REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

NATIONAL POWER CORPORATION,
Petitioner,

- versus -

PROVINCIAL ASSESSOR OF LANAO DEL SUR,
Respondent.

CTA EB NO. 549
(CBAA CASE NO. M-26)
(LBAA CASE NO. 001-08)

Present:

ACOSTA, *P.J.*
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
PALANCA-ENRIQUEZ,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, *JJ.*

Promulgated:
SEP 15 2010 GR Apolinario 3:00 p.m.

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DECISION

UY, *J.*:

Before Us is a Petition filed on October 22, 2009 seeking the reversal of the Decision dated September 4, 2009[1] rendered by the Central Board of Assessment Appeals[2] (CBAA) in CBAA Case No. M-26, entitled "*National Power Corporation, Petitioner-Appellant, vs. The Local Board of Assessment Appeals of the Province of Lanao Del Sur, Appellee, and The Provincial Assessor of Lanao*

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[1] Petition, Annex "A", Docket, pp. 31 to 40.
[2] Composed of Cesar S. Gutierrez, Chairman, and Angel P. Palmores and Rafael O. Cortes, Members.

Del Sur, Respondent-Appellee", dismissing the appeal filed in said case, the dispositive portion of which reads:

> " **WHEREFORE,** premises considered, the instant Appeal is hereby DISMISSED for lack of merit."

The appeal in CBAA Case No. M-26 originated from a petition filed by National Power Corporation before the Local Board of Assessment Appeals of the Province of Lanao del Sur (LBAA)[3], primarily assailing the increase in the assessment of its property from ₱ 90.00 per square meter to ₱ 1,000.00 per square for allegedly being confiscatory, excessive, exorbitant, and tantamount to taking of property without due process of law. The LBAA sustained the said increase.

THE FACTS

Petitioner National Power Corporation is a government-owned and -controlled corporation existing under and by virtue of Republic Act No. 6395, holding office at the National Power Corporation Building Complex, Quezon Avenue corner BIR Road, Diliman, Quezon City. On the other hand, respondent is the Provincial Assessor of Lanao del Sur Gonoranao U. Mapandi, Jr. holds office at the Provincial Capitol, Marawi City, Lanao Del Sur.

Petitioner is the registered owner of several parcels of land situated in the Municipality of Saguiaran, Province of Lanao Del Sur, consisting of 2,075,700 square meters and collectively covered by Tax Declaration No. D-1239. As appearing in said Tax Declaration, the market value of the said parcels of land was fixed at ₱ 90.00 per square meter as of 1993, and was uniformly assessed

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[3] LBAA Case No. 001-08 entitled "In the Matter of the Appeal of National Power Corporation Re: Assessment of Real Property In the Province of Lanao Del Sur, National Power Corporation, Petitioner", Docket, pp. 41 to 50

at a special rate of 10%, being classified as a "Special Class" of real property pursuant to Section 216 of the Local Government Code (LGC) of 1991.

In some of these parcels of land, each covered by separate tax declarations, petitioner introduced improvements and installed machineries and equipment, solely and exclusively used for the generation of electricity. These machineries, equipment and other improvements were likewise assessed using the same special rate of 10% as "Special Class" of real property, pursuant to the same Section 216.

In the Letters dated February 10, 2005 and May 31, 2005, the Office of respondent Provincial Assessor of Lanao del Sur informed the management of petitioner that a new assessment has been approved and that the said parcels of land covered by Tax Declaration No. D-1239 has been appraised of its market value at ₱ 1,000.00 per square meter, effective in the year 2005. The revisions were made on the strength of Ordinance Nos. 04-2002[4], 05-2002[5] and 06-2002[6], all enacted by the Sangguniang Panlalawigan of Lanao del Sur on December 23, 2002.

Aggrieved by the alleged drastic increase in the assessed fair market values of its properties, petitioner filed an appeal with the LBAA of the Province of Lanao del Sur docketed as LBAA Case No. 001-08 claiming that the increase is confiscatory, excessive and exorbitant; that the appraisal and assessment of

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[4] AN ORDINANCE FIXING THE SCHEDULE OF FAIR MARKET VALUE FOR THE DIFFERENT CLASSES OF PROPERTY/IES IN THE PROVINCE OF LANAO DEL SUR. (CBAA Records, Folder 2, pp. 34 to 35.)

[5] AN ORDINANCE PRESCRIBING A GENERAL REVISION OF REAL PROPERTY ASSESSMENTS IN THE PROVINCE OF LANAO DEL SUR IN 2002 TO TAKE EFFECT IN 2003 AND FIXING THE ASSESSMENTS LEVELS FOR THE DIFFERENT CLASSES OF REAL PROPERTY TO DETERMINE ITS ASSESSED OF TAXABLE VALUE. (CBAA Records, Folder 2, pp. 36 to 39.)

[6] AN ORDINANCE FIXING THE RATES OF LEVY OF THE AD VALOREM TAX ON REAL PROPERTY, BOTH FOR THE BASIC REAL PROPERTY AND SPECIAL EDUCATION FUND (SEF) OF THE PROVINCE OF LANAO DEL SUR. (CBAA Records, Folder 2, pp. 40 to 42.)

its property has no legal and factual basis; that petitioner's landholding should be classified, valued and assessed as residential or agricultural; that the alleged revision of market value of certain improvements made by the Provincial Assessor failed to consider the depreciation thereof; that said office disregarded the "special class" category of these improvements and imposed an assessment level applicable only to buildings and other structures which are not considered "special class"; and that the alleged revision of the schedules of market values was made without the requisite public hearing and publication.

Proceedings before the LBAA

The LBAA considered three (3) major issues involved in the case, to wit:

> "A. Whether ordinance Nos. 04-2002 No. 05-2002 and ordinance 06-2002 which are all relevant to this case are valid enactment of the Sangguniang Panlalawigan of Lanao del Sur.
>
> B. Whether the sudden increase in the assessment as embodied in the above ordinance is exorbitant, confiscatory and excessive amounting to taking of property without due process of law.
>
> C. Whether the assessed fair market value as embodied in the above-ordinance shall apply to all the real property of petitioner considering that portions thereof are not being used for industrial purposes but for agricultural, residential, watershed and vacant lots and that said property rent be appraised and assessed for its actual use." [7]

All of the foregoing issues were addressed by the LBAA in its Resolution dated April 21, 2008 [8] in this light:

First issue - the LBAA found that the schedule of the base market value of property as contained in Ordinance Nos. 04-2002, as well as the general revision of assessment of real property as provided in Ordinance No. 05-2002, were prepared and transmitted by the Provincial Assessor's Office to its Sangguniang

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[7] Petition, Annex "E", Docket, pp. 79 to 80.
[8] Id., pp. 75 to 82.

Panlalawigan (Lanao Del Sur), which after deliberation has unanimously adopted the same. The LBAA also cited Sections 129[9] and 132[10] of the LGC of 1991 to emphasize the power of the Sangguniang Panlalawigan of Lanao del Sur to create its sources of revenue and its taxing authority.

Second issue - the LBAA sustained the assessments and held that the sudden increase was due to the long overdue revision of the real property assessments; and stated that with the increase in the assessment of fair market value of the property, the value of the asset of petitioner has likewise increased. Thus, petitioner will realize its benefit in terms of the determination of the value of the asset and property in the future, considering its proposed privatization. Also, the LBAA said that although the fair market value of petitioner's property has increased, the property has to fall under item no. 4, Section 2 of Ordinance No. 05-2002 on "Special Property" where the assessment level applicable is the lowest of ten percent (10%).

Third issue - the LBAA ruled that the dominant portion of petitioner's property is for industrial purposes, and the use of portions of the properties for other purposes were only incidental and temporary for these portions are ready to be used at any time for industrial purposes. It deemed petitioner to have waived the right to classify the use of their property through inaction in not

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[9] SEC. 129. *Power to Create Sources of Revenue.* — Each local government unit shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local government units.

[10] SEC. 132. *Local Taxing Authority.* — The power to impose a tax, fee, or charge or to generate revenue under this Code shall be exercised by the sanggunian of the local government unit concerned through an appropriate ordinance.

availing of its privilege and duty to declare the classification and value of its property as mandated by Section 202[11] of the LGC of 1991.

Proceedings before the CBAA

Dissatisfied with the said Resolution of the LBAA, petitioner filed on June 30, 2008 its Notice of Appeal[12] with the Central Board of Assessment Appeals docketed as CBAA Case No. M-26, as well as its Appeal Memorandum dated June 11, 2008[13]. In said case, petitioner raised the following issues, to wit:

> "WHETHER OT (sic) NOT THE ASSESSMENT MADE BY THE PROVINCE OF LANAO DEL SUR IS VALID WITHOUT HAVING A GENERAL REVISION OF MARKET VALUE OF PROPERTIES IN THE PROVINCE.
>
> WHETHER OR NOT ARTICLE 303 OF THE RULES AND REGULATIONS IMPLEMENTING THE LOCAL GOVERNMENT CODE IN RELATION TO DEPARTMENT OF FINANCE REGULATIONS WERE FOLLOWED BY THE PROVINCE IN DETERMINING THE CORRECT AND LOGICAL ASSESSMENTS."[14]

Petitioner submitted the following arguments:

Anent the first issue:

> "From the foregoing provisions of the law[15], what is clear is that there must be at first a general revision of market value of properties in the

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[11] SEC. 202. *Declaration of Real Property by the Owner or Administrator.*— It shall be the duty of all persons, natural or juridical, owning or administering real property, including the improvements therein, within a city or municipality, or their duly authorized representative, to prepare, or cause to be prepared, and file with the provincial, city or municipal assessor, a sworn statement declaring the true value of their property, whether previously declared or undeclared, taxable or exempt, which shall be the current and fair market value of the property as determined by the declarant. Such declaration shall contain a description of the property sufficient in detail to enable the assessor or his deputy to identify the same for assessment purposes. The sworn declaration of real property herein referred to shall be filled with the assessor concerned once every three (3) years during the period from January first (1st) to June thirtieth (30th) commencing with the calendar year 1992.

[12] CBAA Records, Folder 1, pp. 20 to 23; Petition for Review, Annex F, CTA Docket, pp. 83-98.

[13] Petition for Review, Annex "F", Docket, pp. 83-98.

[14] Docket, pp. 92 to 93.

[15] Referring to Articles 303 and 310(c) of the Rules and Regulations Implementing the Local Government Code of 1991, *viz*:

"ARTICLE 303. *Preparation of Schedule of Fair Market Values.* — (a) Before any general revision of property assessment is made pursuant to the provisions of this Rule, there shall be prepared a schedule of fair market values by the provincial and city assessors, and the municipal assessors of the municipalities within MMA for the different classes of real property situated in their respective LGUs province before any assessment may be made by the Provincial Assessor. **In the instant case, there is none. Resolution No. 88-02-A2 and Ordinance No. 05-2002 enacted by the Sangguniang Panlalawigan of Lanao del Sur did not contain a general revision of market values.** It only mentions the applicable assessment levels which will determine the taxable value of a property based on the existing market value. Hence, since there is no revision of the schedules of market values, the action of the Office of the Provincial Assessor of Lanao del Sur has no legal and factual basis since the same was unilaterally and capriciously issued without color of authority."[16] *(Emphasis supplied)*

As regards the second issue:

"Further, in a summary of Section 2 of Local Assessment Regulations No. 1-92 dated October 6, 1992 issued by the Department of Finance will show the following requirements—

Section 2. Assessment Calendar – For the purpose of the general revision of property assessments as provided for herein, and once every three years thereafter, the assessment process and its component activities shall be governed by the assessment calendar herein prescribed, as follows:

1. Acceptance of sworn statements declaring true values of real property to be filed by real property owners/administrators which shall be done from January 1 to June 30 of the first year;

2. Gathering and analysis of data and preparation of preliminary Schedule of Market values from July 1 to September of the first year and is being done by the Office of the Provincial Assessor;

3. Preparation of final schedules of Market Values by the Provincial Assessor not later than October 15 of the first year;

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for enactment by ordinance of the sanggunian concerned. The schedule of fair market values shall be published in a newspaper of general circulation in the province, city, or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two (2) other conspicuous public places therein.

(b) In the preparation of schedules of fair market values, the provincial and city assessors and the municipal assessors of the municipalities within MMA shall be guided by the rules and regulations issued by DOF."

"ARTICLE 310. *General Revision of Assessments and Property Classification.* — xxx

(c) The general revision of assessments and property classification shall commence upon the enactment of an ordinance by the sanggunian concerned adopting the schedule of fair market values but not later than two (2) years from the effectivity of the Code. Thereafter, the provincial, city, or municipal assessor shall undertake the general revision of real property assessment and property classification once every three (3) years."

[16] Docket, p. 94.

4. Submittal by said office of the schedules of Market values to the Sangguniang Panlalawigan for enactment by Ordinance not later than October 31 of the first year;

5. Not later than January 31 of the second year, the Sangguniang Panlalawigan shall enact the ordinance adopting the Schedules of Market Values.

In line with the foregoing afore-quoted provisions of the law, the appraisal and assessment made by the Provincial Assessor of the Province of Lanao del Sur fixing the market value of the said parcels of land at P1,000.00 per square meter has no legal and factual basis.

Finally, the contention of the Province of Lanao del Sur and precisely adopted by the members of the Honorable Board that the increase in the assessment of the Province of Lanao del Sur is lesser compared with the assessment made by the adjacent province and city is a blatant lie and without being substantiated by any document. It was merely based on the speculation and conjecture of the province being alleged in their comment to the petition. In fact, the Lanao del Norte had increase their assessment but only to the maximum of 872%. On the other hand, in Iligan City where petitioner-appellant has a power plant had likewise increased its assessment to only 200% for industrial and 167% agricultural. Compared to the increase of assessment being implemented by the Province of Lanao del Sur, it is clear as daylight that it is very exorbitant and confiscatory in consideration of the increases of the adjacent local government units. In other words therefore, the assessment that is being insisted to be implemented by the province as they are now demanding for its payment is unconstitutional as it is tantamount to taking of property without due process of law."[17]

On April 14, 2009, respondent filed his Comment[18] on petitioner's appeal.

Thereafter, the CBAA issued the assailed Decision dated September 4, 2009 upholding the validity of Ordinance Nos. 04-2002, 05-2002 and 06-2002, as well as the finding of the LBAA that a Schedule of Fair Market Values for the real properties in the Province of Lanao del Sur in 2002 was prepared by Respondent Provincial Assessor and adopted by the Sangguniang Panlalawigan of Lanao del Sur through Ordinance No. 04-2002, all in accordance with the Local

[17] Docket, pp. 94 to 96.
[18] CBAA Records, Folder 2, pp. 25 to 27.

Government Code of 1991. It also found that the newly-implemented increase and updated assessments as laid down and mandated by ORDINANCE #04-2002 which was the subject of RESOLUTION NO. 88-02-A1 was the aftermath of scientific researchers and study and were subjected to strictest public scrutiny, debates and deliberations by the Sangguniang Panlalawigan and was duly approved in accordance with laws and rules.

Further, the CBAA said that since, as borne by the records, a Schedule of Fair Market Values for the real properties in the Province of Lanao del Sur in 2002 was prepared by Respondent Provincial Assessor and adopted by the Sangguniang Panlalawigan of Lanao del Sur through Ordinance No. 04-2002, all in accordance with the Local Government Code of 1991, the second issue raised by Petitioner NPC is rendered moot and academic.[19]

Proceedings before the Court En Banc

On October 22, 2009, petitioner filed the instant Petition for Review questioning the subject Decision of the CBAA.

In the Resolution of the Court *En Banc* dated November 19, 2009[20], respondent was directed to file Comment thereto within ten (10) days from receipt thereof. However, respondent failed to file his comment despite notice.

Thereafter, the parties were directed to file their respective Memoranda within a non-extendible period of thirty (30) days from notice in the Resolution dated January 7, 2010[21]. Only petitioner filed its Memorandum on February 12,

[19] Docket, pp. 38 to 40.
[20] Docket, pp. 100 to 101.
[21] Docket, pp. 104 to 105.

2010[22]. Respondent, however, failed to file his memorandum and this case was deemed submitted for decision on May 27, 2010.[23]

Hence, this Decision.

THE ISSUES

Petitioner raises the following issues, to wit:

> "I
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> "WHETHER OR NOT THE CBAA ERRED IN DISMISSING PETITIONER'S APPEAL AFTER RATIOCINATING THAT A SCHEDULE OF FAIR MARKET VALUES FOR THE REAL PROPERTIES IN THE PROVINCE OF LANAO DEL SUR IN 2002 WAS PREPARED BY RESPONDENT PROVINCIAL ASSESSOR AND ADOPTED BY THE SANGGUNIANG PANLALAWIGAN OF LANAO DEL SUR.
>
> II
>
> WHETHER OR NOT THE CBAA ERRED WHEN IT REFUSED TO RULE ON SEVERAL RELATED ISSUES RAISED BY PETITIONER IN ITS APPEAL, SUCH AS (A) THE LACK OF PUBLICATION AND POSTING OF THE ALLEGED SCHEDULE OF FAIR MARKET VALUES ALLEGEDLY PREPARED BY RESPONDENT PROVINCIAL ASSESSOR, (B) THE CONFISCATORY NATURE OF THE NEW ASSESSMENT INCREASING THE FAIR MARKET VALUE OF PETITONER'S PROPERTIES BY 1,111.11%, AND (C) THE FACT THAT THE REAL PROPERTIES OF PETITIONER FALL UNDER THE "SPECIAL CLASS" OF REAL PROPERTIES DEFINED UNDER SECTION 216, TITLE II OF THE LOCAL GOVERNMENT CODE AND ARE THUS SUBJECT TO AN ASSESSMENT LEVEL OF 10%."[24]

Petitioner's Arguments

Petitioner argues that there is serious doubt as to the existence of the Schedule of Fair Market Values (Ordinance Nos. 04-2002 and 06-2002) allegedly prepared by respondent Provincial Assessor. It points out that notwithstanding the lapse of more than two (2) years from the date of receipt of a copy of the

[22] Docket, pp. 106 to 128.
[23] Resolution dated May 27, 2010, Docket, p. 138.
[24] Docket, p. 115.

petition filed by petitioner before the LBAA, said respondent merely submitted a two-page comment without mentioning thereon the existence of said Schedule and without doubt attaching thereto a copy of the alleged Ordinance adopting it; and that this Schedule was not likewise mentioned or attached to the letter he sent to petitioner informing the latter of the increased assessment value. Petitioner thus concludes that the purported Schedule was prepared only after the petition was initiated by petitioner before the LBAA to comply with the procedural requirements prescribed by law as there was no showing that the alleged Schedule was published and posted as required by law.

Petitioner also argues that the increase in the assessed market value of petitioner's properties from ₱ 90.00 per square meter to ₱ 1,000.00 per square meter is oppressive and unreasonable. According to petitioner, the confiscatory nature of the assessments, coupled with respondent's failure to comply with the statutory requirements of publication and posting, is illegal and unconstitutional because it constitutes deprivation of property without due process of law.

Petitioner further stresses that its property consist not only of land but also of buildings, machineries and other improvements. In this connection, petitioner points out that the alleged revision of the market value of these improvements made by the Provincial Assessor failed to consider the depreciation of these improvements, contrary to the mandate of Section 40 of the Implementing Rules and Regulations of the Department of Finance.

THE COURT EN BANC'S RULING

The instant Petition lacks merit.

There is no showing that Ordinance Nos. 04-2002 and 06-2002 were not validly enacted, published and posted

Petitioner raises doubts as to the existence of Ordinance Nos. 04-2002 and 06-2002, and the lack of publication and posting thereof as allegedly required under Article 303 of the Rules and Regulations implementing the Local Government Code.

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.[25]

In the same vein under our procedural rules on evidence, specifically, Section 3(m) of Rule 131 of the Revised Rules of Court, it is presumed that official duty has been regularly performed, if the same remains uncontradicted by other evidence. Said provision reads as follows:

> "**SEC. 3. *Disputable presumptions*.**—The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:
>
> xxx xxx xxx
>
> (m) That official duty has been regularly performed;"

In the instant case, apart from its bare allegations, petitioner did not present evidence to substantiate its claim that the subject ordinances were not validly enacted and that no public hearings were conducted prior to the enactment of the ordinances in question in accordance with the provisions of the LGC of 1991.

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[25] *Figuerres vs. Court of Appeals, et al.*, G.R. 119172, March 25, 1999.

We have carefully scrutinized the records of this case and find no cogent reason to depart from the findings made by the CBAA. As aptly observed by the CBAA:

"Essentially, the first issue raised by Petitioner NPC is that the questioned revisions of property assessment were made by Respondent Assessor without the **Revised Schedule of Fair Market Value** duly adopted by the Sangguniang Panlalawigan of Lanao del Sur through the enactment of a corresponding ordinance.

The record shows that, at the request of the Chairman of the Local Board of Assessment Appeals of Lanao del Sur, Respondent Provincial Assessor furnished the Local Board with copies of the following documents, to wit:

1. 1st Indorsement dated October 15, 2002 and signed by HADJA SAIRAH C. BARAMBANGAN-BALOTO, the Provincial Assessor of Lanao del Sur, forwarding therewith the "proposed Schedule of Market Value of all properties and their improvements of the thirty-eight (38) municipalities of this province for your action and approval", with the following attachments:

    a. "Schedule of Base Unit Market Value" for land and trees, with Land Classification and Productivity Classification.

    b. "Schedule of Base Unit Cost for Building" with Classification of Buildings and Other Improvements, Schedule of Depreciation.

2. 1st Indorsement dated March 10, 2003 and signed by ATTY. COSAIN M. MACARAMBON, Secretary to the Sanggunian of Lanao del Sur, forwarding to the Provincial Assessor of Lanao del Sur copies of the following:

    a. ORDINANCE NO. 04-2002 entitled "AN ORDINANCE FIXING THE SCHEDULE OF FAIR MARKET VALUE FOR THE DIFFERENT CLASSES OF PROPERTY/IES IN THE PROVINCE OF LANAO DEL SUR" adopted by the Sangguniang Panlalawigan of Lanao del Sur on 23 December 2002, thereby approving the Schedule of Fair Market Value prepared and submitted by the office of the Provincial Assessor.

b. ORDINANCE NO. 05-2002 entitled "AN ORDINANCE PRESCRIBING A GENERAL REVISION OF REAL PROPERT ASSESSMENTS IN THE PROVINCE OF LANAO DEL SUR IN 2002 TO TAKE EFFECT IN 2003 AND FIXING THE ASSESSMENTS LEVELS FOR THE DIFFERENT CLASSES OF REAL PROPERTY TO DETERMINE ITS ASSESSED OF TAXABLE VALUE", prescribing the assessments levels of real properties in Lanao del Sur and adopted by the Sangguniang Panlalawigan of Lanao del Sur on 23 December 2002.

c. ORDINANCE NO. 06-2002 entitled "AN ORDINANCE FIXING THE RATES OF LEVY OF THE ADVALOREM TAX ON REAL PROPERTY, BOTH FOR THE BASIC REAL PROPERTY AND SPECIAL EDUCATION FUND (SEF) OF THE PROVINCE OF LANAO DEL SUR" fixing the Basic real Property Tax at One percent (1%) of the Assessed Value and approved by the Sangguniang Panlalawigan of Lanao del Sur on 23 December 2002.

Respondent Provincial Assessor, in his Comments on NPC's Petition before the Local Board of Assessment Appeals mentioned Lanao del Sur's Ordinance No. 04-2002 under paragraph (c) on page 2 of his said Comments, thus:

> 'c. That the said newly-implemented increase and updated assessments as laid down and mandated by ORDINANCE #04-2002 which was the subject of (RESOLUTION) NO. 88-02-A1 was the aftermath of scientific researchers and study and were subjected to strictest public scrutiny, debates and deliberations by the Sangguniang Panlalawigan and was duly approved in accordance with laws and rules.'

Respondent Local Board itself, on the third paragraph on Page 5 of the questioned Resolution, also discussed the serial numbers and purposes of the three (3) ordinances, thus:

> '**AS TO THE FIRST ISSUE**, *it is noted that ordinance No. 04-2002, refers to an ordinance fixing the schedule of fair market value for the different classes of properties in the Province of Lanao del Sur. Ordinance No. 05-2002 refers to an ordinance prescribing a general Revision of Real Property Assessment in the Province of Lanao del Sur in 2002 to take effect in 2003 and fixing the assessment levels for the different classes of real Property to determine its assessed taxable value.*

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> *Ordinance No. 06-2002 refers to an ordinance fixing the rates of levy of the advalorem tax on real property tax on real property both for the basic real property and Special Education Fund (SEF) of the Province of Lanao del Sur.'*

"This Board, therefore, is at a loss as to why NPC continues to deny the existence of Ordinance Nos. 04-2002 and 06-2002 when, in fact, the above-quoted Paragraph 4(c) of Respondent's Comments was copied verbatim (except for 1 typographical error: '3' instead of '#') by NPC on Page 9 of Petitioner's Appeal Memorandum filed with this Board. Assuming that NPC was not officially furnished copies of Ordinance Nos. 04-2002 and 06-2002, NPC should have exerted serious efforts to obtain copies of the same ordinances as it (NPC) did with Ordinance No. 05-2002. NPC gave much weight to Ordinance No. 05-2002. There is no reason why it should not give the same amount of weight to Ordinance Nos. 04-2002 and 06-2002.

NPC made an illogical 'shortcut' with its first issue when it asked whether or not the disputed assessments are valid **in the absence** of a Schedule of Fair Market Values of real properties duly adopted by the Sangguniang Panlalawigan of Lanao del Sur."[26]

In addition thereto, it is Our observation that the LBAA also considered as one of the major issues the following: "(w)*hether ordinance Nos. 04-2002*(,) *No. 05-2002 and ordinance 06-2002 which are all relevant to this case are valid enactment of the Sangguniang Panlalawigan of Lanao del Sur*" and accordingly made a favorable ruling on the validity of said Ordinances in its Resolution dated April 21, 2008. The LBAA also found that the Sangguniang Panlalawigan of Lanao del Sur is the only body authorized and mandated by Law to enact ordinances on the issues of Revision and Assessment of market value of Real Property in the said province.

Thus, considering the presumption of validity in favor of ordinances and the presumption of the regular performance of official duty in the publication and

[26] Docket, pp. 37 to 39.

posting of Ordinance Nos. 04-2002 and 06-2002, *vis-à-vis* the failure of petitioner to rebut such presumptions, We are constrained to uphold the same.

The resolution of the question of constitutionality and legality of Ordinance No. 05-2002 pertains to the Secretary of Justice.

Petitioner labels the increase in the assessed market value of petitioner's properties from ₱ 90.00 per square meter to ₱ 1,000.00 per square meter as "confiscatory" in nature and therefore, illegal and unconstitutional. It also attacks the revision of the market value of the improvements thereon, as it failed to consider the depreciation thereof, in contravention with the Implementing Rules and Regulations of the Department of Finance. These questions hinge on the constitutionality and legality of the subject ordinance.

Considering that petitioner's line of argument refers to the "confiscatory" nature of the assessment, the jurisdiction to resolve the same is vested on the Secretary of Justice pursuant to Section 187 of the LGC of 1991, which provides as follows:

> "**SEC. 187.** ***Procedure for Approval and Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings.*** The procedure for approval of local tax ordinances and revenue measures shall be in accordance with the provisions of this Code: *Provided*, That public hearings shall be conducted for the purpose prior to the enactment thereof: *Provided*, *further*, **That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice** who shall render a decision within sixty (60) days from the receipt of the appeal: *Provided*, *however*, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: *Provided*, *finally*, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may file appropriate proceedings with a court of competent jurisdiction." *(Emphasis supplied)*

Clearly, the law requires that the dissatisfied taxpayer who questions the validity or legality of a tax ordinance must file his appeal to the Secretary of Justice, within thirty (30) days from effectivity thereof.[27] Thus, petitioner, after finding that his assessment is unjust, **confiscatory**, or excessive, must have brought the case before the Secretary of Justice for questions of legality or constitutionality of the ordinance.[28]

The said thirty-day period[29] is construed as mandatory to prevent delays and to enhance the orderly and speedy discharge of judicial functions. Failure of the dissatisfied taxpayer to appeal within the said period to the Secretary of Justice is deemed fatal.[30]

The rule is well-settled that courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulations of activities coming under the special technical knowledge and training of such agencies.[31]

Petitioner failed to prove that Ordinance No. 05-2002 is unconstitutional/ illegal.

Even granting *arguendo* that the constitutionality of the subject ordinances must be looked into, nevertheless, We cannot uphold petitioner's argument that the increase in the assessed market value of petitioner's properties from ₱ 90.00 per square meter to ₱ 1,000.00 per square meter as "confiscatory" in nature.

[27] *Reyes, et al. vs. Court of Appeals, et al.*, G.R. No. 118233, December 10, 1999.
[28] *Lopez vs. City of Manila, et al.*, G.R. No. 127139, 19 February 1999.
[29] Including the other periods under Section 187 of the LGC of 1991.
[30] *Reyes, et al. vs. Court of Appeals, et al.*, supra.
[31] *Lopez vs. City of Manila, et al.*, supra, citing *First Lepanto Ceramics, Inc. vs. Court of Appeals, et al.*, G.R. No. 117680, February 9, 1996.

It is undisputed that the above-stated market value of ₱ 90.00 per square meter of petitioner's parcels of land has been enjoyed by petitioner since 1993.

Section 219 of the LGC of 1991 provides as follows:

> "SEC. 219. *General Revision of Assessments and Property Classification.*— The provincial, city or municipal assessor shall undertake a general revision of real property assessments within two (2) years after the effectivity of this Code and every three (3) years thereafter."

Considering the foregoing provision and the effectivity of the LGC of 1991 on January 1, 1992, respondent could have revised or increased the said market value four (4) times, beginning in the year 1994, and every three (3) years thereafter (*i.e.*, in the years 1997, 2000, and 2003).

Thus, We agree and hereby sustain the finding of the LBAA on the matter, to wit:

> "The code took effect in January 1992. No revision of assessment of real property has been conducted since then by the Provincial Assessor of Lanao del Sur. The first general revision was that of 2002 as per ordinance No. 05-2002, which was eleven (11) years after the effectivity of the Local Code. Apparently, had there been regular revision of assessment as mandated by law, there could have been at least four (4) revisions conducted which inevitably will realize a progressive increase in the assessment of market value of properties as previously assessed. This increase of fair market value of real property is an unavoidable trend in real estate business."[32]

Petitioner failed to effectively refute the foregoing findings.

Ordinances enacted by local government units enjoy the presumption of constitutionality. To overthrow this presumption, there must be a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative contradiction. In short, the conflict with the Constitution must be shown beyond

[32] Docket, pp. 80 to 81.

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reasonable doubt. Where doubt exists, even if well founded, there can be no finding of unconstitutionality. To doubt is to sustain.[33]

Furthermore, the allegation of petitioner that respondent failed to consider the depreciation in revising the market values of the improvements on petitioner's property is a negative allegation essential to its cause of action. Hence, as the party asserting it, petitioner has the burden of proof.[34] Nowhere in the records of this case show that petitioner ever presented any evidence to show that respondent indeed failed to consider the depreciation in revising the market values of the said improvements. Such being the case, We are constrained to sustain the legality of the ordinance in question.

WHEREFORE, all the foregoing considered, the instant Petition is hereby **DISMISSED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

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[33] *Tano, et al. vs. Socrates, et al.*, G.R. No. 110249, August 21, 1997.
[34] See *Figuerres vs. Court of Appeals, et al.*, G.R. No. 119172, March 25, 1999, citing *Industrial Finance Corporation*, G.R. No. L-41555, July 27, 1977. (Evidence need not be given in support of a negative allegation ***except*** when such negative allegation is an essential part of the statement of the right or title on which the cause of action or defense is founded, nor given in such case when the allegation of which belongs to the opposite party. [*Veloso vs. Veloso y Rubi*, G.R. No. 2562, March 19, 1907.])

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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 *En Banc*.

ERNESTO D. ACOSTA
Presiding Justice