REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

TAGUIG CITY GOVERNMENT, HON. MA. LAARNI CAYETANO, in her capacity as the (former) Mayor of the City of Taguig, and ATTY. MARIANITO MIRANDA, in his capacity as the (former) Treasurer of the City of Taguig, *Petitioners,*	**CTA *EB* NO. 2404** *(CTA AC Nos. 229 & 230)*
	Present: **DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, and ANGELES, *JJ.***
-versus-	
SERENDRA CONDOMINIUM CORPORATION, *Respondent.*	Promulgated: FEB 12 2024 3:12 p.m.

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RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court *En Banc*'s resolution are (a) respondent Serendra Condominium Corporation's ("Serendra") "Motion for Partial Reconsideration (To: Decision dated 30 January 2023)", filed via registered mail on 22 February 2023, with petitioners Taguig City Government, Taguig City Mayor, and Taguig City Treasurer's ("Taguig") "Comment/Opposition (To Petitioner's [sic] Motion for Partial Reconsideration dated 22 February 2023)", filed on 6 March 2023; and (b) Taguig's "Motion for Partial Reconsideration (of the Decision dated 30 January 2023)", with Serendra's "Comment/Opposition (To Petitioner's Motion for Partial Reconsideration dated 22 February 2023 [of the Decision dated 30 January 2023])".

<u>On Serendra's Motion</u>

Serendra seeks the reconsideration of this Court's finding, in the 30 January 2023 Decision ("Assailed Decision"), that it had no jurisdiction to rule on the claim for refund of the environmental impact fee ("EIF").

Serendra points out that the basis for the imposition of EIF is ***Ordinance No. 111, as amended by Ordinance No. 116***, which are merely updates and modifications of the ***Taguig Tax Code***.

That the EIF is found in the local tax code is of no moment since "the nomenclature in a statute given to an exaction is not necessarily indicative of whether it is a tax or a fee".[1] Instead, as held in both the Decision in Division and assailed Decision *En Banc*, citing jurisprudence, if generation of revenue is the primary purpose, the imposition is a tax, but if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.

The Court stands by Our and the Division's finding that the EIF is a regulatory fee and not a tax.

That the case before the trial court presented as a single cause of action for tax refund cannot vest this Court jurisdiction where it has none. Neither will the fact that the single Decision may have to result into two (2) separate appeals prompt this Court to exercise jurisdiction over a subject matter which it does not enjoy.

In order for a court or an adjudicative body to have authority to dispose of a case on its merits and thus, exercise judicial power, it must have jurisdiction over the subject matter. As case law settles, jurisdiction over the subject matter is conferred only by the Constitution or by law.[2]

The perceived splitting of cause of action is also misplaced. As stated by Serendra, itself, "[t]he rule against splitting of cause of action is intended to prevent repeated litigation between the same parties **<u>in regard to the same subject of controversy</u>**". As already found by the Court, in Division and in *En Banc*, there is no similarity in subject matter here—there is a claim for refund of taxes on one (1) hand and a claim for refund of regulatory fees on the other. That Serendra mistakenly presented these as a single cause of action before the trial court cannot dictate how the exercise of jurisdiction over the two (2) subject matters shall be exercised.

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1 Bases Conversion and Development Authority v. City Government of Baguio City, G.R. No. 192694, 22 February 2023, citing Calalang v. Lorenzo, 97 Phil. 212.

2 Macalintal v. Commission on Elections, G.R. Nos. 263590 & 263673, 27 June 2023.

To stress, jurisdiction cannot be conferred by consent or acquiescence of the parties or by erroneous belief of the court, quasi-judicial office, or government agency that it exists.[3] It cannot be overemphasized that jurisdiction over the subject matter is conferred only by law and that it is "not within the courts, let alone the parties, to themselves determine or conveniently set aside".[4]

In any case, Serendra's Motion for Partial Reconsideration was filed a day late, as Serendra received the assailed Decision on 6 February 2023[5] but only filed its Motion on 22 February 2023. For both its late filing and the reasons stated above, the Motion must be denied.

On Taguig's Motion

Taguig seeks reconsideration of the assailed Decision's finding that Serendra did not engage in profit-making activities and in not finding that Serendra is subject to local business tax as a contractor under the Taguig Revenue Code.

A review of the arguments contained in Taguig's Motion (on pages 3-13) would readily show that although restructured, these are verbatim reproductions of the arguments already posed in their Petition for Review (on pages 14-35). These were already considered by the Court in its conclusion that the Court in Division did not err in applying the general rule in the ***Luz R. Yamane v. BA Lepanto Condominium Corporation***[6] and holding that respondent is exempt from local business tax.

In the oft-cited case of ***Harry L. Roque, Jr., et al. v. Commission on Elections, represented by Hon. Chairman Jose Melo, et al.***,[7] the Supreme Court *En Banc* ruled that whenever the issues raised in the Motion for Reconsideration have already been addressed and passed upon in the Decision, and the Motion for Reconsideration fails to raise matters which are substantially plausible or compellingly persuasive, enough to lead the Court to rule in favor of the desired course of action, then the Motion for Reconsideration must be denied by the Court, to wit:

> "Petitioners' above contention, as well as the arguments, citations, and premises holding it together, is a rehash of their previous position articulated in their memorandum in support of their petition. They have been considered, squarely addressed, and found to be without merit in the

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3 Commissioner of Internal Revenue v. Secretary of Justice, G.R. No. 209289, 9 July 2018.
4 Maslag v. Monzon, G.R. No. 174908, 17 June 2013.
5 *See* Notice of Decision, dated 31 January 2023, *EB* Records .
6 G.R. No. 154993, 25 October 2005.
7 G.R. No. 188456, Resolution. 10 February 2010.

> Decision subject hereof. The Court is not inclined to embark on another extended discussion of the same issue again...
>
> xxx xxx xxx
>
> While a motion for reconsideration may tend to dwell on issues already resolved in the decision sought to be reconsidered—and this should not be an obstacle for a reconsideration—the hard reality is that petitioners have failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> xxx xxx xxx
>
> WHEREFORE, the instant separate motions for reconsideration of the main and intervening petitioners are DENIED."

This was earlier expressed in ***Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.***:[8]

> "The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought."

Given that Taguig's reproduced arguments have already been passed upon, discussed, threshed out, and judiciously resolved by this Court in the assailed Decision, the Motion discloses no cogent reason to disturb our earlier findings and conclusions. There is nothing that the Court can add to its previous disposition and accordingly, nothing is left for this Court to do but to deny the Motion.

At any rate, also to repeat, in the recent case of ***Delos Santos v. Commissioner of Internal Revenue***,[9] the Supreme Court emphasized that condominium corporations are not engaged in trade or business and any fee or charge collected is purely for the benefit of condominium owners. It explained that the fee or other charges forms part of a pool of funds from

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[8] G.R. No. 159938, Resolution, 22 January 2007.

[9] G.R. No. 222548, 22 June 2022.

which the condominium corporation will draw funds for the general upkeep of the condominium project:

> "This Court reiterated the pronouncement in ***Yamane v. BA Lepanto Condominium Corporation*, that a condominium corporation is not engaged in trade or business. Association dues are not intended for profit, but for the maintenance of the condominium project. The collection of association dues, membership fees, and other charges is purely for the benefit of the condominium owners:**
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> For when a condominium corporation manages, maintains, and preserves the common areas in the building, **it does so only for the benefit of the condominium owners.** It cannot be said to be engaged in trade or business, thus, the collection of association dues, membership fees, and other assessments/charges is **not a result of the regular conduct or pursuit of a commercial or an economic activity, or any transactions incidental thereto**.
>
> **Neither can it be said that a condominium corporation is rendering services to the unit owners for a fee, remuneration of consideration.** Association dues, membership fees, and other assessments/charges **form part of a pool from which a condominium corporation must draw funds in order to bear the costs for maintenance, repair, improvement, reconstruction expenses and other administrative expenses.**
>
> Indisputably, the nature and purpose of a condominium corporation negates the carte blanche application of our value-added tax provisions on its transactions and activities."
> (Emphasis supplied; citations omitted)

This holding may finally lay to rest the insistence of Taguig to the contrary that Serendra, as a "condominium corporation, is not engaged in trade or business; that association dues are not intended for profit, but for the maintenance of the condominium project; and that the collection of association dues, membership fees, and other charges is purely for the benefit of the condominium owners".

WHEREFORE, both Motions for Partial Reconsideration respectively filed by petitioners and respondent are hereby **DENIED** for lack of merit. The Court *En Banc*'s Decision, dated 30 January 2023, is hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion.)
ROMAN G. DEL ROSARIO
Presiding Justice

(With due respect, I reiterate my Concurring Opinion.)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(With due respect, I maintain my vote to affirm the assailed Decision of the Second Division)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(With due respect, I maintain my vote to affirm the Court in Division.)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice