REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

THE CITY ASSESSOR AND CITY TREASURER OF MANDALUYONG,
Petitioners,

-versus-

RODOLFO R. BONIFACIO,
Respondent.

C.T.A. E.B. NO. 148
(CBAA CASE NO. L-45)

Present:

ACOSTA, Presiding Justice
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA, and
PALANCA-ENRIQUEZ, JJ.

Promulgated:

JUL 27 2006

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is an appeal from the Decision dated June 7, 2005 and the Resolution dated November 9, 2005, rendered by the Central Board of Assessment Appeals (hereafter "CBAA"), in CBAA Case No. L-45, the respective dispositive portions of which read as follows:

> "WHEREFORE, premises considered, the Resolution promulgated by the Local Board of Assessment Appeals of the City of Mandaluyong on September 23, 2000 is hereby SET ASIDE. Respondent City Treasurer of Mandaluyong is hereby ORDERED to refund the said sum of PhP438,951.74 to Petitioner-Appellant as overpayment of real property taxes from 1994-2000, or issue unto him a tax credit in the same amount to be applied to present and/or future realty taxes which may be rightfully due from Petitioner-Appellant, all in accordance with the provisions of Sec. 253 of R.A. 7160.
>
> SO ORDERED."
>
> "WHEREFORE, the instant Motion For Reconsideration is hereby DENIED for lack of merit.
>
> SO ORDERED."

THE FACTS

The facts of the case, as culled from the records, are as follows:

Rodolfo R. Bonifacio (hereafter "respondent Bonifacio") is the registered owner in fee simple of a parcel of land, including the improvements existing thereon, located at 83 EDSA, Mandaluyong City and covered by Tax Declaration Nos. D-016-01221 and D-016-01222.

From 1994 to 2000, respondent Bonifacio paid the City Government of Mandaluyong real property taxes amounting to P1,055,063.74 in accordance with *Ordinance No. 119, S-1993, Ordinance No. 125, S-1993, and Ordinance No. 119,* as amended by *Ordinance No. 135, S-1994.*

Ordinance No. 119, S-1993 contains a schedule of fair market values of the different classes of real property in the city. *Ordinance No. 125, S-1993* fixes the assessment levels applicable to such classes of real property. *Ordinance No. 119,* as amended by *Ordinance No. 135, S-1994*, provides that only 1/3 of the increase in the market values applicable to residential lands pursuant to the said ordinance shall be implemented in the years 1994, 1995, and 1996.

On September 21, 2000, respondent Bonifacio filed with the City Treasurer of Mandaluyong City a written tax claim for refund of alleged overpayment of real property taxes amounting to P438,951.74. Respondent Bonifacio relied on the decision of the Court of Appeals in *Suguitan vs. Marcelino, CA-G.R. SP No. 44155* dated December 22, 1997 and the Supreme Court Minute Resolution in *Marcelino, et al. vs. Alberto Suguitan, et al., G.R. No. 141412* dated February 28, 2000.

In response to respondent Bonifacio's claim for tax refund, on November 20, 2000, City Treasurer William Marcelino advised him that they cannot yet decide on what action to take with his claim pending resolution of the Mandaluyong City's Motion for Reconsideration with the Supreme Court.

On June 17, 2002, the City Government of Mandaluyong, through its acting City Legal Officer, advised respondent Bonifacio that in his opinion "the tax refunds/tax credits are to be given only to those taxpayers who had filed a written claim for refund from January 16, 1996 to January 16, 1998." This opinion was allegedly based on the decision of the Supreme Court in the case of *Ty vs. Trampe, 250 SCRA 500,* annulling the 1994 schedule of market values of real properties in Pasig City.

Thereupon, respondent Bonifacio appealed to the Local Board of Assessment Appeals (hereafter "LBAA"), where the parties were ordered to file their respective Position Papers, and a Reply Position Paper, if necessary, afterwhich the case will be considered submitted for decision.

Respondent Bonifacio filed his Position Paper and Reply Position Paper, while petitioner City Treasurer filed a Position Paper.

On September 23, 2003, the LBAA rendered its Resolution, the dispositive portion of which reads as follows:

> "WHEREFORE, in view of the foregoing, the instant appeal is DISMISSED for lack of jurisdiction.
>
> SO ORDERED."

On November 11, 2003, respondent Bonifacio appealed to the CBAA.

After the oral arguments on February 17, 2004, the case was considered submitted for decision.

On June 7, 2005, the CBAA rendered the assailed decision in the terms earlier set forth. Hence, the present appeal filed by the City Assessor and City Treasurer of Mandaluyong City assigning the following errors:

THE ISSUES

I

THE CBAA ERRED IN FINDING THAT THE LBAA HAD JURISDICTION OVER THE CASE AND NOT THE REGULAR COURTS.

II

THE CBAA ERRED IN FINDING THAT THE WRITTEN CLAIM FOR REFUND/CREDIT FOR THE SUPPOSED OVERPAYMENT OF REALTY TAXES WAS NOT LEGALLY BARRED.

III

THE CBAA ERRED IN FINDING THAT THE HEREIN RESPONDENT IS ENTITLED TO TAX REFUND/CREDIT.

Decisive Issue

The decisive issue to be resolved is whether the imposition of real estate taxes is valid, hence, respondent Bonifacio is not entitled to a tax refund/tax credit.

Brief Background

1) *Ty vs. Trampe, 250 SCRA 517*

This present case stemmed from the decision in *Ty vs. Trampe, 250 SCRA 517.* The Supreme Court nullified the Schedule of Market Values for real properties in Pasig City as well as the corresponding assessments and real estate tax increases based thereon. Said schedule of market values for real properties was in violation of *Section 9 of P.D. No. 921* having been prepared solely by the City Assessor. The Supreme Court enjoined the City Treasurer of Pasig City from collecting the realty tax increases made on the basis of the invalidated schedule, thus:

> "Since it is now clear that P.D. 921 is still good law, it is equally clear that this Court's ruling in the Mathay/Javier/Puyat-Reyes cases (*supra*) is still the prevailing and applicable doctrine. And, applying the said ruling in the present case, it is likewise clear that the schedule of values prepared solely by the respondent municipal assessor is illegal and void."

2) *Suguitan vs. Marcelino, CA-G.R. SP No. 44155, December 22, 1997*

Invoking the above decision of the Supreme Court in *Ty vs. Trampe*, Alberto Suguitan, et al. instituted a Petition for Mandamus with the RTC of Pasig City. The petition sought to compel William Marcelino, the City Treasurer of Mandaluyong City, to act on his request for tax refund or credit. He claimed that the ruling in *Ty vs. Trampe* effectively nullified the schedule of market values for Mandaluyong City since both Mandaluyong City and Pasig City belong to the same Local Treasury and Assessment District and that his request pertains to the same assessment period. The RTC of Pasig City dismissed the petition for failure of the petitioner to first exhaust administrative remedies, there being factual issues raised in the petition.

On appeal by Suguitan, et al., the Court of Appeals, in *CA-G.R. SP No. 44155*, rendered its decision on December 22, 1997 in this manner, to wit:

> "Clearly then, the court a quo committed a reversible error when it held that in this case there was compliance with Section 9 of Presidential Decree No. 921. We find that the Decision in Ty vs. Trampe, supra, which nullified the 1994 schedule of real property values in Pasig City, applies as well to the schedule of market values for Mandaluyong City for the same assessment period, inasmuch as both cities belong to the same Local Treasury and Assessment District where there was no joint action by the Assessors concerned."

Accordingly, the Court of Appeals issued a writ of mandamus commanding the City Treasurer of Mandaluyong City to act on

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Suguitan's request for a refund of excess real estate taxes paid in 1995 and the succeeding years or for a tax credit conformably with the decision of the Supreme Court in *Ty vs. Trampe*.

3) *Marcelino vs. Suguitan, G.R. No. 141412, February 28, 2000*

The City Treasurer of Mandaluyong City appealed the above decision to the Supreme Court by way of Petition For Review on Certiorari, docketed as *Marcelino, et al. vs. Alberto Suguitan, et al., G.R. No. 141412*. On February 28, 2000, the Supreme Court issued a Minute Resolution denying the petition for being filed out of time, to wit:

> "Considering the petitioners' first motion for extension of time to file a petition for review on certiorari was denied in the resolution of February 14, 2000, the Court resolved to NOTE WITHOUT ACTION the petitioners' second motion for extension of three (3) days from February 15, 2000 or until February 18, 2000 within which to file the petition.
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> Acting on the Petition For Review on certiorari of the decision dated December 22, 1997 of the Court of Appeals in CA-G.R. SP No. 44155, the court resolved to DENY the petition for having been filed late on Feb. 18, 2000 due date being January 26, 2000, counsel for petitioner having received a copy of the resolution denying petitioner's

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Motion For Reconsideration of the assailed decision on January 11, 2000."

4) *Figuerres vs. Court of Appeals, 305 SCRA 214-215*

On the other hand, herein petitioners City Assessor and City Treasurer of Mandaluyong City invoke the decision of the Supreme Court in *Figuerres vs. Court of Appeals, 305 SCRA 214-215.* In said decision, the Supreme Court affirmed the decision of the Court of Appeals dated February 8, 1995 dismissing the prohibition suit instituted by petitioner Belen Figuerres against respondent officials of the City of Mandaluyong to prevent them from enforcing the following Ordinances:

1) Sangguniang Bayan of Mandaluyong *Ordinance No. 119, Series of 1993* promulgated on April 22, 1993, containing the schedule of fair market value of the different classes of real properties in the City of Mandaluyong;

2) *Ordinance No. 125, Series of 1993* promulgated on November 11, 1993 fixing the assessment

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levels applicable to such classes of real property; and

3) *Ordinance No. 135, Series of 1994* promulgated on February 24, 1994, amending *Ordinance No. 119, par. 6* by providing that only one third (1/3) of the increase in the market values applicable to residential lands pursuant to the said ordinance shall be implemented in the years 1994, 1995 and 1996.

It bears stressing that the Schedule of Market Values of real properties in Mandaluyong City is the very subject of *Ordinance No. 119, Series of 1993*. The above three (3) ordinances are the same ordinances from which herein petitioners City Assessor and City Treasurer of Mandaluyong City based their computation of taxes due from herein respondent Bonifacio and from which the latter prayed for a refund amounting to P438,951.74. This amount represents payments of realty taxes from 1994 to 2000 for the increase in assessments as a result

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of the 1994 Schedule of Market Values For Real Properties in Mandaluyong City.

In its decision dated February 8, 1995, the Court of Appeals dismissed the petition as follows:

> "Petitioner's claim that Ordinances No. 119, 125 and 135 are null and void since they were prepared without the approval and determination of the Department of Finance is without merit.
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> The approval and determination by the Department of Finance is not needed under the Local Government Code of 1991, since it is now the City Council of Mandaluyong that is empowered to determine and approve the aforecited ordinances. Furthermore, contrary to the claim of petitioner that the Department of Finance "has not promulgated the necessary rules and regulations for the classification, appraisal and assessment of real property as prescribed by the 1991 Local Government Code", Department of Finance Local Assessment Regulation No. 1-92 dated October 6, 1992, which is addressed to provincial, city, and municipal assessors and others concerned with the proper implementation of Section 219 of R.A. No. 7160, provides for the rules relative to the conduct of general revisions of real property assessments pursuant to Sections 201 and 219 of the Local Government Code of 1991.
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> Regarding petitioner's claim that there is need for municipal ordinances to be published in the Official Gazette for their effectivity, the same is also without merit.

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Section 511 of R.A. No. 7160 provides that –

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The secretary to the Sanggunian concerned shall transmit official copies of such ordinances to the chief executive officer of the Official Gazette within seven (7) days following the approval of the said ordinances for publication purposes. The Official Gazette may publish ordinances with penal sanctions for archival and reference purposes.

Thus, the posting and publication in the Official Gazette of ordinances with penal sanctions is not a prerequisite for their effectivity. This finds support in the case of Tañada v. Tuvera (146 SCRA 446), wherein the Supreme Court declared that municipal ordinances are covered by the Local Government Code.

Moreover, petitioner failed to exhaust the administrative remedies available to him as provided for under Section 187 of R.A. No. 7160, before filing the instant petition with this Court.

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In fact, aside from filing an appeal to the Secretary of Justice as provided under Section 187 of R.A. No. 7160, the petitioner x x x could have appealed to the Local Board of Assessment Appeals, the decision of which is in turn appealable to the Central Board of Assessment Appeals as provided under Sections 226 and 230 of the said law. According to current jurisprudence, administrative remedies must be exhausted before seeking judicial intervention.

(Gonzales v. Secretary of Education, 5 SCRA 657). If a litigant goes to court without first pursuing the available administrative remedies, his action is considered premature and not yet ripe for judicial determination (Allied Brokerage Corporation v. Commissioner of Customs, 40 SCRA 555).

As the petitioner has not pursued the administrative remedies available to him, his petition for prohibition cannot prosper (Gonzales v. Provincial Auditor of Iloilo, 12 SCRA 711).

WHEREFORE, the petition is hereby DENIED due course and is hereby DISMISSED."

On appeal by petitioner Belen Figuerres, the Supreme Court rendered judgment on December 10, 1999 upholding the constitutionality or validity of the three (3) ordinances in question. According to the Supreme Court, petitioner Belen Figuerres failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof. Thus:

"Petitioner is right in contending that public hearings are required to be conducted prior to the enactment of an ordinance imposing real property taxes. R.A. No. 7160, §186 provides that an ordinance levying taxes, fees, charges "shall not be enacted without any prior public hearing conducted for the purpose."

However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidence showing that the procedure prescribed by law was not observed in their enactment. In an analogous case, *United States v. Cristobal,* [34 Phil. 825 (1916)] it was alleged that the ordinance making it a crime for anyone to obstruct waterways had not been submitted by the provincial board as required by §§2232-2233 of the Administrative Code. In rejecting this contention, the Court held:

> From the judgment of the Court of First Instance the defendant appealed to this court upon the theory that the ordinance in question was adopted without authority on the part of the municipality and was therefore unconstitutional. The appellant argues that there was no proof adduced during the trial of the case showing that said ordinance had been approved by the provincial board. Considering the provisions of law that it is the duty of the provincial board to approve or disapprove ordinances adopted by the municipal councils of the different municipalities, we will assume, in the absence of proof to the contrary, that the law has been complied with. We have a right to assume that officials have done that which the law requires them to do, in the absence of positive proof to the contrary.

Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof [Industrial Finance Corporation v. Tobias, 78 SCRA 28 (1977)]. Since petitioner failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality."

CBAA's Decision

In its assailed decision, the CBAA held that *City Ordinances No. 119, S-1993, No. 125, S-1993 and No. 135, S-1994* are null and void pursuant to the Court of Appeals' decision in *Suguitan vs. Marcelino* dated December 22, 1997, and the Supreme Court Minute Resolution in *Marcelino, et al., vs. Alberto Suguitan, et al* dated February 28, 2000. Thus, the CBAA granted respondent Bonifacio's claim for tax refund/credit.

Petitioners City Assessor and City Treasurer of Mandaluyong City's Theory

Petitioners claim otherwise. They asserted that *City Ordinances No. 119, S-1993, No. 125, S-1993, and No. 135, S-1994* are valid and enforceable pursuant to the decision of the Supreme Court in *Figuerres* *case*. They contend that the issues in the *Suguitan* and *Figuerres cases* are interrelated, especially the legality of the schedule of market values of real properties in Mandaluyong City. In *Suguitan vs. Marcelino,* the Court of Appeals declared that the schedule of market values of real properties in Mandaluyong City having been prepared in violation of Section 9, P.D. 921 is null and void conformably with the Supreme Court's decision in *Ty vs. Trampe*. On appeal, the Supreme Court, in *Marcelino, et al. vs. Alberto Suguitan, et al., G.R. No. 141412, February 28, 2000* denied the petition for having been filed out of time.

Instead, the *Figuerres case* finds applicability in the present petition. The *Figuerres case* upholds the validity and constitutionality of the subject three (3) ordinances in question in so far as the schedule of market values for real properties in Mandaluyong City is concerned. On the basis thereof, respondent Bonifacio's claim for refund must be denied.

<u>THE COURT *EN BANC'S* RULING</u>

We rule for the petitioners.

It is a jurisprudential rule that the decision of the Supreme Court applying and/or interpreting the laws shall form part of the legal system of the Philippines (*Article 8, New Civil Code of the Philippines*). Judicial decisions of the Supreme Court are authoritative and precedent setting, while those of the inferior courts and the Court of Appeals are merely persuasive *(Persons and Family Relations, 4th ed., 2004, by Atty. Melencio S. Sta. Maria, Jr., p. 15)*.

The decision of the Supreme Court in the appealed case of *Suguitan vs. Marcelino* did not pass upon the validity or constitutionality of the schedule of market values of real properties for Mandaluyong City. But rather the appealed case was dismissed for having been filed out of time, and hence, did not constitute a precedent.

On the other hand, in the *Figuerres case,* the Supreme Court upheld the validity or constitutionality of *Ordinances No. 119, Series of 1993, No. 125, Series of 1993* and *No. 135, Series of 1994.* Until such time when this ruling is overruled or superseded by another, the Figuerres ruling prevails and remains the applicable doctrine. Moreover, the Supreme Court, in *Reyes vs. Court of Appeals, 320 SCRA 493*, reaffirmed the Figuerres ruling, to wit:

> "In *Figuerres vs. Court of Appeals, G.R. No. 119172, March 25, 1999, 305 SCRA 206*, where the municipality failed to conduct public hearings prior to enacting the revisions on the schedule of fair market values and assessment level of classes of real estate properties, the Court said:
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> > 'Petitioner is right in contending that public hearings are required to be conducted prior to the enactment of an ordinance imposing real property taxes. R.A. No. 7160, Sec. 186, provides that an ordinance levying taxes, fees, or charges 'shall not be enacted without any prior public hearing conducted for the purpose.'
> >
> > However, it is noteworthy that apart from her bare assertions, petitioner Figuerres has not presented any evidence to show that no public hearings were conducted prior to the enactment of the ordinances in question. On the other hand, the Municipality of Mandaluyong claims that public hearings were indeed conducted before the subject ordinances were adopted, although it likewise failed to submit any evidence to establish this allegation. However, in accordance with the presumption of validity in favor of an ordinance, their constitutionality or legality should be upheld in the absence of evidences showing that procedure prescribed by law was not observed in their enactment. x x x.

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> Furthermore, the lack of a public hearing is a negative allegation essential to petitioner's cause of action in the present case. Hence, as petitioner is the party asserting it, she has the burden of proof. Since petitioner failed to rebut the presumption of validity in favor of the subject ordinances and to discharge the burden of proving that no public hearings were conducted prior to the enactment thereof, we are constrained to uphold their constitutionality or legality.
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> We find *Figuerres* instructive. Petitioners have not proved in the case before us that the *Sangguniang Bayan* of San Juan failed to conduct the required public hearings before the enactment of Ordinance Nos. 87, 91, 95, 100 and 101. Although the Sanggunian had the control of records or the better means of proof regarding the facts alleged, petitioners are not relieved from the burden of proving their averments [People vs. Pajenado, 31 SCRA 812, 817 (1970)]. Proof that public hearings were not held falls on petitioners' shoulders. For failing to discharge that burden, their petition was properly dismissed."

All the foregoing considered and applying the *Figuerres ruling*, We rule that the three (3) ordinances in question are valid. The increase of the real estate tax assessed against and collected from respondent Bonifacio pursuant to said three (3) ordinances is accordingly valid. Hence, his claim for refund/credit must perforce be denied.

Finally, the issues of jurisdiction and prescription having been mooted by the resolution of the principal issue involved in this petition, We find no necessity to discuss the same.

WHEREFORE, premises considered, the petition is hereby **GRANTED.** The appealed Decision of the CBAA dated June 7, 2005, in CBAA Case No. L-45 is **REVERSED** and **SET ASIDE** and a new one entered denying respondent Bonifacio's claim for tax refund.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

Pursuant to Section 13, 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 the Court.

ERNESTO D. ACOSTA
Presiding Justice