAA that is properly appealable to this Court. Hence, the denial of the instant Petition for Review is in order.

WHEREFORE, in view thereof, the instant Petition for Review is hereby **DENIED** for lack of jurisdiction.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

(With Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

NATIONAL IRRIGATION ADMINISTRATION (NIA), *Petitioner,*	**CTA EB NO. 1055** *(CBAA Case No. L-118)*
	Present:
- versus -	**DEL ROSARIO,** *PJ,* **CASTAÑEDA, JR. BAUTISTA UY CASANOVA FABON-VICTORINO MINDARO-GRULLA COTANGCO-MANALASTAS RINGPIS-LIBAN,** *JJ.*
SAMUEL A. MARINAY, in his capacity as Provincial Treasurer of Ifugao, and ESTRELLA S. ALIGUYON, in her capacity as Municipal Treasurer of Alfonso Lista, Ifugao, *Respondents.*	Promulgated: SEP 04 2015 3:35 p.m.

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CONCURRING & DISSENTING OPINION

DEL ROSARIO, PJ.:

I agree in the *ponencia* of my esteemed colleague, *Honorable Juanito C. Castañeda, Jr., Associate Justice* in holding that when the issue involved in a real property tax assessment case is factual in nature, *i.e., the correctness of tax assessment*, jurisdiction is lodged with the Local Board of Assessment Appeals (LBAA), whose decision may be appealed to the Central Board of Assessment Appeals (CBAA), and the latter's decision may further be reviewed on appeal with the Court *En Banc*, and when the issue involved is the legality or validity of the assessment - *a question of law* - jurisdiction is with the regular court. As the present appealed case involves pure question of law, the *ponencia* aptly concluded that petitioner erroneously appealed to the LBAA and later to the CBAA.

I could not, however, agree in the conclusion that the Court *En Banc*, has no jurisdiction over the case on its rationalization that the decision of the CBAA was rendered in the wrongful exercise of its appellate jurisdiction.

With utmost respect, the CTA *En Banc* has exclusive appellate jurisdiction to review by appeal decisions of the CBAA rendered in the exercise of its appellate jurisdiction over cases involving assessment and taxation of real property originally decided by the provincial or city board of assessment appeals, pursuant to Sec. 7 of Republic Act (RA) No. 1125, as amended by RA 9282[1] and Sec. 2(e), Rule 4 of the Revised Rules of the Court of Tax Appeals.[2]

In *National Power Corporation vs. Municipality Government of Navotas, et al.,*[3] the Supreme Court affirmed the jurisdiction of the CTA to review the decision of the CBAA in ruling that if a taxpayer is not satisfied with the decision of the CBAA, the taxpayer may file, within thirty (30) days from receipt of the assailed decision, a petition for review with the CTA, pursuant to Section 7(a) of R.A. 9282.

To be sure, when a decision of the CBAA in real property tax assessment is properly appealed with the Court *En Banc*, *as in the present case*, the Court *En Banc* is vested with jurisdiction to pass upon and review such appeal.

Based on earlier discussion, as petitioner availed of the wrong remedy by appealing the real property tax assessment to the LBAA and later to the CBAA instead of filing a case in the regular court, the Petition for Review must be dismissed on the ground that both the LBAA and CBAA had mistakenly exercised jurisdiction on a real property tax assessment case properly cognizable by the regular court. Otherwise stated, the declaration that both LBAA and CBAA are without jurisdiction over the case brought

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[1] Republic Act No. 1125, An Act Creating the Court of Tax Appeals, as amended by Republic Act No. 9282, An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.
Sec. 7. Jurisdiction. – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
(5) Decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals.
[2] RULE 4 JURISDICTION OF THE COURT
SEC. 2. Cases within the jurisdiction of the Court en banc. – The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:
(e) Decisions of the Central Board of Assessment Appeals (CBAA) in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals.
[3] G.R. No. 192300, November 24, 2014.

before them is an adjudication which the CTA may appropriately make in the exercise of its appellate jurisdiction.

IN VIEW OF THE FOREGOING, I vote to **DENY** the Petition for Review for lack of merit.

ROMAN G. DEL ROSARIO
Presiding Justice