REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY ASSESSOR OF PARAÑAQUE CITY,
Petitioner,

- versus -

PORTAL HOLDINGS, INC.,
Respondent.

CTA EB No. 998
(CBAA Case No. L-61)

Present:

Del Rosario, *PJ,*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas, and
Ringpis-Liban, *JJ.*

Promulgated:

JUN 24 2016 3:56 p.m.

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RESOLUTION

COTANGCO-MANALASTAS, J.:

For resolution is petitioner's *Motion for Reconsideration (Of The Decision Dated 26 January 2016)*[1] filed on March 4, 2016 by registered mail and received by the Court on March 17, 2016.

Respondent filed four *Motions for Extension of Time to File Opposition*[2], the last one praying for an additional extension until April 19, 2016.

Respondent filed its *Opposition (to Petitioner's Motion for Reconsideration)* on April 19, 2016 by registered mail and received by the Court on April 28, 2016. In the interest of justice, respondent's *Motions for Extension of Time to File Opposition* are **GRANTED**. Accordingly, respondent's opposition is **ADMITTED**.

[1] *Rollo*, pp. 421-434.
[2] *Rollo*, pp. 446-448; 451-453; 456-458; 461-463.

In its motion, petitioner argues that, from the facts of the case, (1) there was no reassessment of the subject properties of respondent, (2) the passage of Parañaque City Ordinance No. 03-06, Series of 2003, did not increase the assessed value of the subject properties, and (3) the case of *The City Assessor of Parañaque City vs. AFP Retirement and Separation Benefit System* cannot be relied upon in dismissing the instant case.

Petitioner contends that the Court erroneously held that "the reassessments made by petitioner on the subject properties are null and void for lack of legal basis" as there was no reassessment of the subject properties of respondent. Reassessment is defined as the assigning of new assessed values to property, particularly real estate, as a result of a general, partial or individual reappraisal of the property (Section 199, Local Government Code of 1991). However, the application of the P12,000.00 per sq.m. assessed value on the subject properties is not a new assessed value. This is the existing assessed value for the subject properties as provided under Ordinance No. 96-16. This is indubitably supported by the January 27, 2004 letter of the City Assessor, which categorically asserted that the base unit cost used in the tax declarations issued to respondent is "still the approved schedule of market value as per Municipal Ordinance 96-16 with 1997 as effective date". Likewise, said letter negates the finding that the "reassessment" made was pursuant to the passage of Parañaque City Ordinance No. 03-06, Series of 2003.

The error in the finding that Ordinance No. 03-06 was used to "reassess" the subject properties is evident based on the fact that the approved schedule of market value for the subject properties and other adjoining lots in that vicinity located in Barangays Baclaran and Tambo as provided under Ordinance No. 96-16 is the same, that is P12,000.00 per sq.m. Hence, petitioner correctly issued the Tax Declarations covering the subject properties with the assessed value of P12,000.00 per sq.m. as the same is based on the approved schedule of market value under Ordinance No. 96-16. The withdrawal of the fifty percent (50%) reduction resulting to the application of the P12,000.00 per sq.m. market value for the subject properties was justified considering that the general condition of the subject properties had immensely improved since the year 1996 when Ordinance No. 96-16 was enacted, *i.e.*, the completion of the Diosdado Macapagal Boulevard in the latter part of 2002 which brought development in the reclamation area.

Petitioner further argues that the instant case should be decided differently from the case of *The City Assessor of Parañaque City vs. AFP Retirement and Separation Benefit System.* While both cases involve an increase in the assessed values of properties in the reclaimed areas in the City of Parañaque, the decision reached therein was based on the erroneous conclusion that the increase in the market values of the properties involved therein was due to the adoption of the straight line policy under Ordinance No. 03-06, which is clearly not the case. Should it have been made clear to the Court that the assessment was made based on the approved schedule of market value under Ordinance No. 96-16, the validity of the Tax Declarations issued by the City Assessor to AFP Retirement and Separation Benefit System would have been upheld.

In its opposition, respondent stresses that petitioner's arguments were raised for the first time in its motion for reconsideration. These matters were not brought up during the proceedings before the Local Board of Assessment Appeals (LBAA) and the Central Board of Assessment Appeals (CBAA). In fact, petitioner even adopted a position that is contrary to its contentions in the motion for reconsideration. Petitioner claims that the increase in the market value of the subject properties from P6,000.00 to P12,000.00 was simply due to the removal of the 50% reduction. To prove this contention, petitioner attached the Tax Declarations of the subject properties under the name of Fabricom Manufacturing Corporation and D.M. Wenceslao & Associates, Inc.

Contrary to petitioner's contention, respondent points out that there is no showing that the subject properties were ever valued at P12,000.00 per sq.m. while the subject properties were considered part of Barangay Tambo. It bears stressing that the 2004 Tax Declarations subject of this appeal, the subject properties were considered to be located in Barangay Baclaran, when in the previous years, the properties were considered part of Barangay Tambo. As a result, there was a corresponding increase to the market value from P6,000.00 per sq.m. to P12,000.00. There was no notice to respondent, nor any notation or any indication in the Tax Declarations that the market value had been adjusted because of the removal of the supposed "50% reduction."

Similarly without merit is petitioner's contention that the passage of Parañaque City Ordinance No. 03-06, Series of 2003, did not increase the assessed value of the subject properties.

Respondent points out that in its petition for review filed with the Court, petitioner stated that "[i]t is undisputed that the new tax declarations of respondent's properties were all issued by the Office of the City Assessor pursuant to Ordinance No. 03-06."

Moreover, one of petitioner's grounds in the petition is that the LBAA correctly dismissed respondent's appeal since the issue raised is the validity or constitutionality of Ordinance No. 03-06. In support of this ground, petitioner stated that "[s]ince the new tax declarations, notice of assessments and Order of RPT Payments were all issued pursuant to Ordinance No. 03-06, respondent questioned the validity or constitutionality of Ordinance No. 03-06 by filing an Appeal dated 19 March 2004 before the LBAA."

Likewise, in its motion for reconsideration filed with the CBAA, petitioner argued that the issuance of the new tax declaration for the subject properties, and the corresponding increase of the assessed value, was a directive or mandate of Ordinance No. 03-06.

Respondent stresses that petitioner never raised the supposed removal of the 50% reduction in market value before the Court, and even before the LBAA and CBAA. It is even contrary to petitioner's earlier position that Ordinance No. 03-06 was the sole basis for the increase in the market value indicated in the 2004 Tax Declaration.

Respondent contends that in any case, whatever the reason, it is evident that there was a reassessment in this case since there was an "assigning of new assessed values" to the subject properties. Whether due to Ordinance No. 03-06 or a removal of the 50% reduction, there was a reassessment of the subject properties which increased its market value from P6,000.00 to P12,000.00. The said reassessment is void for being contrary to Section 220 of the Local Government Code.

From the foregoing, respondent concludes that the case of *The City Assessor of Parañaque City vs. AFP Retirement and*

Separation Benefit System is applicable to the facts of this case.

Petitioner filed its *Reply* on May 4, 2016 by registered mail and received by the Court on May 12, 2016.

To counter respondent's allegation that the grounds relied upon by petitioner in its motion for reconsideration were only raised for the first time and that there is no showing that the subject properties were ever valued at P12,000.00, petitioner argues that its decision dated January 27, 2004 on respondent's letter-protest squarely addresses the same. Hence, respondent's claim is erroneous considering that Ordinance No. 96-16 fixed the base unit cost of market value of the subject properties at P12,000.00. Notably, Fabricom Manufacturing Corporation and D.M. Wenceslao & Associates, Inc., the original owners of the subject properties and which have interlocking directors/officers with respondent, never questioned the P12,000.00 per sq.m. assessment made on the subject properties under Ordinance No. 96-16.

Thus, petitioner contends that respondent should have known that the subject properties were given a 50% discount pursuant to Ordinance No. 96-16. Petitioner's decision dated January 27, 2004 also made it clear that a change in the description of where the subject properties are located was made pursuant to Ordinance No. 03-06. Thus, by adopting the straight line policy under Ordinance No. 03-06, the location of the subject properties was changed from Barangay Tambo to Barangay Baclaran. However, in no way was Ordinance No. 03-06 used to "reassess" the subject properties as petitioner made it clear that the assessed value used in the tax declarations issued to respondent is the approved schedule of market value under Ordinance No. 96-16.

After a careful evaluation the arguments of the parties, the Court finds no merit in the motion for reconsideration.

As correctly observed by respondent, petitioner's earlier position was that the increase in the assessed value of the subject properties was pursuant to Parañaque City Ordinance No. 03-06. This position can be seen in petitioner's petition for review[3] filed with the Court, comment/opposition to the

[3] Pars. 37 and 38, Petition for Review, *rollo*, p. 7.

appeal[4] filed before the LBAA, and motion for reconsideration[5] filed before the CBAA.

Now, petitioner is arguing that there was no reassessment because the application of the P12,000.00 (from P6,000.00) per sq.m. market value on the subject properties did not result to a new assessed value as the existing market value for the subject properties is P12,000.00 pursuant to Ordinance No. 96-16. The increase in the market value of the subject properties from P6,000.00 to P12,000.00 was simply due to the removal of the alleged 50% reduction.

Petitioner never raised the supposed removal of the 50% reduction in market value before the Court, the LBAA and CBAA. The 50% reduction was only mentioned in a letter[6] of the City Assessor of Parañaque dated January 27, 2004 denying the protest of respondent dated January 15, 2004 which was never mentioned by petitioner. Moreover, the said letter was written as follows:

> "Anent your letter dated 15 January 2004, please be informed that your property particularly Lot 15, 16 and 19 respectively have been given the reduction as provided for in Par. 14 of Parañaque Municipal Ordinance No. 96-16. Lot 15 (TD E-015-06816) cancelled by E-002-07533; Lot 16 (TD E-015-06817) cancelled by E-002-07534; Lot 19 (TD E-015-06822) cancelled by E-002-07537.
>
> The change in Barangay location from Barangay Tambo to Barangay Baclaran is in compliance with Parañaque City Ordinance No. 03-06 series of 2003. An Ordinance Adopting a Straight Line Policy in the Determination of Barangay Boundaries in the Reclaimed Areas in Manila Bay Within the Territorial Jurisdiction of the City of Parañaque. The base unit cost use is still the approved schedule of market value as per Municipal Ordinance 96-16 with 1997 as effective date to wit:

Roxas Blvd.	(Bgy Baclaran)	P12,000.00 per square meters
Roxas Blvd.	(Bgy Tambo)	P12,000.00 per square meters
Aguinaldo Ave. Coastal Rd.	(Bgy Tambo)	P 6,000.00 per square meters

> In compliance with Mun. Ordinance 96-16 and the attached General Provision on Land a reduction from the approved P12,000 per sq.m. was applied making the value at P6,000.00 per sq.m. or a reduction of 50% from the

[4] Prefatory Statement, Annex "J" of Petition for Review, *rollo*, pp. 81-82.
[5] Pars. 3 to 5, Annex "R" of Petition for Review, *rollo*, p. 183.
[6] Annex "G" of Petition for Review, *rollo*, p. 63.

> approved schedule of P12,000.00 per sq.m. Value of these lots are subject to revision upon development or construction in the area. Your purchase price from Fabricom Manufacturing Corporation is P55,000.00 per square meters and adjoining lots in Pasay City is valued for taxation purposes at P20,000.00 per square meters showing that the value applied by us is a mere fraction of the true value in that area.
>
> In this regard, we regret, that your request for another reduction in the base unit cost cannot be favorably acted upon."

From the foregoing, the said letter vaguely explained the 50% reduction such that without petitioner's explanation, the Court would not have understood it in the same way it was explained by the petitioner. Moreover, there was no notation in the Tax Declarations[7] (effective 2004) that the market value was increased due to the removal of the supposed 50% reduction. The Tax Declarations were only stamped with the following notation: "Change of Barangay Location in Compliance with Parañaque City Ordinance 03-06 Series of 2003".

Considering that petitioner is only raising this matter for the first time in the instant motion for reconsideration, the Court cannot allow the same. The rule is well-settled that points of law, theories, issues and arguments not brought to the attention of the lower court, administrative agency or quasi-judicial body need not be considered by the reviewing court[8] as they cannot be raised for the first time on appeal, much more in a motion for reconsideration as in this case, because this would be offensive to the basic rules of fair play, justice and due process. This last ditch effort to shift to a new theory and raise a new matter in the hope of a favorable result is a pernicious practice that has consistently been rejected.[9]

In any case, whether due to Parañaque City Ordinance No. 03-06 or removal of the 50% reduction, there was a reassessment of the subject properties as defined in Section 199(q) of the Local Government Code (LGC) since there was an "assigning of new assessed values to property, particularly real estate, as the result of a general, partial, or individual reappraisal of the property." However, as discussed in the

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[7] Annexes "E" to "E-2", Petition for Review.
[8] *Jacot vs. Dal*, G.R. No. 179848, November 27, 2008.
[9] *Rizal Commercial Banking Corp. vs. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.

assailed Decision, the instant case does not fall within any of the instances enumerated in Section 220 of the LGC where an assessor is authorized to make a classification, appraisal and assessment of the real property listed and described in the declaration irrespective of any previous assessment.

WHEREFORE, premises considered, the instant Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

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

(On Official Business)
CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

(On Official Business)
CIELITO N. MINDARO-GRULLA
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice