REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

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CITY OF MANILA AS REPRESENTED BY ITS CITY MAYOR, HONORABLE FRANCISCO "ISKO MORENO" DOMAGOSO AND OIC-CITY TREASURER, Petitioners,	**CTA AC NO. 252** Members: **UY,** *Chairperson*, **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
- versus -	Promulgated:
MARINA SQUARE PROPERTIES, INC., Respondent.	MAY 26 2023 3:44 p.m.

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RESOLUTION

UY, J.:

For resolution is petitioners' ***Motion for Reconsideration (Re: DECISION dated 20 February 2023)*** filed on March 29, 2023, with respondents' ***Comment (Re: Motion for Reconsideration dated March 29, 2023)*** filed on May 16, 2023.

In its *Motion*, petitioners seek that the Decision dated February 20, 2023, be reversed and set aside, the dispositive portion of which reads:

Decision dated February 20, 2023

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DENIED** for lack of merit. The assailed *Decision* dated December 15, 2020 rendered by the Regional Trial Court of Manila-Branch 34 in Civil Case No. R-MNL-18-00546-CV is **AFFIRMED with MODIFICATION** as follows: Judgment is hereby rendered ORDERING petitioner City of Manila through the City Treasurer to refund in favor of respondent Marina Square Properties, Inc. the amount of **P1,776,551.05** representing

erroneously collected and paid local business tax for CY 2016.

SO ORDERED."

Petitioners' Motion for Reconsideration (MR):

Petitioners argue that the Court failed to consider the applicability of the clean hands doctrine against respondent's claim for refund, which is the time-honored principle that he who seeks equity must do equity, and he who comes into equity must come with clean hands.

Allegedly, respondent was unfair and dishonest when it did not communicate any protest or objection to the assessment; and that for unexplained and unjustified reasons, respondent only filed its claim for refund on November 3, 2017 or almost two (2) years from the date of payment.

According to petitioners, the tight window between the claim for refund and the filing of the complaint before the RTC effectively deprived it of the opportunity to reply or act on the claim for refund.

Moreover, petitioners assert that while there's no question as to the timeliness of the claim for refund, petitioners find that respondent was dishonest and unfair when it filed its refund claim very close to the two (2) year prescriptive period under Article 196 of the Local Government Code to bar its claim for refund of the subject local business tax (LBT).

Petitioners also argue that the Court erred in sustaining the Court *a quo* and giving credence to respondent's sole witness, Ms. Genalyn T. Variacion, (Ms. Variacion) the Chief Accountant. Petitioners contend that respondent failed to show any proof that she is indeed the chief accountant of respondent since she did not present even a company ID to establish her identity as respondent's employee.

Respondent's Comment on petitioners' MR:

Respondent counters that for a claim for refund of any erroneously or illegally collected LBT to prosper, what is only required is that the taxpayer must file both an administrative claim and judicial claim for refund within two (2) years from the date of payment of LBT.

Contrary to petitioners' contention, Section 196 of the LGC does not impose any specific period within which to file the administrative or the judicial claim, so long as both claims are filed within the two-year period from the date of payment of the LBT. Hence, there's no merit to the petitioners' argument that respondent was engaged in any unfair and dishonest conduct in the course of claiming refund of its erroneously collected and paid LBT for calendar year (CY) 2016.

Likewise, respondent asserts that petitioners' argument questioning the competence of respondent's Chief Accountant to testify as witness due to the latter's alleged failure to present any proof of her position and her authority to testify is a mere rehash of its contention during the proceedings before the RTC and this Court, and thus, deserves scant consideration.

Respondent emphasizes that the designation and authority of Ms. Variacion to testify as a witness for respondent have been sufficiently established in all of respondent's submissions to the RTC, such as its Pre-Trial Brief and Judicial Affidavit. Corollary thereto, it was incumbent upon the petitioners to have objected to the presentation of Ms. Variacion as a witness during the proceedings before the RTC.

THE COURT'S RULING

Petitioners' Motion for Reconsideration lacks merit.

A perusal of petitioners' *Motion* readily shows that the arguments raised by petitioners in the present Motion for Reconsideration are essentially mere reiterations or rehash of arguments which have already been considered, weighed upon and discussed in the assailed Decision. Thus, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein, except for one argument which shall be addressed below.

Petitioners failed to establish the applicability of the clean hands doctrine.

Petitioners' argument that the Court should consider the applicability of the clean hands doctrine on the alleged unfair and dishonest conduct attendant to respondent's refund claim fails to persuade.

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While it is true that the one who comes into equity must come with clean hands, it is equally true that an allegation of fraud and dishonesty to come within the doctrine's purview must be substantiated. [1] As held in the case of *Cathay Pacific Airways, Ltd. v. Spouses Vasquez*, to wit:[2]

> "Bad faith and fraud are allegations of fact that demand clear and convincing proof. They are serious accusations that can be so conveniently and casually invoked, and that is why there are never presumed. They amount to mere slogans or mudslinging unless convincingly substantiated by whoever is alleging them."

It bears stressing that fraud is not presumed – it must be proven by clear and convincing evidence.[3] Fraud is never imputed and the courts never sustain the findings of fraud upon circumstances which, at most, create only suspicion."[4]

Here, We find that there is no clear and convincing proof to establish that respondent's conduct is attended by fraud and/or dishonesty. Aside from bare allegations, petitioners did not present any evidence of actual fraud and dishonesty, but merely inferred that respondent's conduct was unfair and dishonest when after paying its LBT for CY 2016 on February 12, 2016, respondent filed its administrative claim before the Office of the City Treasurer of Manila only on November 3, 2017 and its judicial claim before the RTC Manila – Branch 34 on February 1, 2018.

As regards to petitioners' claim that respondent was dishonest and unfair when it filed its refund claim very close to the two (2) year prescriptive period under Section 196 of the Local Government Code in order to bar its claim for refund of the subject local business tax (LBT), We find this argument unfounded.

A cursory reading of Section 196[5] of the LGC of 1991 shows that there is no specific period mandating the local treasurer to decide or

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[1] *Department of Public Works and Highways v. Ronaldo E. Quiwa, et al.*, G.R. No. 183444, February 8, 2012.
[2] G.R. No. 150843, March 14, 2003.
[3] *Spouses Ramos v. Obispo and Far East Bank and Trust Company*, G.R. No. 193804, February 27, 2013.
[4] *Commissioner of Internal Revenue v. Melchor Javier et. al.*, G.R. No. 78953, July 31, 1991.
[5] 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

resolve a taxpayer's administrative claim for refund or tax credit. What is only required under said section is that the taxpayer must first file a written administrative claim for refund or credit with the local treasurer, and subsequently file a judicial claim for refund, both of which must be instituted within two (2) years from the payment of tax, fee, or charge. *Apropos,* where the law does not distinguish, courts should not distinguish.[6]

Accordingly, in the absence of fraud, respondent complied with the mandated requisites under Section 196 of the LGC of 1991 by filing both its administrative and judicial claims for refund within the two (2)-year prescriptive period.

Hence, this Court finds no cogent reason to justify the reversal or modification of the Decision assailed by petitioners.

WHEREFORE, in view of the foregoing considerations, petitioner's ***Motion for Reconsideration (Re: DECISION dated 20 February 2023)*** is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(On Official Business)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit. *(City of Manila v. Marina Square Properties, C.T.A. AC No. 252, [February 20, 2023]).*

[6] *Pension and Gratuity Management Center (PGMC), et. al. v. AAA,* G.R. No. 201292, August 1, 2018.