REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

KEPCO ILIJAN CORPORATION,
Petitioner,

-versus-

THE CENTRAL BOARD OF ASSESSMENT APPEALS and THE CITY OF BATANGAS,
Respondents.

CTA EB CASE NO. 909
(CBAA Case No. L-43)

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NATIONAL POWER CORPORATION,
Petitioner,

-versus-

EMELINDA C. ATIENZA, CITY ASSESSOR, and BENJAMIN S. PARGAS, CITY TREASURER OF BATANGAS CITY,
Respondents.

CTA EB CASE NO. 910
(CBAA Case No. L-43)

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

Promulgated:

MAY 2 9 2013 10:40am

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R E S O L U T I O N

On October 31, 2012, petitioner KEPCO Ilijan Corporation, along with respondent City Assessor of Batangas, filed a "Joint Motion for the Approval of Compromise Agreement," over the alleged tax liabilities of petitioner for taxable years 2002 to 2012.

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On November 13, 2012, "Manifestation," "Motion for Intervention," and "Comment-in-Intervention" were filed by Jose Virgilio Y. Tolentino, Arthur G. Blanco, Dhess Aclan, Maria Kristine Josefina G. Balmes, Carlos Bagon, Hamilton Blanco, Benjamin Espina, Jr., Eduardo Evangelio, Raoul Mendoza, Nicasio G. Plata, Marinel Andal, Benedict Tan Tiu, Christina G. Farol, Joelito M. Santos (collectively referred to herein as "Intervenors").

The Intervenors are all residents of Batangas City ("City") and taxpayers.[1] The Intervenors state that under the rules, they are allowed to intervene if one can show an actual, direct and material interest in the said case. As residents of Batangas City, the reduction in the amount which the City may collect would curtail a vast improvement of government services that as residents, they ought to receive.[2] Also, Arthur Blanco, being a barangay captain will actually and directly be affected as the funds for the barangay is dependent on the collection of the City.[3]

In addition, Intervenors state that the only person allowed to authorize a condonation of tax liabilities is the President of the Philippines, and only when public interest so requires it. However, Intervenors point out that this was not the case at hand, and that the Sanggunian had no authority to enter into a compromise agreement, much less empower the Local Chief Executive, Hon. Vilma Abaya Dimacuha, to do so on its behalf.[4]

On November 26, 2012, petitioner filed an "Opposition to the Motion for Intervention," stating that the Intervenors did not follow the procedure laid out in the Rules of Court, nor did they have any *locus standi*, and that since the compromise agreement entered into was valid and legal, the issue at hand has become moot and academic.[5]

On December 14, 2012, respondent City Assessor of Batangas, *et. al.*, filed an "Opposition to the Motion for Intervention," stating several grounds for the denial of the said motion. First, that several parties to the Intervenors participated in the passage of the Sanggunian Resolution, being officials of the City.[6] Second, that the

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[1] *Rollo*, p. 129.
[2] *Id.*, pp. 129-130.
[3] *Id.*, p. 130.
[4] *Id.*, pp. 135-137.
[5] *Id.*, pp. 247-257.
[6] *Id.*, pp. 265-267.

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Intervenors have not shown that they actually have any legal interest, or that they will directly be affected in the disposition of this case.[7] Third, that the Executive Order No. 27 s. 2012[8] issued by the President of the Philippines does not require a compromise agreement between Independent Power Producers ("IPP") and the Local Government Unit ("LGU") to be implemented.[9] Fourth, the tax liabilities have been paid, thus rendering the issue moot and academic.[10] Fifth, that to permit the "Motion for Intervention" would only unduly delay the termination of the case.[11] Sixth, the proper procedure was not observed in filing the "Motion for Intervention."[12] Lastly, that it was National Power Corporation, and not petitioner, who actually paid the City of Batangas.[13]

On December 12, 2012, Intervenors filed a "Reply (to the Opposition to the Motion for Intervention filed by Petitioner KEPCO Ilijan Corporation dated 22 November 2012),"[14] and a "Reply (to the Opposition to the Motion for Intervention filed by Respondent City of Batangas dated 3 December 2012)" on December 27, 2012.

On May 7, 2013, a Records Verification was issued by the Judicial Records Division stating that the Central Board of Assessment Appeals has not filed a Comment.

Thus, the "Joint Motion for the Approval of Compromise Agreement" and "Motion for Intervention" shall now be resolved.

After careful consideration of the points raised by all the parties, the Court *En Banc* finds that the "Motion for Intervention" must be denied.

The Court *En Banc* shall resolve two essential issues: (1) whether or not there is actual and direct harm to the Intervenors, and (2) Applicability of E.O. No. 27 s. 2012.

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[7] *Id.*, pp. 267-268.
[8] Reduction and Condonation of Real Property Taxes and Interest/Penalties Assessed on the Power Generation Facilities of Independent Power Producers Under Build-Operate-Transfer Contracts with Government-Owned Or Controlled Corporations in the Province Of Quezon
[9] *Id.*, pp. 269-270.
[10] *Id.*, pp. 270-271.
[11] *Id.*, pp. 271-272.
[12] *Id.*
[13] *Id.*
[14] *Id.*, pp. 315-346.

In the case of *Office of the Ombudsman v. Maximo D. Sison*,[15] the Supreme Court held that:

> "It is fundamental that the allowance or disallowance of a Motion to Intervene is addressed to the sound discretion of the court. The permissive tenor of the rules shows the intention to give to the court the full measure of discretion in permitting or disallowing the intervention, thus:
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>> 'SECTION 1. *Who may intervene*. A person who has a legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof may, with leave of court, be allowed to intervene in the action. The court shall consider whether or not the intervention will unduly delay or prejudice the adjudication of the rights of the original parties, and whether or not the intervenor's rights may be fully protected in a separate proceeding.
>>
>> SECTION 2. *Time to intervene*. The motion to intervene may be filed at any time before rendition of judgment by the trial court. A copy of the pleading-in-intervention shall be attached to the motion and served on the original parties.'
>
> Simply, intervention is a procedure by which third persons, not originally parties to the suit but claiming an interest in the subject matter, come into the case in order to protect their right or interpose their claim.[10] Its main purpose is to settle in one action and by a single judgment all conflicting claims of, or the whole controversy among, the persons involved.
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> To warrant intervention under Rule 19 of the Rules of Court, two requisites must concur: (1) the movant has a legal interest in the matter in litigation; and (2)

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[15] G.R. No. 185954, February 16, 2010, 612 SCRA 702, citing *Heirs of Geronimo Restrivera v. De Guzman*, G.R. No. 146540, July 14, 2004, 434 SCRA 456, and *Union Bank of the Philippines v. Concepcion*, G.R. No. 160727, June 26, 2007, 525 SCRA 672.

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> intervention must not unduly delay or prejudice the adjudication of the rights of the parties, nor should the claim of the intervenor be capable of being properly decided in a separate proceeding. The interest, which entitles one to intervene, must involve the matter in litigation and of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.

Taking note of the above cited case, it is clear that the "Motion for Intervention" must fail. In the first place, Intervenors were not able to establish the direct and immediate harm they would sustain. The allegations that the Intervenors, and that the taxpayers and residents of Batangas City, shall be affected by the compromise agreement is, at this point, purely speculative. As correctly pointed out by petitioner, the original amount being collected is so enormous that there is no assurance that the parties being held responsible would be able to pay the entire liability.[16] Intervenors were also unable to show that allocations have been set by the local government unit, and that this collection would be the source of funding for those specific allocations.

More importantly, the Court *En Banc* finds the allegations that the compromise was done without authority of the President of the Philippines incorrect.

As pointed out by both petitioner and respondent, the President of the Philippines issued E.O. No. 27 s. 2012 to address the real property tax issues of IPPs and the local government units. The said issuance set out the computation for the reduction of the tax liabilities, as well as the condonation of the fines, penalties and interest on deficiency real property tax.

Thus, the parties, by entering into a compromise agreement, were merely applying the computation set by E.O. No. 27 s. 2012. The Court *En Banc* agrees that the tenor of this issuance clearly shows that it is to be applied to all cases involving an IPP and a Government-Owned and Controlled Corporation ("GOCC").

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[16] *Rollo*, p. 268.

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Therefore, the Court *En Banc* sees no reason not to grant the "Joint Motion for Approval of Compromise Agreement," filed by petitioner KEPCO Ilijan Corporation, along with the respondent City Assessor of Batangas, on October 31, 2012.

WHEREFORE, petitioner and respondent's "Joint Motion for Approval of Compromise Agreement" is hereby **GRANTED**, the Petition for Review docketed as CTA EB Case No. 909 is hereby deemed **WITHDRAWN.** The said case is now considered **CLOSED** and **TERMINATED.**

On the other hand, the "Motion for Intervention" filed by Intervenors on November 13, 2012 is hereby **DENIED.**

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate 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
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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