VICENTE DIEGO LOCSIN
and AGUSTIN T. LOCSIN,
Petitioners,

- versus

CTA CASE NO. 1787

CIRILO B. GALLOS, in
his capacity as Bacolod
City Assessor, and
Bacolod City Board of
Assessment (Tax) Appeals,
Respondents.

12/18/67

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DECISION

Petitioner Vicente Diego Locsin purchased on September 6, 1963, Lot No. 15, Block No. 3, with an area of 600 square meters at ₱10.00 per square meter, or for ₱6,000.00 from the Capitol Subdivision, Inc. of Bacolod City. This lot is a portion of Cadastral Lot 1205 pt. which was assessed at ₱5.00 per square meter on September 30, 1963 under Tax Declaration No. 14336, effective 1964. On October 24, 1963, Lot 15 aforesaid was assessed at ₱12.00 per square meter or a total of ₱7,200 by Tax Declaration No. 14528, effective 1964, cancelling Tax Declaration No. 14336 as far as said lot is concerned. The assessment at ₱12.00 per square meter of said lot is ₱2.00 more than its purchase price per square meter. On March 5, 1964, petitioner requested for the reconsideration of the said assessment but same was denied by respondent City Assessor Cirilo B. Gallos in a letter dated March 13, 1964 (Exhs. 8, 9, pp. 3 & 5, respectively, Board of Assessment Appeals rec.). On March 18, 1964, petitioner Vicente Diego Locsin appealed the assessment to the Board of Assessment Appeals on the ground that it violated Resolution No. 83, series of 1963, of the Bacolod City Council which declared a policy that reassessments of lots should not exceed 50% of their 1962 values and that at any rate the assessment is excessive.

The other petitioner herein, Agustin T. Locsin, who is the counsel for petitioner Vicente Diego Locsin, is the owner of Lot No. 16, Block No. 3, with an area of 600 square meters adjacent to Lot No. 15 aforesaid. This Lot 16 was acquired by petitioner Agustin T. Locsin from the same Capitol Subdivision, Inc., for the same price of ₱10.00 per square meter. It also is a part of Cadastral Lot 1205 pt. It was formerly assessed at ₱2,400.00 under Tax Declaration No. 11424. This assessment was raised by the City Assessor to ₱7,200 in Tax Declaration 6698 dated October 5, 1962 effective 1963. Petitioner Agustin T. Locsin protested the assessment of his lot and same was reduced to ₱3,600.00 under Tax Dec. No. 13784 dated April 30, 1963, or at ₱6.00 per square meter. On March 30, 1965, during the pendency of the appeal of petitioner Vicente Diego Locsin, the respondent City Assessor again reassessed Lot No. 16 and raised its valuation to ₱7,200.00 under

Tax Dec. No. 17073, retroactive as of the year 1963. On April 14, 1965, petitioner Agustin T. Locsin, in his own behalf, protested and appealed this re-assessment urging the cancellation thereof and the maintenance of the assessment at ₱3,600.00 or at ₱6.00 per square meter (Exh. 5, p. 20, Board of Assessment Appeals rec.). And in the same letter of April 14, 1965, he charged that the reassessment was malicious and contemptuous to the respondent Board of Assessment Appeals because it was intended as a measure to coerce and compel him not to proceed with the appeal of his client, Vicente Diego Locsin, thereby interfering with and obstructing the proceedings before said Board.

Acting on the appeals of petitioners Vicente Diego Locsin and Agustin Locsin, respondent Board of Assessment Appeals denied the same, holding thus -

> "As the issues were already squarely met by the memoranda submitted by the protestant and the respondent, City Assessor, it was found out that both Lots Nos. 15, in the name of Vicente Diego Locsin, and 16, in the name of Agustin T. Locsin, both of Block No. 3, of Cadastral Lot No. 1205-pt., Bacolod Cadastre, are adjacent lots situated on 16th Street, Capitol Subdivision, and according to enclosure No. 7 (Exhibit No. 5) of the respondent, City Assessor, all lots listed on both sides of 16th street are assessed at the rate of ₱12.00 per square meter, and above, except Lot No. 16 (Enclosure No. 7), which is assessed at the rate of ₱6.00 per square meter as covered by Tax Declaration No. 6698. It was also found out that in increasing the assessed valuation at the rate of ₱6.00 to ₱12.00

> per square meter of Lot No. 16, owned by the protestant, Agustin T. Locsin, and covered by Tax Declaration No. 17073 is for the purpose of achieving uniformity and rectifying or amending errors or injustice, as provided for in Section 27(d) of Com. Act No. 326, as amended, otherwise known as the Charter of the City of Bacolod. In the light of this circumstance and considering that the respondent is only complying with his duties as prescribed by the City Charter, the charge of contempt and harrassment against the City Assessor is hereby considered without merits x x x
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> "WHEREFORE, the Board of Assessment (Tax) Appeals, after having carefully deliberated on the salient issues as raised in said petition, hereby resolves, as it is hereby resolved, that the herein protests of Vicente Diego Locsin and Agustin T. Locsin over the assessed valuation of Lots Nos. 15 and 16, Block No. 3, Cadastral Lot No. 1205-pt., Bacolod Cadastre, respectively, are hereby denied. The City Assessor is also advised to maintain his records without change from the present assessed valuation."
> (pp. 159-160, Board of Assessment Appeals rec., Vol. I.)

In this appeal petitioners urges that Lots Nos. 15 and 16 were erroneously reassessed; that Lot No. 15 should be assessed at ₱5.00 per square meter as its mother lot, Cadastral Lot No. 1205-pt., Bacolod Cadastre; that Lot No. 16 should be assessed at ₱6.00 per square meter in accordance with Tax Dec. No. 13784; that the reassessments in question were in violation of Resolution No. 83, series of 1963, of the Bacolod City Council, laying down the policy that reassessments of real properties should not be more than 50% of their 1962 assessed values;

and that respondent City Assessor should be declared in contempt of respondent Board of Assessment Appeals.

On the other hand, respondents contend that the lots in question are adjacent to each other and located along 16th Street and are classified as 3rd class residential lots under the Schedule of Values approved by the Department of Finance on December 21, 1962 and assessed at the rate of ₱12.00 per square meter; that the mother lot (Lot No. 1205-pt.) referred to by petitioners which was assessed at ₱5.00 per square meter in the same subdivision belongs to the 11th class in said schedule; that the Bacolod City Council's resolution adverted to is not binding on the City Assessor; and that the City Assessor has committed no contemptuous act.

(It is not controverted that petitioner Diego Locsin purchased Lot No. 15 from the Capitol Subdivision at ₱10.00 per square meter on September 6, 1963, and petitioner Agustin T. Locsin bought Lot No. 16 for the same price and from the same source. The purchases were arm's length transactions. No evidence has been presented to show that these two lots could command better prices. Nor is there evidence to show that the other lots in the block commanded better prices than ₱10.00 per square meter. The law requires that real property shall be assessed at its true and full value, or cash value, or fair market value (C. N. Hodges v. Board of Assessment Appeals of Iloilo City, CTA Case Nos. 361 and 362, Nov. 21, 1958).

> "The law requires that all real property should be assessed for taxation purposes: (a) at its true and full value and (b) in accordance with the schedule of values in force in the municipality or municipal district wherein the property is situated. <u>In other words, the schedule of values to be adopted for assessment revision purposes must represent the true and full market value of the property to be assessed</u>." (Castillo, The Law on Local Taxation, p. 33; underscoring supplied.)

The market value of the property is the price the property will bring in a fair market after a fair and reasonable efforts have been made to find a purchaser who will give the highest price for it (Macondray & Co. v. Sellners, 33 Phil. 370). In the light of these rules it cannot be gainsaid that ₱10.00 per square meter represents the fair market value or the full value of the lots in question, since no reason has been advanced for a change in the market price of the lots.

> ". . . If similar property is commonly bought and sold, the price which it brings is the best test of the market value of the land under consideration, and the assessor need look no further. . ." (Castillo, The Law on Local Taxation, p. 25, quoting R. C. L.)

Lots Nos. 15 and 16 should be assessed at ₱10.00

per square meter and not more. The assessment at ₱12.00 per square meter of Lot No. 15 of Vicente Diego Locsin effective 1964 in Tax Declaration No. 14336 should be reduced to ₱10.00 per square meter. With respect to Lot No. 16 of Agustin T. Locsin, the assessment at ₱12.00 per square meter effective 1963 in Tax Declaration No. 17073 dated March 30, 1965 should be reduced to ₱10.00 per square meter effective 1966 and not retroactive to 1963. On March 30, 1963, this lot was assessed at ₱6.00 per square meter effective 1963 and the City Assessor cannot correct this assessment in 1965 with retroactive effect on the strength of Section 27(d) of the Charter of Bacolod cited by him. Section 27(a) of said Charter provides that the City Assessor should assess the real properties of the city annually. Section 27(d) provides that the list of assessments should be published; that a day, which shall not be later than the tenth of January, be fixed to hear all complaints by persons against whom taxes have been assessed as owners of real estate and if the City Assessor finds that injustice or error has been committed he may amend the list in accordance with his findings. These provisions are no authority for a correction of errors with retroactive effect two years after the alleged error has been committed in disregard of the procedure provided by law. There was no complaint or hearing with the reassessment in question

Indeed it seems unjustifiable to burden landowners with the errors of assessors occasioned by their lack of rudimentary diligence such as the failure to conduct a necessary inspection of the land which is what happened here.

Petitioners, however, insist that their lots should be assessed at ₱5.00 per square meters which is the assessment of the mother lot No. 1205 following the rule of uniformity of taxation. In this respect, it appears in Exhibit 6 that Lots Nos. 15 and 16 in question are in Block 3, C.P.C.S. - 2771, adjacent to Block 2, C.P.C.S- 2771. The residential lots in these two blocks and in two adjoining blocks are assessed at ₱10.00 to ₱13.00 per square meters (Exhs. 5 & 6) because as explained by respondent Assessor, they are a newly developed portion classified as 3rd class in the Schedule of Values but the balance of the mother lot of Lots Nos. 15 and 16 are beyond this newly developed portion. No evidence has been adduced to disprove this claim and we take it to be correct. It stands to reason that a more developed subdivision land costs more than the less developed ones and a difference in their assessment is not without justification.

Resolution No. 83 of 1963 of the Bacolod City Council manifesting a policy for re-assessments to the effect that increases in the assessed value of lands should be 50% of their previous assessment has no binding force or effect on respondent City Assessor of Bacolod. Under the Charter of the City of Bacolod the duty to assess is vested on the City Assessor who must use his own judgment for this purpose (Section 27(b) Com. Act No. 326 as amended). And as adverted to further above, by express mandate of the law, property should be assessed at the true and full value of the property. We find no provision in the Charter of the City of Bacolod that authorizes the city council thereof to control the judgment of the City Assessor in connection with the assessments of real property for purposes of taxation.

With respect to the contempt charge, it should be recalled that the assessment of petitioner Agustin T. Locsin's Lot No. 16 was raised to ₱12.00, then reduced to ₱6.00, and later raised again to ₱12.00 per square meter. The charge is predicated on the pretense that respondent raised the assessment from ₱6.00 to ₱12.00 per square meter with the intention of compelling petitioner Agustin T. Locsin not to proceed with petitioner Vicente Diego Locsin's appeal before the Board of Tax Appeals. This pretension is not substantiated by evidence and, on the other hand, the fact that the true value or market value of said lot is ₱10.00 and the neighboring lots are assessed at ₱10.00 to ₱12.00 militate against it.

WHEREFORE, the appealed decision is hereby modified. The assessment in Tax Declaration No. 14528 of Lot No. 15 is hereby reduced from ₱12.00 to ₱10.00 per square meter; and the assessment in Tax Declaration No. 17073 of Lot No. 16 is hereby reduced from ₱12.00 to ₱10.00, without retroactive effect. The motion to declare respondent City Assessor Galles in contempt is hereby denied. Without pronouncement as to costs.

SO ORDERED.

Quezon City, December 18, 1967.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge