**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***EN BANC***

**LEPANTO CONSOLIDATED MINING COMPANY,**
*Petitioner,*

-*versus*-

**CELIA T. BOGNALEN,** in her capacity as Officer-in-Charge of **the OFFICE OF THE MUNICIPAL TREASURER** and **DONALD L. DAGANOS,** in his capacity as **MUNICIPAL ASSESSOR,** both of the Municipality of Mankayan, Benguet,
*Respondents.*

**CTA *EB* NO. 2123**
(CBAA Case No.L-140-2018)

Present:

**DEL ROSARIO,** *P.J.,*
**CASTAÑEDA, JR.,**
**UY,**
**RINGPIS-LIBAN,**
**MANAHAN,**
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,** *JJ.*

Promulgated:
JUN 2 4 2021 2:11 pm

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## D E C I S I O N

**MANAHAN, J.:**

Before the Court of Tax Appeals *En Banc* is a Petition for Review[1] posted on August 13, 2019 and received by the Court on August 15, 2019 by petitioner Lepanto Consolidated Mining Company, seeking the reversal of the Decision dated May 6, 2019 and Resolution dated July 16, 2019 issued by the Central Board of Assessment Appeals (CBAA) entitled, *"Lepanto Consolidated Mining Company vs. Celia T. Bognalen in her capacity as Officer-in-Charge of the Office of the Municipal Treasurer and Donald L. Daganos, in his capacity as Municipal Assessor, both of the Municipality of Mankayan, Benguet* (CBAA Case No. L-140-2018). We

[1] En Banc (EB) Docket, pp. 1-35.

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quote below the dispositive portions of the Decision and Resolution of the CBAA, thus:

**Decision dated May 6, 2019**

> **"WHEREFORE**, the **APPEAL** is hereby **DENIED.** The case is **REMANDED** to the Local Board of Assessment Appeals for further proceedings subject to Petitioner-Appellant's payment under protest of the assailed real property tax assessment as required under Section 252 of the Local Government Code."
>
> **SO ORDERED."**

**Resolution dated July 16, 2019**

> **"WHEREFORE,** in view of the foregoing, both Motions for Reconsideration filed by the parties are **DENIED** for lack of merit. The Decision of the Board dated May 6, 2019 stands.
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> **SO ORDERED.** Manila Philippines, 16 July 2019."

## THE PARTIES

Petitioner is a domestic corporation with principal office address at the 21st Floor, Lepanto Building, 8747 Paseo de Roxas, Makati City. It is engaged in the business of mining.

Respondent Celia T. Bognalen is being sued in her official capacity as the Officer-in-Charge of the Office of the Municipal Treasurer of Mankayan, Benguet with office address at Mankayan Municipal Hall, Mankayan, Benguet.

Respondent Donald G. Daganos is being sued in his official capacity as the Municipal Assessor of the Municipality of Mankayan, Benguet wiht office address at Mankayan Municipal Hall, Mankayan, Benguet.

## THE FACTS

On May 31, 2016 respondents issued a letter and Real Property Tax Bills assessing and collecting real property taxes (RPTs) and Special Education Fund (SEF) taxes, inclusive of penalties on petitioner's Load Haul Dump (LHD) Equipment and Low Profile Trucks (LPTs) for taxable years 2010-2016 in the aggregate amount of Php54,484,519.36.[2]

On August 1, 2016, petitioner filed a petition with the Local Board of Assessment Appeals (LBAA) of Benguet protesting said RPT assessments and praying for their cancellation. Respondents filed an Answer to the Petition with a Motion to Dismiss.

On January 11, 2018, the LBAA issued a Decision denying the Petition on jurisdictional grounds because of petitioner's failure to first pay under protest the RPT assessments before filing an appeal with their office.[3] The LBAA cited Section 252 (a) of RA No. 7160 or the Local Government Code of 1991 (LGC of 1991) as the legal basis of its conclusion.

Petitioner filed a Motion for Reconsideration of the decision of the LBAA which was denied by the latter in a Resolution dated February 20, 2018. This Resolution was received by the petitioner on February 28, 2018.

On April 2, 2018, petitioner filed a Notice of Appeal toegther with a Memorandum of Appeal with the Central Board of Assessment Appeals (CBAA) docketed as CBAA Case No. L-140-2018.

On May 6, 2019, the CBAA issued a Decision (assailed Decision) remanding the case to the LBAA for further proceedings, subject to the payment under protest by petitioner of the amount of RPT assessments for the period involved.[4]

On May 29, 2019, petitioner filed a Motion for Reconsideration of the assailed Decision.

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[2] Annexes "H" and "I", *EB* Docket, pp. 143-148.
[3] Annex "N", *EB* Docket,, pp. 248-257.
[4] Annex "A", *EB* Docket, pp. 39-102.

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On July 29, 2019, petitioner received a copy of the Resolution (assailed resolution) of the CBAA dated July 16, 2019, denying the said motion.[5]

On August 13, 2019, petitioner posted the instant Petition for Review which the Court *En Banc* received on August 15, 2019.

In a Resolution dated September 10, 2019, the Court *En Banc* directed respondents to file their Comment to the Petition for Review within ten (10) days from receipt thereof.

On February 26, 2020, respondents posted their Comment (Re: Petition for Review dated August 13, 2019) which was received by the Court on March 9, 2020.

On June 9, 2020, the Court *En Banc* issued a Resolution submitting the instant case for decision.

## THE ISSUES

As culled from the arguments of both parties and the assailed decision of the CBAA, we find the following issues pertinent for resolution:

1. Whether an appeal or petition filed before the LBAA should be preceded by payment of the RPT under protest, otherwise, the appeal or petition shall be dismissed; and

2. Whether petitioner's LHD Equipment and LPTs are covered by the term "real property" subject to real property taxes under Section 198 of the Local Government Code of 1991.

### Petitioner's arguments

Petitioner disputes the ruling in the assailed Decision of the CBAA that a protest against the assessment for RPT with the LBAA must be preceded by payment under protest of the assessed RPT.

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[5] Annex "B", *EB* Docket, pp. 103-114.

Petitioner maintains that a cursory review of the petition filed with the LBAA will reveal that it was made pursuant to Section 226 of the LGC of 1991 and not Section 252 of the same Code. Petitioner further theorizes that only petitions filed under the provisions of Section 252 of the LGC of 1991 would require prior payment under protest because such petitions are filed directly with the local treasurer. Petitioner reiterates that the instant petition was filed directly with the LBAA to challenge the RPT assessments issued by the local treasurer. Petitioner thus concludes that under Section 226 of the LGC, payment under protest is *not required* before one can elevate an appeal to the LBAA. Following this argument, petitioner avers that the CBAA committed a grave and palpable error in dismissing its petition for non-payment of the tax under protest and should have decided the case on its merits.

Petitioner also questions the authority of the municipality of Mankayan, Benguet to impose and collect RPT and the SEF Tax as it is not among the powers of the local government units (LGUs) provided under Section 232 and Section 235 of the LGC of 1991.

As to the substantive merits of its main arguments, petitioner submits that RPT may not be imposed upon its LHD equipment and LPTs as they are not considered "real property" based on the definition provided by Article 415 of the New Civil Code (NCC). It cites the cases of *Mindanao Bus Company vs. The City Assessor and Treasurer*[6] and *Davao Saw Mill Co., Inc.vs. Castillo,*[7] where the Supreme Court supposedly ruled that in order for movable machineries to be considered as real or immovable properties , the following requisites must concur:

1. The machinery must be essential and principal elements in the industry;

2. The industry or works must be carried on in a building or on a piece of land, and

3. The machinery or equipment must be placed by the owner of the land or building in order to be

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[6] G.R. No. L-17870, September 29, 1962.
[7] G.R. No. L-40411, August 7, 1935.

immobilized by destination and considered real property.

Petitioner alleges that none of the foregoing requisites apply to its LHD equipment and LPTs, hence should not have been subjected to RPT.

As an additional legal support to the aforementioned arguments, petitioner asserts that the LHD equipment and LPTs are not considered "machineries" within the meaning of Section 199 (o) of the LGC of 1991 which would warrant the imposition of RPT.

As a final stance against the RPT assessments, petitioner invokes the defense of prescription and maintains that the portion of the assessments pertaining to the years 2010, 2011, 2012 and 2013 have already prescribed and can no longer be collected.

**<u>Respondents' counter-arguments</u>**

Respondents believe that petitioner's appeal with the LBAA is to question the correctness and reasonableness of the RPT assessment on its LHD equipment and LPTs and not their authority to impose the tax. Respondents point out that petitioner questioned the Notice of Billing based on the following grounds: a) That the municipal assessor erroneously classified said properties as "real property"; b) That the subject properties are tax exempt under Local Finance Circular No. 2-09, and c) The computation of the amount sought to be collected is erroneous. By the very nature of petitioner's foregoing arguments, respondents conclude that the appeal lodged with the LBAA is one questioning the validity of the RPT assessments. Respondents also mentions that the Petition filed by petitioners with the LBAA indicates that it was being filed based on Sections 252 and 226 of the LGC of 1991 which would require a prior "payment under protest" contrary to petitioner's contentions.

In answer to the substantive assertions of petitioner relative to the RPT assessments, respondents submit that petitioner's LHD equipment and LPTs fall within the meaning of "machinery" under Section 199 (o) of the LGC of 199 because they are specifically designed for the mining

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industry alone, i.e., that they are actually, directly, and exclusively used to meet the needs of the mining industry and by their very nature and purpose are designed for or necessary in increasing mining efficiency. Respondents believe that these characteristics should lead to the conclusion that the LHD equiment and LPTs used by petitioner are subject to RPT.

As to the issue of prescription on their right to assess RPT, respondents raise the issue of fraud and states that in cases of fraud or intent to evade payment of the tax, the ten (10) year period from discovery of such fraud shall apply, hence the the period to assess and collect RPT for the years 2010 to 2014 has not yet prescribed.

The final arguments of respondent center on the correctness of the assessment levels used in the imposition of RPT as they emphasize that the subject properties is categorized as "Industrial" and thus the assessment level is 80% based on the 1999 schedule of fair market values and assessment levels of real properties in the province of Benguet. Further, respondents assert that the 5% annual depreciation allowance under Section 225 of the LGC of 1991 wa taken into account when the RPT was computed.

## THE RULING OF THE COURT EN BANC

The foremost issue to be tackled in this case is the proper procedure to be followed by a taxpayer when it contests an assessment of RPT which is issued by a local government unit (LGU) through its municipal or provincial assessor.

Records show that petitioner received a letter and Real Property Tax Bills from the Municipal Treasurer of Mankayan, Benguet requesting for the settlement of its RPT obligations for the years 2010-2016 in the total amount of Php55,484,519.36.

Petitioner directly filed a Petition before the LBAA after receiving the aforesaid letter and Real Property Tax Billings from the Municipal Treasurer of Mankayan, Benguet. Petitioner asserts that the petition with the LBAA directly questions the RPT assessments issued by the local treasurer under Section 226 of the LGC of 1991 and argues that the requirement of payment under protest applies only to appeals taken under Section 252 of the LGC of 1991 and not to appeals directly made with the LBAA under said Section 226 of the same Code.

We quote the relevant provisions of the LGC of 1991, to wit:

> "Section 252. *Payment under Protest.* –
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> (a) **No protest shall be entertained unless the taxpayer first pays the tax.** There shall be annotated on the tax receipts the words "paid under protest". The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.
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> (b) xxx
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> (c) xxx
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> (d) In the event that the protest is denied or upon the lapse of the sixty-day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title Two, Book II of this Code."

The remedies referred to in subsection (d) of Section 252 of the LGC of 1991 "as provided in Chapter 3, Title Two, Book II of this Code" are found in the following legal provisions :

> "Section 226. *Local Board of Assessment Appeals.* – Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, within sixty (60) days from date of receipt of the written notice of assessment, appeal to the Board of Assessment Appeals of the province or city, by filing a petition under oath in the form prescribed for the purpose together with copies of the tax declarations and such affidavits or documents in support of the appeal."
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> xxx xxx xxx

> "Section 229. *Action by the Local Board of Assessment Appeals.*
>
> (a) The Board shall decide the appeal within one hundred twenty (120) days from the date of receipt of such appeal. The Board, after hearing shall render its decision based on substantial evidence or such relevant evidence on record as a reasonable mind might accept as adequate to support the conclusion.
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> (b) In the exercise of its appellate jurisdiction, the Board shall have the powers to summon witnesses, administer oaths, conduct ocular inspection, take depositions, and issue subpoena and subpoena duces tecum. The proceedings of the Board shall shall be conducted solely for the purpose of ascertaining the facts without necessarily adhering to technical rules applicable in judicial proceedings.
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> (c) The secretary of the Board shall furnish the owner of the property having legal interest therein and the provincial or city assessor with a copy of the decision of the Board. In case the provincial or city assessor concurs in the revision or the assessment, it shall be his duty to notify the owner of the property or the person having legal interest therein of such fact using the form prescribed for the purpose. The owner of the property or the person having legal interest therein or the assessor who is not satisfied with the decision of the Board may, within thirty (30) days after receipt of the decision of said Board, appeal to the CBAA, as herein provided. The decision of the CBAA shall be final and executory.
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> "Section 231. Effect of Appeal on the Payment of Real Property Tax. – Appeal on assessments of real property made under the provisions of this Code shall, in no case, suspend the collection of the corresponding realty taxes on the property involved as assessed by the provincial or city assessor, without prejudice to subsequent adjustment depending upon the final outcome of the appeal."

Petitioner asks the Court to take note of the distinction between appeals made under Section 252 and appeals made pursuant to Section 226 of the LGC of 1991. It is of the firm belief that it is only the appeal made under Section 252 of the LGC of 1991 that requires payment under protest while an appeal made under Section 226 of the same Code need only be filed within the sixty (60)-day period in order to be cognizable by the LBAA without need to "pay under protest".

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We find no merit in petitioner's contentions.

An analysis of the aforequoted provisions of the LGC of 1991 would reveal that the remedies provided therein are not distinct but successive. Sections 252 and 226 of the LGC of 1991 must not be read alternatively but in harmony with each other, thus Section 226 which provides that any owner or person having legal interest in the property, who is aggrieved by or not satisfied with the action of the provincial, city or municipal assessor in the assessment of its property, may file an appeal with the LBAA within sixty days from date of receipt of the NOA/s and in the event that the protest is denied, the taxpayer may avail of the remedies provided in Chapter 3, Title II, Book II of the LGC of 1991, pursuant to its Section 252 ( d ).

The Supreme Court has resolved a similar issue in the case of *Napocor vs. Province of Quezon, et.al,*[8] where it ruled, thus:

> "It was an ill-advised move for Napocor to directly file an appeal with the LBAA under Section 226 **without first paying the tax as required under Section 252**. Sections 252 and 226 **provide successive administrative remedies to a taxpayer who questions the correctness of an assessment**. Section 226, in declaring that any owner or person having interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of the property may xxx appeal to the Board of Assessment Appeals xxx should be read in conjunction with Section 252 (d) which states that in the event that the protest is denied xxx, the taxpayer may avail of the remedies as provided in Chapter 3, Title II, Book II of the LGC xxx. The action referred to in Section 226 (in relation to a protest of real property tax assessment) thus refers to the local assessors act of denying the protest filed pursuant to Section 252. xxx" (emphasis supplied)

Corollary to the procedural issue is the proper fora where appeals of this nature may be lodged. In the *Napocor* case, the Supreme Court made a clarifying distinction between two types of protest against an assessment for RPT issued by the LGU as follows:

> **"The protest contemplated under Section 252 is required where there is a question as to**

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[8] G.R. No. 171586 dated January 25, 2010.

> **the *reasonableness* or *correctness* of the amount assessed. Hence, if a taxpayer disputes the reasonableness of an increase in a real property tax assessment, he is required to "first pay the tax" under protest.** Otherwise, the city or municipal treasurer will not act on his protest. Ty however was questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These were not questions merely of amounts of the increase in the tax but attacks on the very validity of any increase. Moreover, Ty was raising a legal question that is properly cognizable by the trial court; no issues of fact were involved.
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> xxx xxx xxx
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> By providing that real property not declared and proved as tax-exempt shall be included in the assessment roll, the above-quoted provision implies that the local assessor has the authority to assess the property for realty taxes, and any subsequent claim for exemption shall be allowed only when sufficient proof has been adduced supporting the claim. **Since Napocor was simply questioning the correctness of the assessment, it should have first complied with Section 252, particularly the requirement of payment under protest.** Napocor's failure to prove that this requirement has been complied with thus renders its administrative protest under Section 226 of the LGC without any effect. No protest shall be entertained unless the taxpayer first pays the tax." (Emphasis supplied).

In another case involving the National Power Corporation,[9] the Supreme Court reiterated the need to distinguish between two types of protests against an RPT assessment because such distinction would be determinative of which body has jurisdiction and we quote:

> "In laying down the powers of the Local Board of Assessment Appeals, R.A. 7160 provides in Section 229 (b) that the "proceedings of the Board shall be conducted solely for the purpose of ascertaining the facts...." **It follows that appeals to this Board may be fruitful only where questions of fact are involved. Again the protest contemplated under Section 252 of R.A. 7160 is needed where there is a question as to the reasonableness of the amount assessed.** Hence if a taxpayer disputes the reasonableness of an increase in a real estate tax assessment, he is required to "first pay the tax" under protest. Otherwise, the city or

[9] *National Power of Corporation vs. Municipal Government of Navotas,, et.al.*, G.R. No. 192300, November 24, 2014.

> municipal treasurer will not act on his protest. In the case at bench, however, the petitioners questioning the very authority and power of the assessor, acting solely and independently, to impose the assessment and of the treasurer to collect the tax. These are not questions merely of amounts of the increase in the tax but attacks the very validity of any increase."
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> **Accordingly, if the only issue is the legality or validity of the assessment – a question of law- direct recourse to the RTC is warranted."** (Emphasis supplied)

In another case decided by the Supreme Court,[10] it was similarly ruled that the question of the "reasonableness" or "correctness" of the assessment by the local assessor is a question of fact which should be resolved at the very first instance, by the LBAA, and we quote:

> xxx xxx xxx "As settled in jurisprudence, a claim for exemption from the payment of real property taxes does not actually question the assessor's authority to assess and collect such taxes, but **pertains to the reasonableness or correctness of the assessment by the local assessor, a question of fact which should be resolved at the very instance, by the LBAA."** (emphasis supplied)

From the foregoing rulings of the Supreme Court, a taxpayer who wishes to protest an RPT assessment, may do so in either of the following ways: 1) file a protest which questions or challenges the **reasonableness or correctness** of the assessment; or (2) file a protest which questions the legality or validity of the assessment. If a taxpayer's protest questions the correctness or reasonableness of an assessment, Section 252 of the LGC of 1991 mandates that such protest must be preceded by payment of the assessed RPT.

The remedy of protest under the said Section 252 contemplates of a situation where the reasonableness or correctness of the amount assessed is being challenged. In this case, the taxpayer is required to "first pay the tax", then file a protest, otherwise, the city or municipal treasurer will not act on said protest. If the protest is denied or not acted upon within sixty (60) days from filing, the taxpayer or the person having legal interest over the property may then file

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[10] *National Power Corporation vs. The Provincial Treasurer of Benguet, et al.*, G.R. No. 209303, November 14, 2016.

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an appeal with the LBAA, which has one hundred twenty days (120) days from date of receipt of such appeal to render a decision. If the taxpayer is unsatisfied with the decision of the LBAA, the taxpayer may elevate an appeal with the CBAA within thirty (30) days from receipt of the decision of the LBAA. If the CBAA still renders an adverse decision, the aggrieved taxpayer may avail the judicial remedy and elevate an appeal with the Court of Tax Appeals (CTA) in accordance with Section 7 (a) (5) and 11 of RA No. 1125, as amended by RA Nos. 9282 and 9503 and Section 2 (e) Rule 4 of the Revised Rulesof the Court of Tax Appeals (RRCTA).

On the other hand, if the taxpayer or the person having legal interest in the property questions the authority and power of the assessor to impose or issue the assessment, the matter becomes a legal question, which is properly cognizable by the proper court which in this case is the Regional Trial Court (RTC).

To simplify, a taxpayer or the owner or person with legal interest over the subject properties, may question either (1) the reasonableness or correctness of the assessment or (2) the legality or validity of the assessment.

In the first instance, the taxpayer must first pay under protest the assessed tax as provided under Section 252 (a) of the LGC of 1991. In the event that the protest is denied or is not acted upon within sixty (60) days from filing, the taxpayer or the person with legal interest over the property may then file an appeal with the LBAA which has one hundred twenty days (120) days from the date of receipt of such appeal, to render a decision. When the aggrieved party wishes to question the decision of the LBAA, the taxpayer may elevate the case to the CBAA within thirty (30) days from receipt of the adverse decision. If the party remains unsatisfied with the decision of the CBAA, the former may elevate an appeal with the Court of Tax Appeals (CTA) *En Banc* in accordance with Sections 7 (a) (5) and 11 of Republic Act (RA) No. 1125 as amended by RA Nos 9282 and 9503 and Section 2 (e), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA).

In the second instance, where the question deals with the legality or validity of the assessment, i.e., the authority and power of the assessor to impose the assessment, and of the treasurer to collect the real property tax, which is a question of law. In this case, the party may appeal directly to the proper Regional Trial Court (RTC). The decision of the RTC is appealable before the Division of the CTA.

It is noteworthy that the main basis of the petition filed by petitioner with the LBAA is its claim that the LHD equipment and LPTs used in its underground mining activities are classified as personal properties, hence are not subject to RPT in accordance with Section 9 of the Local Finance Circular No. 2-09 of the Department of Finance (DOF) which allegedly classifies dump trucks, bulldozers, excavators, payloaders and similar equipment used in mining operations as personal properties not subject to RPT.

It is evident from the above arguments that petitioner was questioning the correctness of the assessment issued by the Municipal Assessor of Mankayan, Benguet as it specifically challenges the imposition of RPT on its LHD equipment and LPTs used in its mining business and maintains that these are not considered real property under the pertinent provisions of the LGC of 1991. In the case of *Camp John Hay Development Corporation vs. CBAA, et al.*[11]*(Camp John Hay)*, the Supreme Court ruled that a claim for tax exemption raises a question of reasonableness or correctness of an assessment which requires compliance with Section 252 of the LGC of 1991 and we quote the following pertinent portions:

> "All told, We go back to what was at the outset stated, that is, that a claim for tax exemption, whether full or partial, does not question the authority of local assessor to assess real property tax, but merely raises a question of the reasonableness or correctness of such assessment, which requires compliance with Section 252 of the LGC of 1991. Such argument may involve a question of fact that should be resolved at the first instance by the LBAA."

The aforequoted ruling of the Supreme Court in the *Camp John Hay* case was later affirmed in the case of *Napocor vs. The Provincial Treasurer of Benguet, et. al.*[12] which we quote below:

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[11] G.R. No. 169234 dated October 2, 2013.
[12] G.R. No. 209303 dated November 14, 2016.

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> "xxx xxx. As settled in jurisprudence, a claim for exemption from the payment of real property taxes does not actually question the assessor's authority to assess and collect such taxes, but pertains to the reasonableness or correctness of the assessment by the local assessor, a question of fact which should be resolved, at the very first instance, by the LBAA. The same may be inferred in Section 206 of the LGC of 1991 xxx xxx"

Having ruled that the petitioner failed to follow the proper procedure in filing a protest with the LBAA, we therefore see no reason to delve upon the other issues raised by petitioner in its Petition for Review.

**WHEREFORE**, the instant Petition for Review posted by petitioner Lepanto Consolidated Mining Company on August 13, 2019 is hereby **DISMISSED** for lack of merit.

**SO ORDERED.**

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
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