REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TAGUIG CITY GOVERNMENT, HON. LINO EDGARDO S. CAYETANO, in his capacity as the (former) Mayor of the City of Taguig, and ATTY. J. VOLTAIRE L. ENRIQUEZ, in his capacity as Treasurer of City of Taguig,
Petitioners,

CTA EB NO. 2807
(CTA SCA CASE NO. 272)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

\- *versus* -

KENSINGTON PLACE CONDOMINIUM CORPORATION,
Respondent.

Promulgated:
JUN 24 2025 3:20 p

x - x

RESOLUTION

MANAHAN, J.:

For resolution of the Court *En Banc* is petitioners' *Motion for Reconsideration (For the Petitioners)* posted on December 23, 2024 and received by the Court on January 6, 2025, with respondent's *Comment/Opposition (To Petitioners' Motion for Reconsideration)* filed on February 10, 2025.

For easy reference, the dispositive portion of the December 3, 2024 assailed Decision[1] reads:

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[1] Court *En Banc* Docket, pp. 251-268.

"**ACCORDINGLY**, the instant Petition for Partial Review is **DENIED**, for lack of merit.

SO ORDERED."[2]

In their motion, petitioners argue that: (1) the period for filing the appeal of the denial of the protest by the local treasurer had already lapsed; (2) when an assessment is issued, the taxpayer cannot make use of the full two (2)-year period under Section 196 of the 1991 Local Government Code (LGC); and (3) respondent is not exempt from payment of Local Business Tax (LBT) as a condominium corporation.

On the other hand, respondent counters that: (1) the assessment that triggers the application of Section 195 of the 1991 LGC refers to deficiency tax assessment which results from a finding during an audit investigation that a previously paid tax is incorrect or deficient; (2) the respondent is not rendering services to unit owners for a fee that would qualify it as a contractor subject to LBT; and (3) there is no law that clearly and expressly imposes tax on non-stock, non-profit condominium corporations.

After careful consideration of the merits, the Court *En Banc* finds the instant motion unmeritorious.

It is noteworthy that petitioners essentially raised the same arguments in the instant motion, which arguments were already addressed in the assailed Decision.

In resolving the procedural issues involved in the case, *i.e.*, whether Section 195 or Section 196 of the 1991 LGC should apply, the assailed decision discussed and cited the ruling of the Supreme Court in *City Treasurer of Manila v. Philippine Beverage Partners, Inc., substituted by Coca-Cola Bottlers Philippines*.[3] In the said case, the Supreme Court discussed that "In Section 195, it is the written protest with the local treasurer that constitutes the administrative remedy; while in Section 196, it is the written claim for refund or credit with the same office." Furthermore, the application of Section 195 is triggered by an assessment, while Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee, or

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[2] See Note 1, p. 267.
[3] G.R. No. 233556, September 11, 2019.

charge. A taxpayer may apply for refund under Section 196 even without a prior protest against an assessment that was not issued in the first place.[4]

In this case, the Court *En Banc* referred to the proceedings below and found that petitioners failed to present any assessment notice to trigger the application of Section 195 of the 1991 LGC. Hence, the Court *En Banc* finds no reason to deviate from its earlier conclusion that the action involved is a refund claim under Section 196 of the 1991 LGC.

As to the issue of whether respondent is liable for LBT on contractors, the same was already passed upon in the assailed Decision, as follows:

> "In *Luz R. Yamane, in her capacity as the City Treasurer of Makati v. BA Lepanto Condominium Corporation*,[5] the Supreme Court ruled that:
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> > "Again, whatever capacity the Corporation may have pursuant to its power to exercise acts of ownership over personal and real property is limited by its stated corporate purposes, which are by themselves further limited by the Condominium Act. A condominium corporation, while enjoying such powers of ownership, is prohibited by law from transacting its properties for the purpose of gainful profit.
> >
> > Accordingly, and with a significant degree of comfort, we hold that **condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seeks to declare otherwise**.
> >
> > Still, **we can note a possible exception to the rule**. It is not unthinkable that **the unit owners of a condominium would band together to engage in activities for profit under the shelter of the condominium corporation**. Such activity would be prohibited under the Condominium Act, but **if the fact is established, we see no reason why the condominium corporation may be made liable by the local government unit for business taxes**. Even though such activities would be considered as *ultra vires*, since they are engaged in beyond the legal capacity of the condominium corporation, the principle of estoppel would preclude the corporation or its officers and members from invoking the void nature of its

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[4] See Note 1, pp. 259-262.
[5] G.R. No. 154993, October 25, 2005.

undertakings for profit as a means of acquitting itself of tax liability."

During trial, Taguig City's witness, Mr. Gabriel G. Cultura – Revenue Examiner of Taguig City, testified through his Judicial Affidavit that:

"Q13: What was Taguig City's basis for the imposition of LBT against Plaintiff?

A13: The imposition of LBT against Plaintiff are based on the following: 1) its application for Mayor's Permit; 2) The nature of Plaintiff's activity is subject to tax; 3) There is no law exempting Plaintiff from the payment of LBT and 4) Upon examination of Plaintiff's Audited Financial Statements (AFS) for prior years, it can be concluded that Plaintiff is engaged in business. I also examined other documents of the plaintiff, specifically, the Master Deed and the Articles of Incorporation (AOI), and confirmed that Plaintiff is subject to LBT as a contractor under Section 75 (d) of the Taguig City Ordinance No. 24 (Series of 1993) as amended by Taguig City Ordinance No. 34 (Series of 2017) (Ordinance No. 34-17) xxx"

The testimony of the above witness instantly reveals that aside from the city ordinance, Taguig City has no other basis for imposing LBT against Kensington. While said witness mentioned Kensington's AFS, Master Deed and AOI, he did not explain why he came to the conclusion that the latter is engaged in business.

Moreover, upon careful review of the documents, the Court *En Banc* did not find any indication that Kensington is engaged in any business with a view to generate profits."[6]

Considering the foregoing, the Court *En Banc* finds no reason to disturb the ruling in the assailed Decision. Hence, the denial of the instant motion is in order.

ACCORDINGLY, the instant *Motion for Reconsideration (For the Petitioners)* is **DENIED**, for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

[6] See Note 1, pp. 265-267.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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