REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

THE CITY TREASURER AND THE CITY GOVERNMENT OF TAGUIG CITY,	**CTA *EB* NO. 2843** (RTC SCA Case No. 285)
Petitioners,	Present:
-*versus*-	**DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
BELLAGIO TWO CONDOMINIUM ASSOCIATION, INC.,	Promulgated: OCT 03 2024 1:40 pm
Respondent.	

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review, filed on January 8, 2024, assailing the Decision, dated October 4, 2023 ("Assailed Decision"), and Order, dated November 9, 2023 ("Assailed Order"), both rendered by the Regional Trial Court of Taguig City, Branch 267 ("RTC").

The Parties[1]

Petitioner City Government of Taguig ("petitioner Taguig") is a political subdivision of the government, existing under and by virtue of *Republic Act* ("*RA*") *No. 7160*, also known as the *Local Government Code* ("*LGC*"), *RA No. 8487*, also known as the *Charter of the City of Taguig*, and other laws of the Philippines.

Petitioner City Treasurer ("petitioner Treasurer") is vested with the authority to, among others, implement the *Taguig City Revenue Code* ("*TCRC*") and pertinent portions of the *LGC*, and the collection and assessment of local taxes, fees, and charges within the jurisdiction of Taguig City.

Respondent Bellagio Two Condominium Association, Inc. is a condominium duly incorporated and existing under the laws of the Republic of the Philippines. Its principal office is in Taguig City.

The Facts

On January 12, 2022, respondent sought to renew its business permit with petitioner Taguig, who then issued a Billing Statement including, among others, Local Business Tax ("LBT"), Environmental Impact Fees ("EIF"), and Business Plate/Sticker Fees ("BPF"). Respondent paid the billed amount on January 19, 2022.[2]

However, respondent then filed a claim for refund with petitioners, seeking to reclaim the LBT, EIF, and BPF it paid. Petitioners denied the claim on March 16, 2022.[3]

Aggrieved, respondent filed a Complaint before the Metropolitan Trial Court of Taguig City, Branch 116 ("MTC"), praying for the cancellation of LBT for the year 2022, for a refund of the LBT, EIF, and BPF it paid, and for petitioners to pay its attorney's fees. The MTC eventually partially granted the Complaint, ordering petitioners to refund or issue tax credit certificates for the allegedly erroneously collected LBT.[4]

Petitioners appealed this Decision to the RTC on March 17, 2023, while respondent likewise elevated its case to the RTC on March 23, 2023. The RTC then partially granted respondent's appeal through the Assailed Decision,

[1] *See* Petition for Review, pp. 5-6, *Rollo*, pp. 19-20.
[2] *See* Petition for Review, pp. 6-7, *id.* at 20-21.
[3] *See* Petition for Review, p. 7, *id.* at 21.
[4] *See* Petition for Review, pp. 7-8, *id.* at 21-22.

upholding the MTC's order for the refund of the LBT, further ordering petitioners to refund the EIF and BPF, but not finding any reversible error in the MTC's denial of respondent's prayer for the payment of attorney's fees. Petitioners filed a Motion for Reconsideration to the Assailed Decision on November 6, 2023, but the same was denied by the Assailed Order,[5] issued on November 9, 2023.

The Assailed Order was allegedly received by petitioners on November 22, 2023.[6]

Aggrieved, petitioners filed a Motion for Extension of Time to File Petition for Review[7] with this Court *En Banc* on December 19, 2023. The Court then granted the Motion through a Minute Resolution,[8] dated December 20, 2023, on the condition that the Motion was filed on time.

Petitioners filed the instant Petition for Review[9] on January 8, 2024, as that January 6 fell on a Saturday, while respondent filed its *Comment (To the Petition For Review dated 08 January 2024)*[10] on February 12, 2024.

The Court then issued a Minute Resolution[11] on March 6, 2024, submitting the case for decision. It then issued a Minute Resolution[12] on March 18, 2024, directing the RTC to elevate the records of the case. The RTC complied by elevating its records to this Court on April 26, 2024.

Hence, this Decision.

The Assigned Errors

Petitioner assigns the following errors to the assailed issuances of the RTC:[13]

(a) The Honorable RTC erred in finding respondent exempt from paying LBT; and
(b) The Honorable RTC erred in finding respondent exempt from paying EIF and BPF.

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[5] *See* Petition for Review, p. 8, *id.* at 22.
[6] *See* Motion for Extension of Time to File Petition for Review, p. 2, *id.* at 2; *see also* Petition for Review, p. 4, *id.* at 18.
[7] *Id.* at 1-4.
[8] *Id.* at 14.
[9] *Id.* at 15-48.
[10] *Id.* at 232-250.
[11] *Id.*, unpaginated.
[12] *Ibid.*
[13] *See* Petition for Review, p 9, *id.* at 23.

The Arguments

Petitioners raise the following arguments:

(a) Respondent is engaged in the business of selling services, as proven by the fact that respondent has consistently secured business permits with petitioners in the past;
(b) No law specifically grants exemptions from LBT to respondent, whereas the *TCTRC* specifically renders respondent liable for said tax;
(c) Petitioners' authority to impose LBT, EIF, and BPF arise from the *Constitution*, the *LGC*, and the *TCRC*; and
(d) *Taguig Ordinance No. 116, Series of 2008*, specifically renders respondent liable for EIF whether it is engaged in business or not.

Respondent opposes the above with the following:

(a) Respondent is not engaged in the business of selling services, despite the fact that it has consistently secured business permits with petitioners, and is thus not liable for LBT under the *LGC*;
(b) Respondent is not claiming exemption from LBT but is simply not subject to such;
(c) Similarly, while respondent recognizes petitioners' authority to impose LBT, EIF, and BPF, it insists that it is not subject to said tax and fees.

The Ruling of the Court

The Court *En Banc* lacks jurisdiction over the Petition for Review. It must consequently be dismissed.

Without proof of the date of petitioners' receipt of the Assailed Order, the Court must deem the instant Petition for Review as filed late

Under *Section 7(a)(3) of RA No. 1125, as amended* ("*CTA Law*"), the Court has jurisdiction over rulings of the RTC in local tax cases:

> SEC. 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

. . . .

> (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 appellate jurisdiction, the appeal goes to the Court *En Banc*, following *Rule 4, Section 2(b) of the Revised Rules of the Court of Tax Appeals, as amended* ("RRCTA"):

> SEC. 2. Cases within the jurisdiction of the Court *en banc*. — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
>
> . . . .
>
> (b) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction.

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

> SEC. 3. Who may appeal; period to file petition. —
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> . . . .
>
> (c) A party adversely affected by a *decision or ruling of* the Central Board of Assessment Appeals and *the Regional Trial Court in the exercise of their appellate jurisdiction* may appeal to the Court by filing before it a petition for review *within thirty days from receipt of a copy of the questioned decision or ruling.*

(Italics supplied)

To review, the Assailed Order was issued on November 9, 2023. Petitioners claim to have received said Order on November 22, 2023, giving them until December 22, 2023 within which to file their Petition. They instead filed a Motion for Extension of Time to File Petition for Review on December 19, 2023. This was granted by the Court, which gave petitioners until January 6, 2024 within which to file a Petition, *on the condition that the Motion was timely filed.* Petitioners then filed the instant Petition on January 8, 2024, since January 6 and 7 fell on a Saturday and a Sunday, respectively. Following this narration of events, then, the Petition for Review was timely filed.

However, the Court *En Banc* lacks proof of the supposed date of petitioners' receipt of the Assailed Order. Nothing in the copies of the Assailed Order that petitioners attached to their Motion for Extension of Time and their Petition for Review show that such Order was received by petitioners or their counsel on November 22, 2023. The same is true of the copy of the Order in the records of the RTC. As such, nothing in the records corroborates petitioners' allegation regarding the date on which they received said Order.

The Court *En Banc* cannot simply take petitioners' word on the matter at face value. Without proof in support of November 22, 2023 as the actual date on which petitioners' received the Assailed Order, We are constrained to use the date of such Order's issuance, November 9, 2023, as the start of the prescriptive period for filing a Petition for Review.

Counting 30 days from November 9, 2023, petitioners had until December 9, 2023 within which to file their Petition. As said date fell on a Saturday, they actually had until December 11, 2023. Petitioners filed their Motion for Extension of Time only on December 19, 2023. The Motion was thus filed late and, given the condition specified by the Court, was never granted in the first place. Consequently, the Petition for Review, having been filed on January 8, 2024, was also filed late.

The Petition for Review's late filing has two consequences: (1) the Assailed Decision and Assailed Order of the RTC have gained finality; and (2) this Court did not properly gain jurisdiction over the case at bar. We thus have no option but to dismiss the Petition.[14]

That said, even had the Petition for Review been timely filed, We would still not grant it. We shall briefly discuss the issues raised by petitioners for the edification of the parties.

Respondent is not engaged in business and is thus not subject to LBT

Petitioners' main argument against the grant of a refund of the LBT erroneously paid by respondent is that the latter is engaged in the business of selling services and is thus liable for LBT. In their Petition, they mainly support this point by (1) discussing the case of *Yamane v. BA Lepanto Condominium Corp.* ("*Yamane*") at length; and (b) claiming that said case is not applicable here as respondent receives membership dues and rental fees for its provision of beneficial services to its members.

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[14] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

The argument fails to convince.

While "[n]either the maintenance of livelihood, nor the procurement of profit, fall within the scope of permissible corporate purposes of a condominium corporation under the Condominium Act," to quote *Yamane*, petitioners fail to explain *why* the manner in which respondent collects membership dues and rental fees should be considered as "maintenance of livelihood," "procurement of profit," or both. They fail to show *how* the collection of such membership dues and rental fees do not fall under the regular powers and capacities allowed by the *Condominium Act*, the *Corporation Code*, or both. They simply claim such. They thus fail to show exactly how respondent is exempted from the general rule that condominium corporations are not subject to LBT, per *Yamane*.

Assuming *arguendo*, then, that the Petition was filed on time, the Court *En Banc* would still have to follow the general rule of *Yamane* and affirm the rulings of the MTC and RTC in finding that respondent is not liable for LBT.

EIF and BPF are not taxes

As to petitioners' prayers regarding the EIF and BPF, the Court *En Banc* would have to dismiss these even if the Petition had been filed on time.

To review, this Court has jurisdiction over "local tax cases" decided by the RTC. Put another way, the Court can take cognizance of decisions of the RTC in cases involving *local taxes*. Notably, the *CTA Law* mentions local taxes only. It does not include, for example, *local fees*. As such, the law does not grant Us jurisdiction over decisions of the RTC on local fees.

Neither EIF nor BPF are taxes—they are both regulatory fees. As such, We have no power over the RTC's ruling on issues related to such fees.

Following *Smart Communications, Inc. v. Municipality of Malvar, Batangas*,[15] whether an ordinance is regulatory or revenue-raising depends upon its purpose and effect. Similarly, whether an imposition is a tax or a fee depends upon whether it is revenue-raising or regulatory. If the imposition's purpose is to raise revenue, then it is a tax; if the imposition's purpose is to regulate, then it is a fee.[16] ℊ

[15] G.R. No. 204429, February 18, 2014.

[16] *City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc.*, G.R. No. 224825, October 17, 2018, *citing Gerochi, et al. vs. Department of Energy*, G.R. No. 159796, July 17, 2007.

Applying this to the EIF imposed by petitioner Taguig, this Court *En Banc* found that the EIF is a regulatory fee and not a revenue-raising tax in *Taguig City Government v. Serendra Condominium Corporation*[17] ("*Serendra*"). Examining *Section 115 of Ordinance No. 111-2007* and *Sections 2, 3, and 4 of Ordinance No. 116-2008*, We found that the EIF (1) is imposed to compensate for the negative social or environmental cost to Taguig City; (2) is imposed to defray the cost of hauling and managing the solid waste generated by Taguig City's citizens and businesses; and (3) is imposed following various guidelines and qualifications that imply its regulatory nature. These served as the basis for Our findings that the EIF imposed by petitioner Taguig is not a tax. Concomitantly, when the RTC rules on an issue regarding the EIF, the Court has no jurisdiction over such a ruling.

Much the same can be said of the BPF. In the Billing Statement issued by petitioners on January 12, 2022, "Business Plate (Sticker)" is listed under "Permit Fee[s]." It is thus an imposition to be paid for the permission to engage in business within Taguig City. The relevant provision here is thus *Section 147 of the LGC*:

> SECTION 147. Fees and Charges. — *The municipality may impose and collect such reasonable fees and charges on business* and occupation and, except as reserved to the province in Section 139 of this Code, on the practice of any profession or calling, *commensurate with the cost of regulation, inspection and licensing before any person may engage in such business or occupation, or practice such profession or calling.*
> (Italics supplied.)

Note first that the fees provided here are to be paid "before any person may engage in such business," *i.e.* as a prerequisite to acquiring permission to engage in business in the relevant locality. The permit fees imposed by petitioners thus fall under this section. Note also that the fees are to be commensurate with the cost of *regulation, inspection, and licensing*. In other words, such fees are *regulatory* in nature, not revenue-raising.

Considering that they are both regulatory, not revenue-raising, neither the EIF nor the BPF can be considered taxes. This Court thus has no jurisdiction over the RTC's ruling on said fees, and any prayer brought before Us regarding such fees must be dismissed.

As an aside, the Court is aware that such a position may cause procedural confusion. The RTC may render a single ruling on a case that involves both taxes and regulatory fees, as in this case. By disavowing jurisdiction over RTC rulings on regulatory fees, then, the Court effectively forces aggrieved parties to raise two separate appeals from a single ruling: one focused on taxes, the other on fees.

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[17] CTA EB No. 2404, January 30, 2023.

However, as stated in Our Resolution to the Motion for Reconsideration in *Serendra*,[18] such an issue cannot vest this Court with jurisdiction when it has none. Jurisdiction is conferred only by the *Constitution* or by law[19]—it cannot be set aside by the courts or the parties[20] and cannot be conferred by consent, acquiescence, or erroneous belief.[21]

While We acknowledge the procedural problem, We cannot simply ignore the fact that the *CTA Law* does not confer Us with jurisdiction over RTC cases involving local fees. The problem, then, cannot be addressed by a judicial solution, which would inevitably involve deviating from the very law which governs Our jurisdiction, and is best left to legislation.

Respondent does not have to pay the costs of suit

Finally, assuming *arguendo* that the Petition was filed on time, We would have to deny petitioners' prayer that respondent be ordered to pay the cost of their suit. *Article 2208 of the Civil Code of the Philippines* states that in the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered. Petitioners do not identify any such stipulation here. Nor do they even raise a single argument in support of their prayer, for that matter. Having no basis to grant the prayer, the Court would simply have to deny it.

To reiterate, Our discussions on the issues regarding LBT, EIF, BPF, and costs of suit are moot, academic, and purely for clarificatory purposes. Without proof of the date of petitioners' receipt of the Assailed Order, the Court is constrained to use the date of said Order's issuance as the start of the prescriptive period for raising an appeal before this Court. Consequently, the instant Petition was filed late, is outside of Our jurisdiction, and must be dismissed.

ACCORDINGLY, petitioners' Petition for Review, filed on January 8, 2024, is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[18] CTA EB No. 2404 (Resolution), February 12, 2024.
[19] *Macalintal v. Commission on Elections*, G.R. Nos. 263590 & 263673, June 27, 2023.
[20] *Maslag v. Monson*, G.R. No. 174908, June 17, 2013.
[21] *Commissioner of Internal Revenue v. Secretary of Justice*, G.R. No. 209289, July 9, 2018.

WE CONCUR:

(*I concur solely on the ground that the Petition for Review was filed out of time.*)
ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(*I concur solely on the ground that the Petition for Review was filed late.*)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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.

ROMAN G. DEL ROSARIO
Presiding Justice