REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

THE CITY GOVERNMENT OF VALENZUELA, HON. ADELIA SORIANO, in her capacity as CITY TREASURER, AND ATTY. ULYSSES L. GALLEGO, in his capacity as OFFICER-INCHARGE OF THE BUSINESS PERMIT AND LICENSING OFFICE, *Petitioners,*	**CTA *EB* NO. 3183** (CTA AC NO. 296)
	Present:
	RINGPIS-LIBAN, P.J., BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, *and* **ANGELES,** *JJ.*
-versus-	
NLEX CORPORATION, *Respondent.*	Promulgated: JUN 19 2026 3:58p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a Petition for Review,[1] filed on July 8, 2025, seeking for the setting aside of the Decision[2] ("Assailed Decision"), promulgated on November 15, 2024, and the Resolution[3] ("Assailed Resolution"), dated May 29, 2025, both issued by the Court's Third Division ("Court in Division"); and praying for the issuance of a new decision ordering respondent to pay the alleged local taxes due for taxable years ("TYs") 2005 to 2014, plus accrued interest and penalties.[4]

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[1] Petition for Review, *Rollo*, pp. 1-22.
[2] Decision, dated November 15, 2024 ("Assailed Decision"), *id.* at 25-35.
[3] Resolution, dated May 29, 2025 (Assailed Resolution"), *id.* at 36-39.
[4] See Prayer, Petition for Review, *id.* at 11.

The Parties

In their Petition for Review, petitioners presented the parties as follows:

Petitioner City Government of Valenzuela ("petitioner Valenzuela City"), represented by City Mayor Weslie T. Gatchalian, is a local government unit ("LGU") with principal address at Valenzuela City Hall, MacArthur Highway, Barangay Karuhatan, Valenzuela City.[5]

Petitioner Adelia E. Soriano is the duly appointed City Treasurer of Valenzuela ("petitioner City Treasurer") of Valenzuela City, with office at the City Treasurer's Office, ARCA North, MacArthur Highway, Barangay Karuhatan, Valenzuela City.[6]

Petitioner Ulysses L. Gallego is the Head of the Business Permits and Licensing Office ("petitioner BPLO Head") of Valenzuela City, with office at the BPLO, ARCA North, MacArthur Highway, Barangay Karuhatan, Valenzuela City.[7]

On the other hand, respondent NLEX Corporation ("respondent" or "NLEX") is a domestic corporation with principal office at Km 12, Balintawak Toll Plaza, NLEX, Baesa Caloocan City.[8]

The Facts

On November 11, 2019, NLEX was assessed by petitioner Valenzuela City for deficiency local business taxes ("LBT") and other fees for TYs 2005 to 2019 in the total amount of Php26,531,607.30, inclusive of charges and interest. This includes the assessment for both toll booth revenues (Php22,857,814) and income from signages (Php3,573,793.21).[9]

Petitioner filed its protest on January 10,2020.[10] However, due to petitioner's inaction, respondent filed a verified complaint with the Regional Trial Court ("RTC") Branch 121, Caloocan City, on June 30, 2020.[11]

On March 13, 2023, the RTC rendered a decision,[12] the dispositive portion of which reads:

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[5] See The Parties, Petition for Review, *id.* at 2.
[6] *Id.*
[7] *Id.*
[8] *Id.*
[9] See Assailed Decision, p. 26: see also par. 1, The Case, RTC Decision dated March 13, 2023, AC Docket, p. 43-44.
[10] *Id.*
[11] *Id.*
[12] AC Docket, pp. 43-61.

WHEREFORE, PREMISES CONSIDERED, the Court rules as follows:

1) The claim for refund of Php3,841,779.85 representing alleged deficiency for local business taxes and other fees for taxable years 2012 to 2019 for signage services is **DENIED** for lack of jurisdiction; and
2) The Revised Assessment for Local Business Tax for toll booths for taxable years "2005 to 2012," on the ground of lack of jurisdiction to cause assessment and "2013 to 2014," on the ground of prescription, for the local business taxes for the revenues from toll booths is **CANCELLED.** Defendants are ordered to **REFUND** the total amounts paid by Plaintiff for the taxable years 2005-2014 inclusive of surcharges and interest.

SO ORDERED.

Petitioners sought for the RTC's reconsideration. However, the same was denied through an order dated May 22, 2023.[13]

Aggrieved, petitioners filed a judicial appeal before the Court of Tax Appeals through the original Petition for Review filed on July 5, 2023,[14] seeking to partially reverse the RTC's decision, to uphold the LBT assessment on the toll booths of NLEX for taxable years 2005 to 2014, and to declare that NLEX is not entitled to the refund of LBT paid for the same toll booths for TY 2005 to 2014.

On November 15, 2024, the Court rendered the Assailed Decision[15] denying the original petition. The dispositive portion thereof states:

ACCORDINGLY, the instant Petition for Review filed on July 5, 2023 is **DENIED** for lack of merit.

SO ORDERED.

In the Assailed Decision, the Court in Division ruled that:

1. Under *Section 2, Rule 42 of the Rules of Court ("ROC") and Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[16] a clearly legible duplicate original or a certified true copy of the decision, judgment, or final order appealed from is required to be attached to the petition for review. Here, the records of the case fail to establish petitioner's actual date of receipt of the RTC's decision and order. Moreover, a mere photocopy of the RTC's order was attached to the original petition. Thus, according to the Court in Division, the failure to comply therewith is sufficient ground for the dismissal of the original petition.

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[13] *Id.* at 41-42.
[14] *Id.* at 5-21.
[15] *Supra* note 2.
[16] A.M. No. 05-11-07-CTA, 22 November 2005.

2. The original petition should be denied due to the prescription on the government's right to assess LBT for TYs 2005 to 2014, pursuant to Section 194 of the *Local Government Code* ("LGC").

3. While petitioners invoke the extraordinary 10-year prescriptive period to assess on the ground of fraud, the Court in Division found such claim unsupported. Petitioners did not offer to substantiate the allegation that "NLEX deliberately concealed the toll operation gross sales in Valenzuela City." The same was equally observed by the RTC.

Undeterred, petitioners then posted a Motion for Reconsideration,[17] on January 3, 2025, which was again denied through the Assailed Resolution[18] issued on May 29, 2025.

This led to the filing of the current Petition for Review on July 8, 2025.[19] Respondent, on the other hand, filed its Comment on October 8, 2025.[20]

In view thereof, the Court submitted the instant case for decision on October 28, 2025.[21]

The Issues

The issues, as raised by petitioners, are as follows:

I.
WHETHER THE COURT IN DIVISION ERRED IN DISMISSING THE ORIGINAL PETITION ON THE GROUND OF PRESCRIPTION OF THE GOVERNMENT'S RIGHT TO ASSESS LOCAL TAXES FOR TAXABLE YEARS 2005 TO 2014;

II.
WHETHER FRAUD IS PRESENT IN THE INSTANT CASE, HENCE, THE APPLICABILITY OF THE 10-YEAR PRESCRIPTIVE PERIOD.[22]

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[17] AC Docket, pp. 127-136.
[18] *Supra* note 2.
[19] *Supra* note 1.
[20] Comment (To the Petition for Review dated July 4, 2025). *Rollo*, pp. 43-64.
[21] See Notice dated October 28, 2025, *id.* at 43.
[22] See Issue, Petition for Review, *id.* at 7.

The Arguments

Petitioners advance that the Court in Division erred in dismissing the original petition on the ground that the assessment for local taxes for TYs 2005 to 2014 is barred by prescription under *Section 194 of the LGC*. They insist that such finding or prescription is contrary to the overwhelming pieces of evidence presented by petitioner before the RTC.

Specifically, petitioners assert that respondent proposed to petitioner Valenzuela City to classify its tax payments as "donations" so that all other LGUs could not imitate the assessment against them. Such proposal, according to petitioners, shows the fraudulent intent of respondent to circumvent legal obligations to pay LBT, and undermines the petitioner Valenzuela City's authority to impose taxes

Further, petitioners posit that it is a grave error to require documentary evidence to prove the respondent's fraudulent act since no person in their right mind would put a fraudulent proposal into writing or a document, thereby providing incriminating evidence. According to petitioners, the testimony made by Atty. Ulysses L. Gallego should suffice since he has personal knowledge of the respondent's fraudulent act and is therefore competent to testify to its existence.

Finally, petitioners emphasize that even before the issuance of *Department of Finance ("DOF") Circular No. 1-2013,* toll booths within Valenzuela City's jurisdiction were taxable as branches or sales outlets under *Section 146 of the LGC*. Thus, according to petitioners, respondent's assertion that the circular's issuance limited the City's authority is misplaced.

On the other hand, respondent, in its Comment[23] counters that the original petition must be denied because of petitioners' failure to comply with the requirements for perfecting an appeal.

Moreover, respondent maintains that the Court in Division correctly affirmed the RTC's decision dated March 13, 2023 finding that petitioners' authority to assess deficiency LBT for TYs 2005 to 2014 on respondent's toll booths had already prescribed. In relation to this, respondent highlights that petitioners failed to prove that respondent is guilty of fraud or intent to evade taxes that warrants the application of the 10-year prescriptive period.

[23] *Supra* note 19.

The Ruling of the Court

The instant Petition for Review was timely filed before the Court En Banc.

Before moving straight into the issues, We shall first investigate the timeliness of the filing of the Petition for Review before the Court *En Banc*.

Under *Section 3(b), Rule 8 of the RRCTA*, a party adversely affected by a decision or resolution of a Division of the CTA on a motion for reconsideration or new trial may appeal to the Court *En Banc* by filing a petition for review within 15 days from receipt of the assailed decision or resolution.

In this case, a copy of the Assailed Resolution was received by the petitioner on June 23, 2025.[24] Counting 15 days therefrom, petitioner had until July 8, 2025 within which to file an appeal; hence, the timely filing of the instant Petition for Review on even date.

Now, as regards the merits of the case, We deem it proper to highlight and echo respondent's observation that petitioners' arguments in its Petition for Review are a mere rehash of the issues already raised before the Court in Division and exhaustively discussed and passed upon in the Assailed Decision and the Assailed Resolution. On this ground alone, the Petition for Review should already be dismissed. Nonetheless, for full disposal of the case at hand, We shall pass upon the issues raised.

Due to the lack of proof of the date of petitioner's receipt of the RTC's order, the Court in Division should have deemed the original petition as filed late, thus, must be dismissed for lack of jurisdiction.

Under *Section 7(a)(3) of Republic Act ("R.A.") No. 1125*,[25] as amended by *R.A. No. 9282*,[26] the Court has jurisdiction over the rulings of the RTC in local tax cases, to wit:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

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[24] See Notice of Resolution stamped "Received" by City of Valenzuela, City Legal Office on June 23, 2025.

[25] An Act Creating the Court of Tax Appeals, June 16, 1954.

[26] 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 or Republic Act No. 1125, As Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes; March 30, 2004.

. . .

> 3. *Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them* in the exercise of their original or appellate jurisdiction;
> (Italics supplied)

When such a ruling is issued by the RTC in the exercise of its original jurisdiction, the appeal goes to the Court in Division, following *Section (3)(a)(3), Rule 4 of RRCTA*:

> SEC. 3. Cases within the jurisdiction of the Court in Divisions. – The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> . . .
>
> (3) *Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction*;
> (Italics supplied)

Finally, *Section 3(a), Rule 8 of RRCTA* mandates that a party aggrieved by such ruling file a Petition for Review before the Court in Division within 30 days from receipt of the adverse ruling, thus:

> SEC. 3. Who may appeal; period to file petition. –
>
> (a) *A party adversely affected by a decision, ruling or the inaction of the* Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a *Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling,* or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.
> (Italics supplied)

To review, the RTC's order was issued on May 22, 2023.[27] Petitioners claim to have received the same on June 6, 2023,[28] giving them until July 6, 2023 within which to file their original petition.

[27] *Supra* note 13.
[28] See Original Petition for Review, AC Docket, p. 7.

As discussed by the Court in Division, the records are devoid of any proof of the supposed date of petitioner's receipt of the RTC's order. Nothing in the copies of the such order show that the same was received by petitioners or their counsel on June 6, 2023.

The Court cannot simply take petitioners' word on the matter at face value. Without proof in support of June 6, 2023 as the actual date on which petitioners received the RTC's order, the Court in Division should have deemed the issuance date, May 22, 2023, as the start of the prescriptive period for filing of the original petition. Counting 30 days therefrom, petitioners had until June 21, 2023 within which to file their original petition.

Having filed the original petition on July 5, 2023, the appeal must be deemed filed late. As such, the late filing has two consequences: (1) the Assailed Decision and Assailed Order of the RTC have gained finality; and (2) the Court in Division did not properly gain jurisdiction over the case. Consequently, the ***original petition should have been dismissed due to lack of jurisdiction***.

In addition, and as observed by the Court in Division, petitioners attached a mere photocopy of the RTC's order to the original petition. This proved non-compliance with *Section 2, Rule 42 the Rules of Court*[29] and *Section 2, Rule 6 of the RRCTA*[30] which, as aptly ruled by the Court in Division, is sufficient ground for the dismissal of the original petition.

Interestingly, petitioners continue to fail to provide justification and/or explanation on the foregoing material insufficiencies in their initiatory pleading.

Nonetheless, even if the original petition had been timely and properly filed. The Court in Division did not err in finding lack of merit in petitioners' arguments. We shall briefly discuss the issues raised by petitioners for the edification of the parties.

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[29] Section 2. Form and contents. — The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall x x x (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

[30] Section 2. Petition for review; contents. – x x x A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.

Petitioners failed to establish fraud which is required for the application of the extra-ordinary 10-year prescriptive period; the assessments for TYs 2005 to 2014 were issued beyond the ordinary five-year prescriptive period, hence, properly cancelled.

Section 194 of the LGC provides for the periods to assess and collect LBT as follows:

> Section 194. Periods of Assessment and Collection. -
>
> (a) ***Local taxes, fees, or charges shall be assessed within five (5) years from the date they became due.*** No action for the collection of such taxes, fees, or charges, whether administrative or judicial, shall be instituted after the expiration of such period: Provided, That. taxes, fees or charges which have accrued before the effectivity of this Code may be assessed within a period of three (3) years from the date they became due.
>
> (b) ***In case of fraud or intent to evade the payment of taxes, fees, or charges, the same may be assessed within ten (10) years from discovery of the fraud or intent to evade payment.***
>
> (c) Local taxes, fees, or charges may be collected within five (5) years from the date of assessment by administrative or judicial action. No such action shall be instituted after the expiration of said period: Provided, however, That, taxes, fees or charges assessed before the effectivity of this Code may be collected within a period of three (3) years from the date of assessment.
> (Emphasis and italics supplied)

Here, petitioners contend that the Court in Division erred in invalidating the assessment on the ground that government's right to assess has prescribed pursuant to *paragraph (a)* of the above-cited provision. They insist that the testimony of Atty. Ulysses L. Gallego before the RTC has sufficiently established respondent's fraudulent act which triggers the application of the extra-ordinary 10-year period to assess LBT, pursuant to *Section 194 (b) of the LGC.*

According to petitioners, Atty. Gallego has personal knowledge that respondent proposed to treat the latter's payments to the City Government of Valenzuela as "donations" so that all other local government units could not imitate the assessment against them. They further insist that respondent failed to present countervailing evidence to disprove the competence of Atty. Gallego and the veracity of his statements.

We disagree.

In the landmark case of *Aznar vs. Court of Tax Appeals*[31] ("*Aznar*"), the Supreme Court discussed the nature of fraud that merits the application of the extra-ordinary 10-year prescriptive period, to wit:

> . . . (W)e cannot but emphatically reiterate the well established doctrine that ***fraud cannot be presumed but must be proven***.
>
> . . .
>
> The lower court's conclusion regarding the existence of fraudulent intent to evade payment of taxes was based merely on a presumption and not on evidence establishing a willful filing of false and fraudulent returns so as to warrant the imposition of the fraud penalty. ***The fraud contemplated by law is actual and not constructive. It must be intentional fraud, consisting of deception willfully and deliberately done or resorted to in order to induce another to give up some legal right***. . . .
> (Emphasis and italics supplied)

Jurisprudence has since consistently held that fraud is a question of fact that should be alleged and duly proven.[32] It cannot be presumed or imputed. The courts never sustain findings of fraud upon circumstances which, at most, create only suspicion and the mere understatement of a tax is not itself proof of fraud for the purpose of tax evasion.[33]

Furthermore, while *Aznar* deals with the prescriptive period for national internal revenue taxes under the *National Internal Revenue Code of 1997, as amended*, its discussions are broad enough to be relevant to fraud in tax cases in general. It can thus be applied to the prescriptive periods laid down in *Section 194 of the LGC*, especially considering the lack of direct jurisprudence on said provision.

Clearly, in order to avail of the extra-ordinary 10-year period to assess LBT, the local government bears the burden of proving the existence of facts upon which fraud is based. In their Petition for Review, petitioners claim that the CTA in Division's ruling is "contrary to overwhelming pieces of evidence presented by (p)etitioners before the lower Court."[34] Crucially, however, petitioners cited only one piece of evidence to support the allegation of fraud – the sole testimony of Atty. Gallego on respondent's alleged proposal to treat its payment as donation.

The testimony of Atty. Gallego can hardly be considered as competent evidence of fraud.

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[31] G.R. No. L-20569, August 23, 1974.
[32] Commissioner of Internal Revenue vs. Ayala Securities Corporation, G.R. No. L-29485, March 31, 1976; Commissioner of Internal Revenue vs. Fitness by Design, Inc., G.R. No. 215957, November 9, 2016.
[33] Commissioner of Internal Revenue vs. Javier, Jr., G.R. No. 78953, July 31, 1991.
[34] See Petition for Review, Rolo, p. 7.

Firstly, petitioners failed to attach the testimony itself as material part of the appeal. Instead, the alleged excerpts were merely reproduced in the original petition and in the instant Petition for Review. Consequently, the Court in Division and the Court *En Banc* cannot even verify if Atty. Gallego indeed made the alleged testimony.

Secondly, Atty. Gallego's testimony remains uncorroborated.

In their attempt to advance the sufficiency of such testimony, petitioners insist that no person in their right mind would put fraudulent proposal into writing or a document. In this regard, We reiterate the Court in Division's holding that while it is true that fraud is a state of mind that need not be proved by direct evidence but may be inferred from the attendant circumstance, it remains the burden of the party alleging fraud to establish it by clear and convincing evidence.[35] In the case of *Commissioner of Internal Revenue v. Spouses Magaan*,[36] the Supreme Court clarified that "clear and convincing evidence" amounts to more than mere preponderance, and cannot be justified by mere speculation.

Here, aside from the mere testimony of Atty. Gallego, petitioners failed to allege and adduce evidence on any attendant circumstance that would support their claim that the proposal to consider the LBT payment as "donations" was indeed made, and that such proposal, if any, was offered to evade tax liability.

Thirdly, assuming the offer was indeed made, such proposal to treat payment as donation does not prove fraud or intention to evade payment. At the time the alleged proposal was offered, respondent had already paid in full, under protest, the LBT, and the five-year period to assess and collect the LBT had already prescribed. This can hardly be considered as an intentional scheme to evade tax liability.

Contrarily, it bears emphasis that the RTC and the Court in Division has consistently ruled that respondent's act of paying LBT for its toll booths in Pasig City for TYs 2005 to 2007, and in Caloocan City for TYs 2008 to 2012 shows that it acted in good faith. When DOF Circular No. 1-2013, which classified toll booths as a branch office, was issued, respondent started reporting its sales to the City of Valenzuela.

Considering the foregoing circumstances, the Court *En Banc* is hereby inclined to uphold the Court in Division's finding that petitioners failed to discharge the burden of proof of fraud in order to properly apply the 10-year period to assess LBT.

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[35] See Assailed Resolution, *id.* at 37-38, citing Spouses Velarde vs. Heirs of Conception Candari, G.R. No. 190057, October 17, 2022.
[36] G.R. No. 232663, May 3, 2021.

All told, applying the five-year prescriptive period, the government's right to assess LBT for TYs 2005 to 2014 which became due within the first 20 days of January or of each subsequent quarter, has already prescribed by the time respondent was assessed on November 11, 2019. Thus, the subject assessments have been correctly cancelled.

ACCORDINGLY, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.

However, the dispositive portion of the Decision, dated November 15, 2024, is **AMENDED** as follows:

> **ACCORDINGLY**, petitioners' Petition for Review filed on July 5, 2023 is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

Meanwhile, the Resolution, dated May 29, 2025, is **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice