REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

THE CITY TREASURER OF TAGUIG CITY, MR. VOLTAIRE L. ENRIQUEZ, AND THE CITY GOVERNMENT OF TAGUIG CITY, REPRESENTED BY HON. MAYOR LINO CAYETANO,
Petitioners,

- versus -

CYPRESS TOWERS CONDOMINIUM CORPORATION,
Respondent.

CTA EB NO. 3043

Present:

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

Promulgated:
APR 06 2026 4:27pm

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DECISION

BACORRO-VILLENA, J.:

Before the Court *En Banc* is a Petition for Review[1] filed (through registered mail on 23 December 2024) by petitioners City Treasurer of Taguig City, Mr. Voltaire L. Enriquez (**City Treasurer/Atty. Enriquez**) and the City Government of Taguig City, represented by Hon. Mayor Lino Cayetano (**collectively referred as "petitioners"**) pursuant to Section 2(b)[2], Rule 4 in relation to Section 4(c)[3], Rule 8 of

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[1] Emailed on 23 December 2024, *rollo*, pp. 25-47.

[2] **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:

...

the Revised Rules of the Court of Tax Appeals (**RRCTA**). It assails the findings in the Order dated 11 November 2024[4] (**assailed Order**) and the Decision dated 09 September 2024[5] (**assailed Decision**), both rendered by the Regional Trial Court (**RTC/court *a quo***) of Taguig City, Branch 153, in Special Civil Action (**SCA**) Case No. 326, entitled *Cypress Towers Condominium Corporation v. The City Treasurer of Taguig City, Mr. Voltaire L. Enriquez, and the City Gov't of Taguig, rep. by Hon. Mayor Lino Cayetano.*

Prior to the RTC's actions, the Metropolitan Trial Court (**MeTC**) of Taguig City, Branch 116 in Civil Case No. 23-4667 granted the refund or issuance of a tax credit to respondent of the total amount of ₱346,858.54, representing the erroneously collected local business tax (**LBT**) for calendar year (**CY**) 2021 that was imposed against it.

PARTIES TO THE CASE

Petitioner City of Taguig is a local government unit (**LGU**) created by law, particularly Republic Act (**RA**) No. 8487.[6] It is represented by the incumbent Executive Head and Mayor of the City, Hon. Maria Laarni L. Cayetano. Meanwhile, petitioner City Treasurer, Atty. Enriquez, is vested with the authority to exercise the functions of the office, including *inter alia*, the implementation of the Revenue Code of Taguig[7] (**RCT**), as amended, and the pertinent provision of RA 7160,[8] also known as the Local Government Code (**LGC**) of 1991, as amended. Petitioners may be served with pleadings, orders, notices and other processes through the undersigned counsel, the City Legal

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(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[.]

3 SEC. 4. *Where to Appeal; Mode of Appeal.* —

...

(c) An appeal from a decision or ruling of the Central Board of Assessment Appeals or the Regional Trial Court in the exercise of their appellate jurisdiction shall be taken to the Court by filing before it a petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

4 *Rollo*, pp. 60-62.

5 Id., pp. 48-59.

6 AN ACT CONVERTING THE MUNICIPALITY OF TAGUIG, METRO MANILA, INTO A HIGHLY URBANIZED CITY TO BE KNOWN AS THE CITY OF TAGUIG, AND FOR OTHER PURPOSES.

7 Ordinance No. 24, Series of 1993.

8 AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991.

Office, located at the 4th floor, Taguig City Hall, Gen. Luna Street, Tuktukan, 1630 Taguig City.[9]

On the other hand, respondent Cypress Towers Condominium Corporation (**respondent**), is a condominium corporation duly incorporated and existing under the laws of the Philippines. Its principal office address is at 1639 C5 Road, Ususan, Taguig City. It may be served with pleadings, orders, notices and other processes through its legal counsel, Bello Valdez & Esguerra, at 17th floor, Robinsons Equitable Tower, 4 ADB Avenue corner Poveda Drive, Ortigas Center, Pasig City.[10]

FACTS OF THE CASE

On 11 January 2021, respondent applied for the renewal of its business permit for CY 2021 with petitioner City Government of Taguig.[11] Petitioners then issued the billing statement of even date which imposed the following fees, to wit:[12]

Contractor (Association)	₱346,858.94
Mayors Association	750.00
Sanitary Inspection Fee	1,100.00
Building Inspection Fee	400.00
Electrical Inspection Fee	400.00
Plumbing Inspection Fee	250.00
Mechanical Inspection Fee	500.00
Medical/Health Fee	10.00
Fire Permit Fee	200.00
Business Plate (Sticker)	150.00
Form Fee	150.00
Signboard Fee	140.00
Fire Code RA 9514	607.50
Total LBT and Fees	₱351,516.44

9 See pars. 11 and 12 in the Petition for Review, supra at note 1, pp. 27-28.
10 See par. 13, Petition for Review, id.
11 See par. 15, id.
12 Amount lifted from the Decision dated 09 September 2024, supra at note 5, p. 49.

To avoid penalties and surcharges, respondent paid the entire amount on 14 January 2021.[13] Thereafter, on 17 January 2022, respondent, through a letter, demanded from petitioners the cancellation of the LBT and sticker fee for CY 2021. It also sought the refund of the amounts paid therefor[14] (**administrative claim**). However, petitioners denied the same.[15]

PROCEEDINGS BEFORE THE MeTC

Aggrieved, on 13 January 2023, respondent (then plaintiff) filed a Complaint before the MeTC of Taguig City praying for the refund of the LBT and sticker fee in the total amount of ₱347,008.04[16] (**judicial claim**). Respondent also prayed for the payment of attorney's fees of ₱200,000.00.[17]

In their Answer to the Complaint, petitioners raised the following counter-arguments: (1) the case of *Luz R. Yamane, in her capacity as the City Treasurer of Makati City v. BA Lepanto Condominium Corporation*[18] (**Yamane**) is not in all fours with respondent's case; (2) respondent is engaged in a sale of services that is generating revenue for the condominium corporation; (3) there is no law explicitly exempting respondent from the LBT payment; (4) petitioners' authority to impose the LBT is in accordance with the Constitution and the LGC of 1991, as amended; (5) the RCT is a valid basis for the imposition of LBT against respondent; and (6) respondent failed to file its claim for refund within the sixty (60)-day prescriptive period to file a protest, and within the thirty (30)-day period to appeal the decision of the local treasurer.[19]

After the parties filed their respective position papers, the MeTC rendered the Decision of 03 January 2023 (**MeTC Decision**) which partially granted the Complaint and ordered petitioners (then

13 See par. 15, Petition for Review, supra at note 1, p. 28.
14 See par. 16, Petition for Review, id.
15 Id.
16 See par. 17, Petition for Review, supra at note 1, pp. 4-5.
17 Id.
18 G.R. No. 154993, 25 October 2005.
19 See Decision of 09 September 2024, supra at note 5, p. 50.

defendants) to refund the LBT which respondent paid for CY 2021. The dispositive portion of the MeTC Decision provides[20] –

> ...
>
> **WHEREFORE**, premises considered, the instant Complaint is **PARTIALLY GRANTED**.
>
> Accordingly, [petitioner] Taguig City Government is hereby **ORDERED** to **REFUND** or issue **TAX CREDIT** in the amount of three hundred forty-six thousand eight hundred fifty-eight pesos and fifty-four centavos (**Php346,858.54**) representing the erroneously collected local business tax against the [respondent] for the year 2021. As to the claim for refund on the Business Plate (Sticker), and award of attorney's fees, litigation expense and cost of suit, the same are hereby **DENIED**.
>
> As to the claim by [petitioner] of exemplary damages, the same is **DENIED** for lack of basis.
>
> **SO ORDERED.**[21]
>
> ...

PROCEEDINGS BEFORE THE RTC/COURT *A QUO*

On 07 February 2024, petitioners (then defendants-appellants) filed a Notice of Partial Appeal before the court *a quo* and sought the reversal of the MeTC Decision.

After the parties filed their respective memoranda, the court *a quo* rendered the now assailed Decision which denied petitioners appeal and affirmed *in toto* the MeTC Decision that ordered the refund of the LBT to respondent (then plaintiff-appellee). The dispositive part states –

> ...
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> **WHERFORE**, premises considered, the appeal filed by [petitioners] is hereby **DENIED** for lack of merit. Accordingly, the Decision dated 03 January 2023 rendered by Metropolitan Trial Court, Branch 116, Taguig City, in Civil Case No. 23-4667 is **AFFIRMED *in toto*.**

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20 Dispositive portion is lifted from the Decision of 09 September 2024, supra at note 5, pp. 50-51.
21 Emphasis in the original text.

SO ORDERED.[22]

...

In denying petitioners' appeal, the court *a quo* found that the Billing Statement issued to respondent is not equivalent to a Notice of Assessment (**NOA**) contemplated under Section 195[23] of the LGC of 1991, as amended. Hence, the court *a quo* declared that it is Section 196[24] of the said law that is applicable and not Section 195 which petitioners so insist.

The court *a quo* further explained that respondent's case is a claim of refund for the allegedly erroneously paid LBT which petitioners collected for CY 2021. Thus, it is the two (2)-year prescriptive period under Section 196 of the LGC of 1991, as amended which respondent should observe. Applying the foregoing basis, the court *a quo* determined that respondent paid the LBT on 14 January 2021. Thereafter, it filed its administrative claim and judicial claim on 14 January 2022[25] and 13 January 2023,[26] respectively. Hence, the claims were timely filed within the reglementary period.

As for the entitlement to the claim for refund, the court *a quo* echoed the MeTC's findings that respondent, being a condominium corporation, is exempt from the LBT's payment under the LGC of 1991, as amended. It pointed out that respondent is a non-stock and

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22 Emphasis in the original text.

23 **Sec. 195**. *Protest of Assessment*. – When the local treasurer or his duly authorized representative finds that correct taxes, fees, or charges have not been paid, he shall issue a notice of assessment stating the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties. Within sixty (60) days from the receipt of the notice of assessment, the taxpayer may file a written protest with the local treasurer contesting the assessment; otherwise, the assessment shall become final and executory. The local treasurer shall decide the protest within sixty (60) days from the time of its filing. If the local treasurer finds the protest to be wholly or partly meritorious, he shall issue a notice cancelling wholly or partially the assessment. However, if the local treasurer finds the assessment to be wholly or partly correct, he shall deny the protest wholly or partly with notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt of the denial of the protest or from the lapse of the sixty (60) day period prescribed herein within which to appeal with the court of competent jurisdiction otherwise the assessment becomes conclusive and unappealable.

24 **Sec. 196**. *Claim for Refund of Tax Credit*. – No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.

25 Supra at note 13.

26 Supra at note 16.

non-profit corporation that is not created for the purpose of engaging in business or earning a profit. Its collection of association dues is solely for the purpose of maintaining the common areas of the condominium for the benefit of the members. With the same factual *milieu* as *Yamane*,[27] the court *a quo* applied the judicial pronouncement therein in respondent's case and maintained that it is not liable for LBT.

The court *a quo* added that respondent is not liable for taxes under the RCT since petitioners failed to prove that the former is engaged in business for profit. It emphasized that apart from the bare allegation that respondent is a contractor, petitioners did not present sufficient evidence to show that respondent is a business rendering services for gain.

Moreover, quoting the recent Supreme Court ruling in the case of *Fritz Bryan Anthony M. Delos Santos v. Commissioner of Internal Revenue*[28] (**Delos Santos**), the court *a quo* stressed that the fees and other charges collected by the condominium corporations form part of a pool of funds used for the upkeep of the condominium project.

Finally, contrary to petitioners' contentions that tax exemptions should be strictly construed, the court *a quo* clarified that it is the strictness in the imposition of taxes that must be observed. As held in the case of *Medicard Philippines, Inc. v. Commissioner of Internal Revenue,*[29] without a categorical or an express provision imposing a tax on a particular taxpayer or transaction, the same may not be exacted or collected based on a presumption that is beyond the clear import of the tax statute.

Unsatisfied, petitioners moved for the reconsideration of the assailed Decision but to no avail. On 11 November 2024, the court *a quo* issued the assailed Order[30] which denied petitioners' Motion for Reconsideration (**MR**). The relevant portions of the assailed Order read as follows:

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27 Supra at note 18.
28 G.R. No. 222548, 22 June 2022.
29 G.R. No. 222743, 05 April 2017.
30 Supra at note 4.

> ...
>
> However, this Court is not persuaded in the arguments of [petitioners]. No new substantial issues have been raised that would merit this court to rule otherwise in its favor.
>
> In light of the foregoing, and for reasons already discussed in the assailed Decision, this court finds no reversible error in its Decision dated 09 September 2024.
>
> Thus, [petitioners'] Motion for Reconsideration is **DENIED**.
>
> **SO ORDERED.**[31]
>
> ...

<u>PROCEEDINGS BEFORE THE COURT *EN BANC*</u>

Alleging that they received the assailed Order on 12 November 2024,[32] on 11 December 2024, petitioners filed a "Motion for Extension of Time to File Petition for Review"[33] (**Motion for Extension**) asking for an additional fifteen (**15**) days from 12 December 2024, or until 27 December 2024, to file their Petition for Review before the Court *En Banc*. Petitioners transmitted the said motion *via* electronic mail (**email**) on 11 December 2024.[34]

In a Minute Resolution dated 16 December 2024,[35] the Court *En Banc* granted petitioners' Motion for Extension and gave a non-extendible period of 15 days or until 27 December 2024 to file the petition. Accordingly, on 23 December 2024, petitioners filed the instant Petition for Review[36] *via* registered mail. Moreover, they filed the email transmittal thereof on the same date.[37]

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[31] Emphasis in the original text.
[32] See par. 3, Motion for Extension of Time to File Petition for Review, *rollo*, p. 2 *vis-à-vis* par. 7, Petition for Review, supra at note 1, p. 26.
[33] *Rollo*, pp. 1-5.
[34] Id., p. 22.
[35] Id., p. 23.
[36] Supra at note 1.
[37] Id.

Thereafter, in a Minute Resolution dated 26 February 2025,[38] the Court *En Banc* ordered respondent to file a comment or opposition to the petition within ten (10) days from notice thereof.

On 17 March 2025, respondent filed its "Comment (To the Petition for Review dated 23 December 2024)"[39] (**Comment**) *via* personal filing and electronic mail. Subsequently, in a Minute Resolution dated 02 April 2025,[40] the instant case was submitted for decision.

ISSUES

In the present Petition for Review before the Court *En Banc*, petitioners assign the sole issue for resolution —

> WHETHER THE REGIONAL TRIAL COURT (COURT *A QUO*) ERRED IN RULING THAT RESPONDENT CYPRESS TOWERS CONDOMINIUM CORPORATION IS EXEMPT FROM PAYING THE LOCAL BUSINESS TAX (LBT).

ARGUMENTS

In support of the present petition, petitioners aver that respondent is engaged in the business of selling services. Although they are aware of the pronouncement in *Yamane*, they do not agree that it could serve as basis for the condominium corporation's exemption from LBT. According to petitioners, the Supreme Court qualified the conclusion in *Yamane* by adding the words "significant degree of comfort" and "generally exempt" to ensure that the ruling therein may only be used if the circumstance of the case is in all fours with it. Otherwise, absent a clear provision or an express stipulation, the same should not be considered as a basis for exemption nor should be applied liberally, such as in respondent's case.

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38 Id., p. 66.
39 Id., pp. 67-87.
40 Id., p. 93.

Petitioners also argue that in RA 4726,[41] or "The Condominium Act", condominium corporations' activities are only limited to activities like the holding of the common areas, the administration of the common project and acts necessary or incidental to the accomplishment of the said purposes. Petitioners add that should condominium corporations engaged in profit making activities, then they will be properly imposed with LBT as likewise ruled in *Yamane*. Petitioners allege that respondent may have been created pursuant to the Condominium Act but its method of operations (providing beneficial services to the members in exchange for a payment in form of a membership or association dues), is clearly within the ambit of a profit-making venture. Petitioners also assert that an examination of the purposes stated in respondent's Articles of Incorporation (**AOI**) would show that it is actually engaged in an income generating activity.

Moreover, petitioners maintain vehemently that there is no law or statute that specifically exempts condominium corporations from paying the LBT. Referring to Section 28(4), Article VI of the 1987 Philippine Constitution, it provides that "*no law granting any tax exemption shall be passed without the concurrence of a majority of all the Members of the Congress*." As the power to enact law is only vested in Congress, then the ruling in *Yamane* is considered as a judicial legislation, that is an encroachment to the Congress's exclusive authority to grant tax exemptions.

Petitioners further point out that both the LGC of 1991, as amended, and the RCT serve as a sufficient legal bases to impose the LBT on the gross sales or receipts of businesses within their territorial jurisdiction. Hence, the concept of income or profit are deemed irrelevant as association dues, membership fees and other charges collected by condominium corporations form part of the gross receipts. Thus, it is only proper to subject respondent to the payment of LBT.

Petitioners add that condominium corporations have evolved as they now operate other facilities such as sports fixtures (like courts and

[41] AN ACT TO DEFINE CONDOMINIUM, ESTABLISH REQUIREMENTS FOR ITS CREATION, AND GOVERN ITS INCIDENTS.

gymnasium) and social amenities (like function rooms, health clubs and swimming pools) and are more *akin* to clubs that offer exclusive use of such facilities to paying members. Petitioners argue that since these clubs are liable for taxes under the National Internal Revenue Code (**NIRC**) of 1997, as amended, condominium corporations (comparable to clubs) should also be held liable for taxes.

Finally, petitioners claim that since respondent renews its business permit every year, its action then belies the fact that it is not engaged in the business of selling services.

In its Comment, respondent rebukes all of petitioners' arguments and insists that the MeTC and the court *a quo* did not err in ruling for the LBT's refund.

First, respondent contends that it does not need a law or an express provision for exemption thereof, since it is not liable to pay LBT in the first place.

Second, respondent is not engaged in the business of selling services. Contrary to petitioners' claim, the purposes in its AOI are limited to owning the common areas of the condominium corporation and their eventual upkeep, repair and maintenance thereof for the members' benefit. All moneys it receives (in the form of association dues or membership fees) are devoted fully to the said purposes. According to respondent, it could not declare dividends nor it is authorized to distribute income to its members or condominium owners.

As regards petitioners' insistence that it is a contractor, respondent counters that it is not included in the enumeration of contractors under the RCT. It further puts forward the Supreme Court's discussion in the case of *Bureau of Internal Revenue (BIR), as herein represented by its Commissioner Kim S. Jacinto-Henares and Revenue District Officer (RDO) Ricardo B. Espiritu v. First E-Bank*

Tower Condominium Corp.,[42] (**First E-Bank**) that declared that condominium corporations are not engaged in trade or business.

Third, respondent disagrees with petitioners that its act of securing business permits is an admission (on its part) that it is engaged in business for profit. It explains that business permit renewals are done in compliance with local regulations and to ensure that it adheres to the safety and operational mandates of the LGU. Respondent further posits that the concept of estoppel by conduct (as discussed in the case of *Luis G. De Castro v. Julian G. Ginete, et al.*[43]) is inapplicable as the second (2^{nd}) and fourth (4^{th}) requisites thereof, *i.e.*, that the representation must have been made with the knowledge of the faculty and it must have been made with intention that the other party would act upon it, respectively, are both wanting.

Fourth, respondent's gross receipts consist of collections are solely allocated for the upkeep of the condominium corporation. With the said nature, no less than the Supreme Court, in the *First E-Bank* case, ruled that association dues are allocated to shoulder the multitude of necessary expenses to maintain the condominium project, including the salaries of condominium corporation's employees, and the cost of maintenance and ordinary repairs of the common areas. Thus, it may not be imposed with income tax (**IT**) and value-added tax (**VAT**). Respondent applies the said concept by analogy and echoes that its gross receipts could not be subjected to LBT.

<u>RULING OF THE COURT *EN BANC*</u>

Before delving into the merits of the case, We find it propitious to first determine whether the Court *En Banc* has jurisdiction over the present petition.

THE COURT *EN BANC* HAS JURISDICTION OVER THE PRESENT PETITION.

[42] G.R. Nos. 215801 & 218924, 15 January 2020.
[43] G.R. No. L-30058, 28 March 1969.

Section 7 of RA 1125,[44] as amended by RA 9282,[45] expressly vests the Court of Tax Appeals (**CTA**) with exclusive appellate jurisdiction over decisions, orders, or resolutions of the RTCs in local tax cases decided or resolved by them in the exercise of their appellate jurisdiction. The law provides:

> ...
>
> **Sec. 7.** *Jurisdiction.* — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> ...
>
> 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[.][46]
>
> ...

Meanwhile, Section 11 of the same law provides that parties adversely affected with the decision of the RTC may file an appeal with the CTA within 30 days after the receipt of such decision. Likewise, the same provision declares that decisions of RTC in the exercise of its appellate jurisdiction shall be heard before the Court *En Banc*, *viz* –

> ...
>
> **SEC. 11.** *Who May Appeal; Mode of Appeal; Effect of Appeal.* - **Any party adversely affected by a decision**, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or **the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision** or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997

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[44] AN ACT CREATING THE COURT OF TAX APPEALS.

[45] 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.

[46] Emphasis supplied and italics in the original text.

> Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: *Provided, however,* **That with respect to decisions** or rulings of the Central Board of Assessment Appeals and **the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.**[47]
>
> ...

The above provisions are implemented by Section 2(b), Rule 4, in relation to Section 4(c), Rule 8 of the RRCTA, which state:

> ...
>
> **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[.]
>
> ...
>
> **SEC. 4.** *Where to Appeal; Mode of Appeal.* —
>
> ...
>
> (c) An appeal from a decision or. ruling of the Central Board of Assessment Appeals or the Regional Trial Court in the exercise of their appellate jurisdiction shall be taken to the Court by filing before it a petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.
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> ...

In the present case, it was alleged that petitioners received the assailed Order of the court *a quo* on **12 November 2024.**[48] Despite the said allegation, respondent did not refute it. Thus, insofar as the

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[47] Emphasis supplied and italics in the original text.
[48] Supra at note 32.

receipt of the assailed Order is concerned, We shall not disturb petitioners' claim.

Consequently, petitioners had 30 days from such receipt, or until **12 December 2024** to file a Petition for Review before this Court. On 11 December 2024, petitioners filed their Motion for Extension[49] and sought for an additional 15 days from 12 December 2024, or until **27 December 2024** to file the petition. Accordingly, it was granted.[50]

Subsequently, the instant petition was filed on **23 December 2024**[51] *via* registered mail and email. As the same has been timely filed, the Court *En Banc* has successfully acquired jurisdiction over the instant case.

We proceed to the merits of the case.

After a thorough consideration of the parties' arguments *vis-à-vis* the pertinent laws, rules and regulations, the Court *En Banc* finds no merit in the present Petition for Review.

For the orderly disposition of the case, We shall tackle the two (2) main issues that petitioners raised: (1) whether condominium corporations are engaged in trade or business; and (2) are condominium corporations liable to pay LBT on its gross receipts consisting of association dues.

CONDOMINIUM CORPORATIONS ARE NOT ENGAGED IN TRADE OR BUSINESS.

At the outset, We note that apart from petitioners' claim of the nature of transactions and activities that respondent is allegedly engaged in (for profit), they failed to present documentary evidence to support this allegation. Particularly, there is no evidence proving that

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[49] Supra at note 33.
[50] Supra at note 35.
[51] Supra at note 1.

its facilities are used for a fee and that it operates similar to a club with recreational facilities.

It is a settled rule that mere allegation is not evidence and the party who alleges a fact has the burden of proving the same with the requisite quantum of evidence.[52] Without any evidence, such allegation is essentially self-serving and devoid of any evidentiary weight.[53]

As respondent correctly cited, in *First E-Bank*,[54] reiterating *Yamane*,[55] the Supreme Court ruled that a condominium corporation is not engaged in trade or business –

> ...
>
> **a) A condominium corporation is not engaged in trade or business**
>
> The issue on whether association dues, membership fees, and other assessments/charges collected by a condominium corporation in the usual course of trade or business is not novel. ...
>
> ...
>
> ***Yamane*** did emphasize that a corporation condominium is not designed to engage in activities that generate income or profit. A discussion on the nature of a condominium corporation is, indubitably, in order.
>
> The creation of the condominium corporation is sanctioned by Republic Act No. 4726 (RA 4726) (The Condominium Act). Under the law, a condominium is an interest in real property consisting of a separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building. To enable the orderly administration over these common areas which the unit owners jointly own, RA 4726 permits the creation of a condominium corporation for the purpose of holding title to the common areas. The unit owners shall in proportion to the appurtenant interests of their respective units automatically be

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52 See *Renato C. Tacis and Dionicio Lamis III v. Shields Security Services, Inc. et al.*, G.R. No. 234575, 07 July 2021.

53 See *Amalia S. Menez (in behalf of the late Jonathan E. Menez) v. Status Maritime Corporation et al.*, G.R. No. 227523, 29 August 2018.

54 Supra at note 42.

55 Supra at note 18.

members or shareholders of the condominium corporation to the exclusion of others.

Sections 10 and 22 of RA 4726 focus on the non-profit purpose of a condominium corporation. Under Section 10, the corporate purposes of a condominium corporation are limited to holding the common areas, either in ownership or any other interest in real property recognized by law; management of the project; and to such other purposes necessary, incidental, or convenient to the accomplishment of these purposes. Additionally, Section 10 prohibits the articles of incorporation or by-laws of the condominium corporation from containing any provisions contrary to the provisions of RA 4726, the enabling or master deed, or the declaration of restrictions of the condominium project.

Also, under Section 22, the condominium corporation, as the management body, may only act for the benefit of the condominium owners in disposing tangible and intangible personal property by sale or otherwise in proportion to the condominium owners' respective interests in the common areas.

Further, Section 9 allows a condominium corporation to provide for the means by which it should be managed. Specifically, it authorizes a condominium corporation to collect association dues, membership fees, and other assessments/charges for: a) maintenance of insurance policies; b) maintenance, utility, gardening and other services benefiting the common areas, for the employment of personnel necessary for the operation of the building, and legal, accounting and other professional and technical services; c) purchase of materials, supplies and the like needed by the common areas; d) reconstruction of any portion or portions of any damage to or destruction of the project; and e) reasonable assessments to meet authorized expenditures.

In fine, the collection of association dues, membership fees, and other assessments/charges is purely for the benefit of the condominium owners. It is a necessary incident to the purpose to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.

As held in ***Yamane***,"*[t]he profit motive in such cases is hardly the driving factor behind such improvements, if it were contemplated at all. Any profit that would be derived under such circumstances would merely be incidental, if not accidental.*" More, a condominium corporation is especially formed for the purpose of holding title to the common area and exists only for the benefit of the condominium owners. Nothing more.[56]

...

Faced with a similar issue, the Supreme Court reiterated the said ruling in *Delos Santos*[57] and maintained that a condominium corporation is not engaged in trade or business.

CONDOMINIUM CORPORATIONS ARE NOT LIABLE TO PAY THE LOCAL BUSINESS TAX (LBT) IMPOSED ON ITS GROSS RECEIPTS.

Petitioners argue that there is no law which categorically exempts respondent from paying LBT. They contest the ruling in *Yamane*[58] as a judicial legislation that has encroached on the Congress's exclusive power to grant tax exemption.

We are not convinced.

Judicial legislation, in the simplest terms, happens when the Court adds to what the law provides and does so in the guise of interpretation.[59] However, contrary to petitioners' assertion that there exists a judicial legislation in *Yamane*,[60] the same is baseless and not true.

A careful and complete reading of *Yamane*[61] reveals that respondent BA Lepanto Condominium Corporation (**respondent Lepanto**) was issued with a NOA which demanded for the payment of the alleged LBT deficiency in the total amount of ₱1,601,013.77 for the years 1995 to 1997. According to petitioner Luz R. Yamane, then City

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56 Citations omitted, emphasis and italics in the original text.
57 Supra at note 28.
58 Supra at note 18.
59 See *Re: Letter of Court of Appeals Justice Vicente S.E. Veloso for Entitlement to Longevity Pay for His Services as Commission Member III of the National Labor Relations Commission*, A.M. No. 12-8-07-CA, A.M. No. 12-9-5-Sc & A.M. No. 13-02-07-SS, 16 June 2015.
60 Supra at note 18.
61 Id.

Treasurer of Makati (**petitioner Yamane**), the deficiency assessment was based on the Makati Revenue Code (**MRC**).

Nonetheless, apart from petitioner Yamane's failure to cite the specific provision of the MRC (which serves as the statutory basis for the levying the said taxes), the Supreme Court declared that respondent Lepanto is not considered as a business engaged in trade or a commercial activity as a means of livelihood or with a view to profit. In reaching this conclusion, the Supreme Court had extensively discussed the purposes of a condominium corporation; particularly, the holding of the common areas, the administration of the condominium project, and conducting other acts that are necessary, incidental or convenient to the accomplishment of such purposes. From its discussion of the nature and purposes of the said entity, the **Supreme Court held that condominium corporations, which are not considered as a business, are not covered by the local business taxation under the LGC of 1991, as amended.** Consequently, LGUs, whose authority to impose taxes is derived from the LGC, could not also impose LBT on condominium corporations within their jurisdiction.

Clearly from the foregoing, the Supreme Court did not supplant or amend the related provisions of the LGC nor of the MRC. It merely clarified the non-inclusion of condominium corporations from the businesses which may be imposed with taxes.

Further, We have observed that up to present, there is no Supreme Court decision that has abandoned the determination made in *Yamane*.[62] Thus, it was only proper for the court *a quo* to apply the ruling therein. *Stare decisis et non quieta movere*.[63] Stand by the decisions and disturb not what is settled.[64]

Reverting to the issue at hand as to the taxability of the association dues or membership fees, We find the ruling in *First*

62 Supra at note 18.

63 *Chinese Young Men's Christian Association of the Philippine Islands doing business under the name of Manila Downtown YMCA v. Remington Steel Corporation*, G.R. No. 159422, 28 March 2008.

64 Id.

E-Bank[65] applicable. While it relates to the imposition of IT, VAT and withholding taxes, the same had elucidated the nature of the said collections *vis-à-vis* the fees made to recreational clubs –

> ...
>
> As established in ***Yamane***, the expenditures incurred by condominium corporations on behalf of the condominium owners are not intended to generate revenue nor equate to the cost of doing business.
>
> In the very recent case of ***ANPC v. BIR***, the Court pronounced that membership fees, assessment dues, and other fees collected by recreational clubs are not subject to income tax, thus:
>
>> As cor[r]ectly argued by ANPC, **membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members . They represent funds "held in trust" by these clubs to defray their operating and general costs and hence, only constitute infusion of capital.**
>>
>> Case law provides that in order to constitute "income," there must be realized "gain." <u>Clearly, because of the nature of membership fees and assessment dues as funds inherently dedicated for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, nothing is to be gained from their collection. This stands in contrast to the [f]ees received by recreational clubs coming from their income-generating facilities, such as bars, restaurants, and food concessionaires, or from income-generating activities, like the renting out of sports equipment, services, and other accommodations: In these latter examples, regardless of the purpose of the fees' eventual use, gain is already realized f[r]om the moment they are collected because capital maintenance, preservation, or upkeep is not their pre-determined purpose. As such, recreational clubs are generally free to use these fees for whatever purpose they desire and thus, considered as unencumbered "fruits" coming from a business transaction.</u>

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[65] Supra at note 42; Citations omitted, emphasis and italics in the original text, and underscoring supplied.

> **Further, given these recreational clubs' non-profit nature, membership fees and assessment dues cannot be considered as funds that would represent these clubs' interest or profit from any investment. In fact, these fees are paid by the clubs' members without any expectation of any yield or gain (unlike in stock subscriptions), but only for the above-stated purposes and in order to retain their membership therein.**
>
> **In fine, for as long as these membership fees, assessment dues, and the like are treated as collections by recreational clubs from their members as an inherent consequence of their membership, and are, by nature, intended for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, then these fees cannot be classified as "the income of recreational clubs from whatever source" that are "subject to income tax. Instead, they only form part of capital from which no income tax may be collected or imposed.**

Similarly, therefore, association dues, membership fees, and other assessments/charges are not subject to income tax because they do not constitute profit or gain. To repeat, they are collected purely for the benefit of the condominium owners and are the incidental consequence of a condominium corporation's responsibility to effectively oversee, maintain, or even improve the common areas of the condominium as well as its governance.

...

In this case, applying by analogy, respondent's collection of the association dues and/or membership fees also does not constitute as profit or gain. Consequently, they may not also be imposed with LBT.

Lastly, in petitioners' attempt to invalidate the grant of refund, they assert that respondent failed to observe the prescriptive period under Section 195[66] of the LGC of 1991, as amended. They insist that respondent should have protested the billing statement with the local treasurer within 60 days from receipt thereof and eventually appeal the

66 Supra at note 23.

local treasurer's decision with the proper court within 30 days from notice.

It is apparent from the Petition for Review that petitioners did not dispute the time of filing the administrative and judicial claims, and they merely anchor their arguments on the non-compliance of the proper period.

Again, We are not persuaded.

As cited in the assailed Decision, the court *a quo* had correctly referred to the case of *International Container Terminal Services, Inc. v. The City of Manila, et al.*[67] (**ICTSI**) where the Supreme Court had differentiated the taxpayer's remedy based on the receipt of an assessment notice (**AN**) –

> ...
>
> **If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 or the Local Government Code.** Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest. In this case, as no tax was paid, there is no claim for refund in the appeal.
>
> If the taxpayer opts to pay the assessed tax, fee, or charge, it must still file the written protest within the 60-day period, and then bring the case to court within 30 days from either the decision or inaction of the local treasurer. In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. "Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer."
>
> **On the other hand, if no assessment notice is issued by the local treasurer**, and the taxpayer claims that it erroneously paid

[67] G.R. No. 185622, 17 October 2018; Citations omitted and emphasis supplied.

> a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies.
>
> ...

As aptly found by the court *a quo*, the billing statement issued to respondent is not equivalent to an AN. This is in line with the ruling in *ICTSI*[68] where the Supreme Court explained that "assessments" issued for business permit renewal is not considered a NOA under Section 195[69] of the LGC of 1991, as amended. Any dispute to the payment relating to the assessment made for purposes of the business permit renewal should be resorted to Section 196[70] of the said law –

> ...
>
> The "assessments" from the fourth quarter of 1999 onwards were Municipal License Receipts; Mayor's Permit, Business Taxes, Fees & Charges Receipts; and Official Receipts issued by the Office of the City Treasurer for local business taxes, which must be paid as prerequisites for the renewal of petitioner's business permit in respondent City of Manila. While these receipts state the amount and nature of the tax assessed, they do not contain any amount of deficiency, surcharges, interests, and penalties due from petitioner. They cannot be considered the "notice of assessment" required under Section 195 of the Local Government Code.
>
> **When petitioner paid these taxes and filed written claims for refund before respondent City Treasurer, the subsequent denial of these claims should have prompted resort to the remedy laid down in Section 196, specifically the filing of a judicial case for the recovery of the allegedly erroneous or illegally collected tax within the two (2)-year period.**[71]
>
> ...

Corollary, Section 196 of the LGC of 1991, as amended, provides –

> ...
>
> **SEC. 196.** *Claim for Refund of Tax Credit.* — No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for

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68 Id.
69 Supra at note 23.
70 Supra at note 24.
71 Supra at note 67; Citation omitted and emphasis supplied.

> refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.
>
> ...

A close reading of the above *proviso* reveals that for a taxpayer to be entitled to a refund or credit of local taxes, two (2) procedural requisites must coincide, to wit: (1) the taxpayer needs to submit a written claim for refund or credit to the local treasurer; and (2) the case or proceeding for refund must be initiated within two (2) years from the date of the payment of the tax, fee, or charge, or from the date the taxpayer becomes entitled to a refund or credit.

Here, as the court *a quo* determined and as petitioners even alleged in their petition, respondent paid the disputed LBT on **14 January 2021.**[72] Subsequently, respondent filed its administrative claim on **17 January 2022,**[73] which was denied.[74] Consequently, respondent filed its judicial claim on **13 January 2023.**[75]

From the above, it is evident that respondent had timely filed both the administrative and judicial claims for refund within two (2) years from the payment thereof. Thus, it sufficiently complied with refund requirements under Section 196[76] of the LGC of 1991, as amended.

WHEREFORE, in view of the foregoing, the instant Petition for Review filed by petitioners City Treasurer of Taguig City, Mr. Voltaire L. Enriquez and the City Government of Taguig City, represented by Hon. Mayor Lino Cayetano, on 23 December 2024, is hereby **DENIED** for lack of merit.

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[72] Supra at note 13 *vis-à-vis* p. 8 of the Decision dated 09 September 2024, supra at note 5, p. 55.
[73] Supra at note 14.
[74] Id.
[75] Supra at note 16 *vis-à-vis* p. 8 of the Decision dated 09 September 2024, supra at note 5, p. 55.
[76] Supra at note 24.

x - x

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice