REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Second Division

DDBS ADVERTISING UNLIMITED, INC.,
Petitioner,

CTA AC NO. 279

- versus -

Members:
RINGPIS-LIBAN, *Chairperson*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

GENER R. SISON, in his capacity as the City Assessor of Mandaluyong City, MA. CORAZON D. RODRIGO, in her capacity as the City Treasurer of Mandaluyong City, and the Local Government of Mandaluyong City,
Respondents.

Promulgated:
MAR 2 5 2025

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1:05 p.m.

DECISION

RINGPIS-LIBAN, J.:

The Case

Before this Court is a *Petition for Review* filed by petitioner DDBS Advertising Unlimited, Inc.,[1] praying for this Court to reverse and set aside the Decision dated August 22, 2022[2] and Order dated October 26, 2022,[3] both rendered by the Regional Trial Court ("RTC") of Mandaluyong City – Branch 212, in Civil Case No. R-MND-21-01036-CV, entitled "*DDBS Advertising Unlimited, Inc. vs. Gener R. Sison, in his capacity as the City Assessor of Mandaluyong City, Ma. Corazon D. Rodrigo, in her capacity as the City Treasurer of Mandaluyong City, and the Local Government of Mandaluyong City*", the dispositive portions of which read as follows:

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[1] Docket, pp. 5 to 39.
[2] Docket, pp. 42 to 50; RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 153 to 161.
[3] Docket, pp. 40 to 41; RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 218 to 219.

Decision dated August 22, 2022:

"**WHEREFORE, IN VIEW OF THE FOREGOING,** the Petition for Review is **DENIED** for lack of merit.

SO ORDERED."

Order dated October 26, 2022:

"**WHEREFORE,** the motion for reconsideration is **DENIED** for lack of merit.

SO ORDERED."

Petitioner further prays for the full refund of Php2,433,262.50, which was paid under protest for alleged transfer tax with interest and surcharge under Official Receipt No. 4635340 dated January 27, 2021, plus legal interest, from the time the protest was made by petitioner to the date of actual refund.[4]

The Parties

Petitioner DDBS Advertising Unlimited, Inc. is a corporation duly organized and existing under Philippine laws, with principal office address at 2248 R. Magsaysay Street, Guadalupe Nuevo, Makati City.[5]

Respondent City Assessor of Mandaluyong City, Mr. Gener R. Sison, is impleaded in his official capacity as the City Assessor of Mandaluyong City.[6]

Respondent City Treasurer of Mandaluyong City, Ms. Ma. Corazon D. Rodrigo, is impleaded in her official capacity as the City Treasurer of Mandaluyong City.[7]

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4 Prayer, *Petition for Review*, Docket, p. 34.

5 Par. 1.1, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 2; par. 2.4, respondents' *Memorandum*, Docket, p. 259.

6 Par. 1.2, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 3; par. 2.1, respondents' *Memorandum*, Docket, p. 258.

7 Par. 1.3, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 3; par. 2.2, respondents' *Memorandum*, Docket, p. 258.

Respondent Local Government of Mandaluyong City ("respondent City") is the local government unit with the power to levy the transfer tax upon properties which are located within its territory.[8]

The Facts

The subject property is a 2,012 square meter parcel of land situated in Mandaluyong City, previously registered under the name of Independent Realty Corporation ("IRC").[9] It was among the sequestered properties by the Presidential Commission on Good Government ("PCGG").[10]

Respondent City held a public auction and forfeited the subject property in its favor,[11] which the PCGG questioned before the courts.[12] According to PCGG, the foreclosure sale by respondent City of the property in its favor is null and void, considering that IRC is the legal owner.[13]

On August 11, 2011, petitioner acquired the subject property through public bidding held by the PCGG.[14]

Consequently, on July 16, 2012, IRC and the petitioner executed the Deed of Absolute Sale on the subject property.[15]

Respondent City has been claiming unpaid real property taxes on the subject property from the previous owner, IRC, prior to the sale. Negotiation to settle amicably between respondent City and PCGG proved futile despite the offer of PCGG to pay the basic realty taxes due on the subject property for the last five (5) years or from 2007 to 2011.[16]

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8 Par. 1.4, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 3.

9 Pars. 1.1 and 3.2, *Petition for Review*, vis-à-vis par. 5, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 2, 4 and 94, respectively.

10 Par. 3.3, *Petition for Review*, vis-à-vis par. 5, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 4 and 94, respectively.

11 Par. 3.7, *Petition for Review*, vis-à-vis par. 9, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 95, respectively.

12 Par. 3.16, *Petition for Review*, vis-à-vis par. 9, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 6 and 95, respectively.

13 Par. 3.13, *Petition for Review*, vis-à-vis par. 9, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 95, respectively.

14 Par. 3.10, *Petition for Review*, vis-à-vis par. 6, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 94, respectively.

15 Par. 3.14, *Petition for Review*, vis-à-vis par. 7, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 94, respectively; Annex "B", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 19 to 23.

16 Par. 3.12, *Petition for Review*, vis-à-vis par. 8, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 94, respectively.

On November 07, 2014, the levy, public auction and sale held by respondent City of the subject property was nullified by Mandaluyong City RTC – Branch 212[17]. It was elevated to the Supreme Court which affirmed the RTC decision.[18] Eventually the ruling of the Supreme Court became final.[19]

On January 14, 2021, a *Property Transfer Tax (Order of Payment)* was issued by respondents to petitioner in the total amount of Php2,433,262.50, inclusive of interest and surcharge.[20]

On January 27, 2021, petitioner paid the same under protest as shown in Official Receipt No. 4635340.[21]

Thereafter, on February 9, 2021, Transfer Certificate of Title ("TCT") No. 008-2021000141 for the subject property was issued under petitioner's name.[22]

On February 26, 2021, petitioner filed a written protest on the transfer tax paid.[23]

Proceedings before the RTC

On May 26, 2021, petitioner, filed its *Petition for Review* with the RTC of Mandaluyong City, docketed as Civil Case No. R-MND-21-01036-CV,[24] praying that the amount of Php2,433,262.50 paid under protest by the petitioner for alleged transfer tax with interest and surcharge, under Official Receipt No. 4635340 dated January 27, 2021, be refunded to petitioner in full, plus legal interest from the time the protest was made by petitioner to the date of actual

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17 Par. 3.18, *Petition for Review,* vis-à-vis par. 10, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 6 and 95, respectively.

18 Par. 3.22, *Petition for Review,* vis-à-vis par. 10, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 95, respectively.

19 Par. 3.25, *Petition for Review,* vis-à-vis par. 10, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 95, respectively.

20 Par. 3.26, *Petition for Review,* vis-à-vis par. 17, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 96, respectively; Annex "D", *Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 28.

21 Par. 3.27, *Petition for Review,* vis-à-vis par. 18, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 96, respectively; Annex "E", *Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 29.

22 Footnote No. 1, Par. 3.27, *Petition for Review,* vis-à-vis par. 19, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 96, respectively; Annex "F", *Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 30 to 33.

23 Par. 3.28, *Petition for Review,* vis-à-vis par. 21, *Comment and Opposition to the Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 8 and 96, respectively; par. 3.14, respondents' *Memorandum,* Docket, p. 261.

24 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 2 to 18.

refund. The case was raffled to RTC of Mandaluyong City – Branch 212 on May 26, 2021.[25]

Respondents then filed their *Comment and Opposition to the Petition for Review* on November 29, 2021,[26] interposing the following defenses, to wit: (1) petitioner is grossly negligent by belatedly paying the transfer tax; (2) the assessment of the basic transfer tax and imposition of penalties and surcharges by the City Treasurer was correctly made; and (3) petitioner is not entitled to claim for tax refund.

Petitioner then filed its *Motion for Leave to File and Admit Reply* on December 29, 2021,[27] to which respondents filed their *Opposition to the Motion for Leave to File and Admit Reply* on January 25, 2022.[28]

In the Order dated February 28, 2022,[29] the RTC of Mandaluyong City – Branch 212 stated that with the filing of respondents' *Comment and Opposition*, the *Petition for Review* was now submitted for decision.

On August 22, 2022, the RTC of Mandaluyong City – Branch 212 promulgated the assailed Decision,[30] denying the *Petition for Review*.

On September 23, 2022, petitioner filed its *Motion for Reconsideration (of the Decision dated 22 August 2022)*,[31] to which respondents filed their *Comment/Opposition (To Petitioner's Motion for Reconsideration dated 22 September 2022)* on October 10, 2022.[32]

The RTC of Mandaluyong City – Branch 212 promulgated the assailed Order dated October 26, 2022,[33] denying petitioner's *Motion for Reconsideration.*

Proceedings before this Court

Petitioner filed the present *Petition for Review* on December 14, 2022.[34] The case was initially raffled to this Court's Third Division.

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25 Order dated July 28, 2021, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 66.
26 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 93 to 104.
27 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 121 to 130.
28 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 131 to 135.
29 RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 149.
30 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 153 to 161.
31 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 162 to 172.
32 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 186 to 200.
33 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 218 to 219.
34 Docket, pp. 5 to 39.

On February 13, 2023, respondents posted their *Comment/ Opposition (To the Petition for Review dated 07 December 2022).*[35]

The present case was transferred to the Second Division of this Court, pursuant to the Notice of Resolution dated June 15, 2023.[36]

In compliance with this Court's Resolution dated October 31, 2023,[37] the RTC of Mandaluyong City – Branch 212 transmitted to this Court its records of Civil Case No. R-MND-21-01036-CV, consisting of one (1) folder with 352 pages, on January 22, 2024.[38]

In the Minute Resolution dated March 4, 2024,[39] the Court ordered the parties to file their respective memoranda. In compliance thereto, petitioner's *Memorandum* was filed on April 16, 2024,[40] while respondents' *Memorandum* was submitted on May 3, 2024.[41]

The case was considered submitted for decision on May 17, 2024.[42]

The Issues

Petitioner submits the following issues for this Court's resolution, to wit:

> "4.1 Whether or not Respondents' assessment for transfer tax including interests, charges and penalties against Petitioner is proper and valid;
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> 4.2 Whether or not Respondents' assessment and collection of transfer tax from Petitioner has prescribed;
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> 4.3 Whether or not Petitioner's payment made under protest is subject to refund; and

[35] Docket, pp. 127 to 143.
[36] Docket, p. 152.
[37] Docket, pp. 217 to 218.
[38] RTC of Mandaluyong City – Branch 212's *Transmittal* dated January 19, 2024, Docket, p. 219.
[39] Docket, p. 224.
[40] Docket, pp. 225 to 255.
[41] Docket, pp. 257 to 281.
[42] Minute Resolution dated May 17, 2024, Docket, p. 311.

4.4. Whether or not Petitioner was deprived of due process when the court *a quo* did not conduct trial on the merits and summarily resolved the case."[43]

The Arguments of Parties

Petitioner's arguments

Petitioner argues that the assessment of transfer tax is not valid, and the imposition of interest and surcharge thereon is unjust and oppressive; that prescription has already set in; that refund is proper and equitable under the circumstances; and that petitioner was deprived of due process when the court *a quo* did not conduct trial on the merits and summarily resolved the case.

Respondents' counter-arguments

Respondents contends that the RTC Decision and Order are grounded on factual and legal basis offered and presented by the parties, with due process duly accorded to the same; that the respondents' assessment of transfer taxes is proper, valid and imprescriptible; that prescription has not set in, as far as the transfer taxes are concerned; and that the claim for refund of the petitioner is unwarranted.

The Ruling of the Court

The *Petition for Review* is partly meritorious.

At the outset, it must be noted that the present case was not set for pre-trial and presentation of evidence before the Court *a quo*. As will be discussed momentarily, the Court finds that there is a need to remand the case for the conduct of pre-trial and further proceedings for the RTC to judiciously resolve the factual issues involved in the present case. However, the Court shall first discuss whether We have jurisdiction over the instant petition and whether petitioner complied with the procedural requisites for filing a claim for refund of local taxes paid.

The Court of Tax Appeals has jurisdiction.

[43] Assignment of Errors, petitioner's *Petition for Review* vis-à-vis The Issues, petitioner's *Memorandum*, Docket, pp. 16 and 233, respectively.

We first resolve the issue on jurisdiction.

Section 7(a)(3) of Republic Act ("RA") No. 1125,[44] as amended by RA No. 9282[45] states that decisions of the RTC in local tax cases are appealable to this Court, to wit:

> "SEC. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> xxx xxx xxx
>
> (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]

Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA) provide that it is the Court of Tax Appeals Division which exercises jurisdiction over decisions of the RTC "in local tax cases decided or resolved by them in the exercise of their original jurisdiction."

Section 11 of RA No. 1125, as amended by RA No. 9282, states that a person aggrieved by a decision of the RTC may file an appeal with the Court of Tax Appeals within thirty (30) days from the receipt thereof:

> "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 <u>may file an appeal with the CTA within thirty (30) days after the receipt of such decision</u>** or ruling or after the expiration of the

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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.*

period fixed by law for action as referred to in Section 7(a)(2) herein."[47]

Petitioner received the RTC Order dated October 26, 2022 on November 16, 2022.[48] This was not refuted or controverted by respondents. Thus, we shall start counting the 30-day period from November 16, 2022. Therefore, pursuant to the afore-quoted rule, petitioner had until December 16, 2022 within which to file its petition.

On December 14, 2022, petitioner timely filed the present *Petition for Review*. Hence, the Court validly acquired jurisdiction over the case.

Section 196, instead of Section 195, of the LGC of 1991 is applicable here as the Property Transfer Tax (Order of Payment) issued in this case is not a "notice of assessment" contemplated under the law.

In the assailed Decision, the Court *a quo* impliedly held that petitioner failed to comply with the procedure for claiming a refund under Section 196 of the Local Government Code ("LGC") of 1991, to wit:

> "Well settled is the rule that tax refunds or credit, just like tax exemptions, are strictly construed against the taxpayer. *(Commissioner of Internal Revenue vs. Bank of Philippines Islands, G.R. No. 178490, July 7, 2009).* The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.
>
> *Section 196* of the LGC provides a procedure for the claim for tax refund -
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>> 'Section 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 <u>until a written claim for refund or credit has been filed with the local treasurer</u>. No case or proceeding shall be entertained in any court after the expiration of two (2) years from

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[47] *Emphasis and underscoring supplied.*
[48] Docket, *Petition for Review*, Timeliness of the Petition for Review, par. 3.1, p. 7.

> the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit. (Underscoring supplied).
>
> In sum, the court holds that the instant Petition for Review is without merit."[49]

From the above-quoted portion of the assailed Decision, although the Court *a quo* did not expressly state that petitioner failed to comply with the provision of Section 196 of the LGC of 1991, it underscored the phrase "*until a written claim for refund or credit has been filed with the local treasurer,*" implying that petitioner failed to file a written claim for refund.

In this case, petitioner avers that on January 14, 2021, it received an *Order of Payment* for Property Transfer Tax; that it paid the same under protest on January 27, 2021; that on February 26, 2021, it timely filed a written formal protest pursuant to the provision of Section 195 of the LGC of 1991 within the sixty (60)-day period provided therein; that respondent City Treasurer did not act on the same within sixty (60) calendar days from the filing thereof which fell on April 27, 2021; and that pursuant to Section 195 of the LGC, it appealed with RTC of Mandaluyong City, through a *Petition for Review*, on May 26, 2021, which is within a period of thirty (30) days from the lapse of the initial period.[50]

Citing the case of *City Treasurer of Manila vs. Philippine Beverage Partners, Inc.*,[51] petitioner argues that its compliance with the procedure for claiming a refund cannot be disputed when it seasonably filed its letter of protest with the City Treasurer on February 26, 2021 and expressly prayed for the refund of tax paid therein. Moreover, petitioner avers that when respondents did not act on its protest within the time provided in the law, it then timely instituted a judicial action, through the *Petition for Review* filed with the RTC, not only to question the assessment made by respondents but also to claim for refund. Thus, it was allegedly erroneous for the Court *a quo* to decree that petitioner failed to comply with the procedure for claiming refund when petitioner timely and accurately followed the rules and satisfied the conditions set by law and jurisprudence to successfully prosecute an action for refund in case the taxpayer had received an assessment.

On the other hand, respondents contend that the remedy provided for the parties aggrieved by the decision of the Local Treasurer under Section 195 of the LGC of 1991 is, by its language, in the form of an appeal (*i.e.,* review). As such,

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[49] Docket, pp. 49 to 50; RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 160 to 161.
[50] Pars. 3.26 to 3.27 and 3.29 to 3.31, Petitioner's *Memorandum*, Docket, pp. 231 to 232.
[51] G.R. No. 233556, September 11, 2019.

respondents claim that the RTC correctly ruled on the parties' issues and arguments without the need for a full-blown trial.

After due consideration of the parties' arguments and the ruling in the assailed Decision, the Court finds that there is no "*notice of assessment*" in this case, which is essential for seeking a refund through Section 195 of the LGC of 1991, and thus, Section 196 of the same Code should solely apply.

Sections 195 and 196 of the LGC of 1991 provide as follows:

> "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 **<u>notice of assessment</u>** 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.**
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> 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 payment** of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit."[52]

[52] *Emphasis and underscoring supplied.*

In *City of Manila and Office of the City Treasurer of Manila vs. Cosmos Bottling Corporation* (*Cosmos Bottling* case),[53] the Supreme Court differentiated Sections 195 and 196, to wit:

> "The first provides the procedure for contesting an assessment issued by the local treasurer; whereas, the second provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee or charge. Both Sections 195 and 196 mention an administrative remedy that the taxpayer should first exhaust before bringing the appropriate action in court...
>
> Obviously, **the <u>application of Section 195 is</u> <u>triggered by an assessment</u> made by the local treasurer or his duly authorized representative for nonpayment of the correct taxes, fees or charges**. Should the taxpayer find the assessment to be erroneous or excessive, he may contest it by filing a written protest before the local treasurer within the reglementary period of sixty (60) days from receipt of the notice; otherwise, the assessment shall become conclusive. The local treasurer has sixty (60) days to decide said protest. In case of denial of the protest or inaction by the local treasurer, the taxpayer may *appeal*[54] with the court of competent jurisdiction; otherwise, the assessment becomes conclusive and unappealable.
>
> On the other hand, Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action.

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[53] G.R. No. 196681, June 27, 2018.

[54] In *Yamane v. BA Lepanto Condominium Corporation*, 510 Phil. 750, 763-764 (2005), the Court explained that even though Section 195 utilized the term 'appeal,' the law did not vest appellate jurisdiction on the regional trial courts over the denial by the local treasurer of a tax protest. The Court described the court's jurisdiction in this instance as original in character, *viz.*:

"[S]ignificantly, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities."

Unlike Section 195, however, Section 196 does not expressly provide a specific period within which the local treasurer must decide the written claim for refund or credit...

Additionally, Section 196 does not expressly mention an assessment made by the local treasurer. This simply means that its applicability does not depend upon the existence of an assessment notice. By consequence, a taxpayer may proceed to the remedy of refund of taxes even without a prior protest against an assessment that was not issued in the first place. This is not to say that an application for refund can never be precipitated by a previously issued assessment, for it is entirely possible that the taxpayer, who had received a notice of assessment, paid the assessed tax, fee or charge believing it to be erroneous or illegal. Thus, under such circumstance, *the taxpayer may subsequently direct his claim pursuant to Section 196 of the LGC.*

xxx xxx xxx

To stress, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two years from the date of payment as Section 196 may suggest. If refund is pursued, the taxpayer must administratively question the validity or correctness of the assessment in the 'letter-claim for refund' *within 60 days from receipt of the notice of assessment*, and thereafter bring suit in court *within 30 days from either decision or inaction* by the local treasurer.

Simply put, **there are two conditions that must be satisfied in order to successfully prosecute an action for refund in case the taxpayer had received an assessment. *One*, pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund. *Two*, bring an action in court within thirty (30) days from decision or inaction by the local treasurer, whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.**"[55]

[55] *Emphasis and underscoring supplied.*

From the foregoing, where an assessment is issued, the taxpayer cannot choose to pay the assessment and thereafter seek a refund *at any time* within the full period of two (2) years from the date of payment as Section 196 may suggest. Furthermore, it is clear that on the basis of Sections 195 and 196 of the LGC of 1991, there are two (2) conditions that must be satisfied in order **to successfully prosecute <u>an action for refund in case the taxpayer had received an assessment</u>**, to wit; (1) pay the tax and administratively assail the assessment, within sixty (60) days from receipt thereof, before the local treasurer, whether in a letter-protest or in a claim for refund; and (2) bring an action in court within thirty (30) days from decision or inaction whether such action is denominated as an appeal from assessment and/or claim for refund of erroneously or illegally collected tax.

The doctrine in *Cosmos Bottling* case was reiterated in *City Treasurer of Manila vs. Philippine Beverage Partners, Inc., substituted by Coca-Cola Bottlers Philippines*[56] cited by petitioner and *International Container Terminal Services, Inc. vs. The City of Manila, et al.* (*International Container* case)[57].

Based on the foregoing pronouncements, <u>when an assessment has been issued against the concerned taxpayer</u>, the latter is mandated to observe the 60+30-day period prescribed under Section 195, even when its ultimate purpose is to refund the local taxes paid.

It is only when <u>no assessment</u> has been issued against the taxpayer, will the remedy under Section 196 be applied independently of the periods provided under Section 195, and thus, said taxpayer need not observe the 60+30-day period prescribed under the latter provision.

The question now before this Court is whether the *Property Transfer Tax (Order of Payment)*[58] issued by respondent City to petitioner is considered the "*notice of assessment*" contemplated under Section 195 of the LGC.

As a guide, the Court finds relevant the ruling in the case of *National Power Corporation vs. The Province of Pampanga and Pia Magdalena D. Quibal* (*National Power Corporation* case),[59] wherein the Supreme Court emphasized the significance of the taxing authority's duty to adequately inform the taxpayer of the factual and legal basis for the assessment. In the said case, it was held that a notice of assessment must contain the nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge, interest, and penalty.

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[56] G.R. No. 233556, September 11, 2019.
[57] G.R. No. 185622, October 17, 2018.
[58] Annex "D", *Petition for Review,* RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 28.
[59] G.R. No. 230648, October 6, 2021.

In the recent case of *Hon. Lourdes R. Jose, in her capacity as City Treasurer of City of Caloocan vs. Tigerway Facilities and Resources, Inc.*,[60] the Supreme Court reiterated its earlier rulings in the *Cosmos Bottling* case, *International Container* case and *National Power Corporation* case, and further clarified that Section 195 only finds application in cases where a notice of assessment is issued to the taxpayer, thereby presupposing the existence of a valid tax assessment:

> "Sections 195 and 196 of the Local Government Code (LGC) provide avenues for obtaining refunds of local taxes. **Section 195 implicitly allows for refunds as a consequence of a successful protest against a tax assessment, while Section 196 explicitly serves as the dedicated remedy for claims of tax refund or credit. In seeking a refund through <u>Section 195</u>, it is <u>essential that the assessment notice from the local treasurer contains the factual and legal basis of the assessment. Without this, there would be no tax assessment to contest.</u>** As a result, the provisions of Section 196 would apply.
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> xxx xxx xxx
>
> As a result of petitioner's failure to put forth any substantial arguments, this Court is compelled to concur with the courts *a quo*'s conclusion that the notices of assessment issued by petitioner are void. Hence, we determine that **Section 195 is not applicable here, given the absence of a valid assessment**."[61]

In the instant case, the *Property Transfer Tax (Order of Payment)* issued to petitioner in relation to its purchase of the subject property from IRC shows the total amount due of Php2,433,262.50,[62] inclusive of interest and surcharge, as follows:

"Taxpayer Name : <u>DDBS ADVERTISING UNLIMITED INC</u>
Address : <u>QUEZON CITY</u>

Declared Owner : BEATRICE P. CAMPOS
TCT/CCT No. : 114808

PARTICULARS	AMOUNT
Transfer Tax (RPT)	1,131,750.00
INTEREST (Property Transfer Tax)	1,018,575.00
SURCHARGE (Property Transfer Tax)	282,937.50

60 G.R. No. 247331, February 26, 2024.
61 *Emphasis and underscoring supplied.*
62 Annex "D", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 28.

****Nothing follows****	

Note: To avoid INTEREST and SURCHARGE please pay on or before due date. **TOTAL:** **2,433,262.50**

Market, Zonal Value / Selling Price : 150,900,000.00
Documentary/Notary Date : 07/16/2012
TCT/CCT Number : 390162
Document Number : 44
Page Number : 10
Book Number : I
Series of : 2012

Certified by: (Sgd.)
JULIET C. ERESO
Asst. City Assessor

Issued by: (Sgd.)
CAROLYN C. MARTINEZ

Although the nature of the tax, as well as the amount of tax, surcharge and interest were stated in the *Property Transfer Tax (Order of Payment),* the same did not state the facts and the law (or the ordinance) on which the supposed assessment is based. Hence, applying the foregoing jurisprudential pronouncements to the case at bar, the said document cannot be considered as "notice of assessment" to render Section 195 of the LGC of 1991 operative.

Such being the case, Section 195 of the LGC of 1991 is not applicable in this case; instead, Section 196 solely governs petitioner's claim for refund.

Petitioner complied with the procedural requisites for filing a claim for refund of local taxes as provided in Section 196 of the LGC.

Section 196 of the LGC of 1991, quoted earlier, reveals that to be entitled to a refund or credit of local taxes, two (2) procedural requisites must coincide: (i) the taxpayer needs to submit a written claim for refund or credit to the local treasurer; and (ii) 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.

To emphasize, this provision does not mention a specific period for the submission of written claims for tax refunds or credits, apart from the requirement that such claims and the filing of the suit be within two (2) years from the date of tax payment. This is different from Section 195, which requires the submission of a written protest within sixty (60) days from the receipt of the assessment.[63]

[63] Refer to *Hon. Lourdes R. Jose, in her capacity as City Treasurer of City of Caloocan vs. Tigerway Facilities and Resources, Inc.*, G.R. No. 247331, February 26, 2024.

Additionally, applying the *Cosmos Bottling* case, there is no form or style necessary for the protest of an assessment or claim for refund of taxes. It suffices that the same is addressed to the local treasurer expressing in substance its desired relief.

In this case, petitioner's written protest on the transfer tax paid filed on February 26, 2021,[64] addressed to Ms. Maria Corazon L. De Guzman, City Treasurer, and Mr. Gener R. Sison, City Assessor, specifically provided in the prayer that "the amount [DDBS] paid per Official Receipt No. 4635340 amounting to P2,433,262.50 be refunded…in full." Hence, petitioner complied with the first requisite to be entitled to a refund or credit of local taxes as it was able to submit a written claim for refund or credit to the local treasurer.

Counting from the date of payment on January 27, 2021,[65] petitioner has until January 27, 2023 to file its administrative and judicial claims for refund, with the administrative claim for refund initiated first before the judicial claim. Notably, petitioner's administrative claim for refund was filed on February 26, 2021,[66] and the judicial claim for refund filed before the Court *a quo* on May 26, 2021.[67] Thus, both administrative and judicial claims fell within the two (2)-year prescriptive period.

Thus, the Court *a quo* erred when it impliedly held that petitioner failed to file a written claim for refund as provided in Section 196 of the LGC of 1991.

Having ruled that the RTC has jurisdiction over petitioner's claim for refund, We now resolve the substantive merits thereof.

Governing provision on local tax on transfer of real property.

Section 135 of the LGC of 1991 provides that a province may impose a tax on the sale, donation, barter, or any mode of transferring ownership or title of real property within its territorial jurisdiction, to wit:

> "SEC. 135. *Tax on Transfer of Real Property Ownership.* — (a) **The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real**

64 Annex "G", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 36.
65 Annex "E", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 29.
66 Annex "G", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 36.
67 RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 2 to 18.

> **property at the rate of not more than fifty percent (50%) of one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market value in case the monetary consideration involved in the transfer is not substantial, whichever is higher.** The sale, transfer or other disposition of real property pursuant to R.A. No. 6657 shall be exempt from this tax.
>
> (b) For this purpose, the Register of Deeds of the province concerned shall, before registering any deed, require the presentation of the evidence of payment of this tax. The provincial assessor shall likewise make the same requirement before cancelling an old tax declaration and issuing a new one in place thereof. Notaries public shall furnish the provincial treasurer with a copy of any deed transferring ownership or title to any real property within thirty (30) days from the date of notarization.
>
> **It shall be the duty of the seller**, donor, transferor, executor or administrator **to pay the tax herein imposed within sixty (60) days from the date of the execution of the deed** or from the date of the decedent's death."[68]

In relation thereto, Section 151 of the LGC of 1991 provides that the city, may levy the taxes, fees, and charges which the province or municipality may impose and may even levy taxes at the rate of not more than 50% of that allowed for the province or municipality, to wit:

> "SEC. 151. *Scope of Taxing Powers.* – Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however,* That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.
>
> **The rates of taxes that the city may levy may exceed the maximum rates allowed for the province or municipality by not more than fifty percent (50%)** except the rates of professional and amusement taxes."[69]

Pursuant to Sections 15 and 16, Chapter 4 of Mandaluyong City Ordinance No. 484, s. 2011, or the Mandaluyong City Revenue Code of 2011,

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[68] *Emphasis supplied.*
[69] *Emphasis supplied.*

tax on the sale, donation, barter or on any other mode of transferring ownership or title of real property located within the City of Mandaluyong is imposed as follows:

"CHAPTER 4
MISCELLANEOUS TAXES

TRANSFER TAX/PROCESSING FEE IN ALL TRANSACTIONS INVOLVING TRANSFER, SEGREGATION OR CONSOLIDATION OF REAL PROPERTIES

xxx xxx xxx

SECTION 15. IMPOSITION OF TAX. There is hereby **imposed a tax on sale**, donation, barter **or on any other mode of transferring ownership or title of real property located within the City of Mandaluyong at the following rates based on the total consideration or market value or zonal valuation of the property whichever is higher.**

Seventy five percent (75%) of one percent (1%).

SECTION 16. TIME OF PAYMENT. It shall be the **duty of the seller**, donor, transferor, executor or administrator **to pay the tax herein imposed within sixty (60) days from the date of execution of the deed as regards sale**, barter, donation or any other mode of transfer of ownership or from the date of the decedent's death in the case of transfer by succession."[70]

From the foregoing provisions, the seller is liable to pay the transfer tax due on the sale of real property at the rate of 0.75% of the total consideration or market value or zonal valuation of the property whichever is higher within sixty (60) days from the date of the execution of the deed of sale.

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[70] *Emphasis supplied.*

Moreover, in case of delay in the payment of local taxes, surcharge and interest may be imposed pursuant to Section 168 of the LGC of 1991, to wit:

> "SEC. 168. *Surcharges and Penalties on Unpaid Taxes, Fees, or Charges.* – The sanggunian may impose a surcharge not exceeding twenty-five (25%) of the amount of taxes, fees or charges not paid on time and an interest at the rate not exceeding two percent (2%) per month of the unpaid taxes, fees or charges including surcharges, until such amount is fully paid but in no case shall the total interest on the unpaid amount or portion thereof exceed thirty-six (36) months."

In this case, the Deed of Absolute Sale on the subject property was executed on July 16, 2012.[71] Counting sixty (60) days therefrom, the seller has until September 14, 2012 within which to pay the transfer tax. However, it was only on January 27, 2021 when petitioner paid the transfer tax, inclusive of surcharge and interest.[72]

Nevertheless, the exercise of the taxing power of local government units is subject to the common limitations enumerated in Section 133 of the LGC of 1991. Under paragraph (o) of Section 133, local government units have no power to impose any tax, fee or charge on the National Government, its agencies and instrumentalities, to wit:

> "SEC. 133. *Common Limitations on the Taxing Power of Local Government Units.* — Unless otherwise provided herein, **the exercise of the taxing powers of** provinces, **cities**, municipalities, and barangays **shall not extend to the levy of the following**:
>
> xxx xxx xxx
>
> (o) **Taxes, fees or charges of any kind on the National Government, its agencies and instrumentalities** and local government units."

71 Par. 3.14, *Petition for Review*, vis-à-vis par. 7, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 5 and 94, respectively; Annex "B", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 19 to 23.

72 Par. 3.27, *Petition for Review*, vis-à-vis par. 18, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 7 and 96, respectively; Annex "E", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 29.

In this case, there is no dispute that the subject property is a sequestered property by the PCGG.[73]

The PCGG is a government agency created to recover the ill-gotten wealth of former President Ferdinand E. Marcos, his immediate family, relatives, subordinates, and close associates.[74] As a mere conservator, the PCGG "does not automatically become the owner of a sequestered property in behalf of the government."[75] Nevertheless, sequestration, freezing, and provisional takeover are not the only modes where ownership of a property is transferred to the government. It is possible that an ill-gotten property or asset is forfeited in favor of the government without need for sequestration and filing of a judicial action. Voluntary surrender of properties is a forfeiture of ownership of the properties in favor of the government.[76]

In its *Petition for Review* filed before the Court *a quo*, petitioner alleged that sometime in 1986, Jose Y. Campos, Beatrice Campos' husband and IRC's principal and controlling stockholder, surrendered IRC to the PCGG as part of the alleged ill-gotten wealth of the deposed former President Ferdinand Marcos.[77] Moreover, in its written protest, petitioner alleged that IRS has been ruled by the Supreme Court as a sequestered asset under the jurisdiction of the PCGG and is therefore under the ambit of Section 133(o) of the LGC, therefore, cannot be taxed the said transfer tax.[78]

However, the ownership of the subject property in this case was not clearly established. Indeed, if the Republic of the Philippines is established to be the owner of the subject property, then, the subject sale should be exempt from the payment of transfer tax pursuant to Section 133(o) of the LGC of 1991.

On the other hand, if it is established that the subject property is not owned by the Republic of the Philippines, then, it should be determined whether petitioner was indeed prevented by respondent City from paying the transfer tax on time and whether the imposition of the surcharge and interest was proper. In its *Petition for Review* filed before the Court *a quo*, petitioner alleged that respondent

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[73] Par. 3.3, *Petition for Review*, vis-à-vis par. 5, *Comment and Opposition to the Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 4 and 94, respectively; par. 3.4, respondents' *Memorandum*, Docket, p. 260.

[74] *Presidential Commission on Good Government vs. C&O Investment and Realty Corp., et al.*, G.R. No. 255014, August 30, 2023, citing Executive Order No. 1. "CREATING THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT," approved on February 28, 1986.

[75] *BLEMP Commercial of the Philippines, Inc. vs. The Hon. Sandiganbayan (First Division), et al., et seq.*, G.R. Nos. 199031, 199053 and 199058, 204368 and 204373, 204604 and 204612, 214658, 221729, and 253735, October 10, 2022.

[76] *Id.*

[77] Par. 3.3, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 4.

[78] Annex "G", *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 36.

City adamantly refused to recognize the validity of the subject sale to petitioner and several attempts to pay the transfer tax by the petitioner were repeatedly turned-down by the City because of its firm belief that it is the City which already owns the subject property.[79]

The determination of the factual issues in this case, such as the ownership of the subject property, the circumstances before or after the sale thereof to petitioner, and the documents relating to, and exchange of communications between the parties, as to the transfer tax, are factual matters that the Court cannot determine with certainty based on the records. These factual matters could have been properly resolved had the Court *a quo* conducted the pre-trial and allowed the presentation of evidence to prove the parties' respective claims and defenses. In fact, the Court *a quo* even stated in the assailed Decision that "[t]he parties presented conflicting set of facts",[80] which indicates that summarily deciding the case was not proper as there are factual matters in dispute which need presentation and appreciation of evidence, or at the least, there must have been stipulations and admissions of facts addressing these factual issues.

In view of various factual issues involved in this case, the Court deems it necessary to remand the case for its proper resolution.

The case must be remanded to the Court a quo for further proceedings.

From the records, no pre-trial was conducted in this case. After the filing of respondents' *Comment and Opposition to the Petition for Review*, the Court *a quo* instantaneously submitted the case for decision,[81] without even giving any reason.

It bears stressing that pre-trial is **mandatory**. Moreover, upon termination of the pre-trial, the court shall issue a Pre-Trial Order.[82] Hence, the Court *a quo* should have conducted the pre-trial and issued the corresponding Pre-Trial Order. Moreover, the pre-trial may be the occasion for the parties to enter into stipulations or admission of facts, among others, and in which the court considers the propriety of rendering judgment on the pleadings or summary judgment. Section 2, Rule 18 of the 2019 Rules of Civil Procedure clearly provides:

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[79] Par. 3.15, *Petition for Review*, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 5.
[80] Docket, p. 42; RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 153.
[81] Order dated February 28, 2022, RTC Docket (Civil Case No. R-MND-21-01036-CV), p. 149.
[82] Section 7, Rule 18 of the 2019 Rules of Civil Procedure.

"Section 2. *Nature and purpose.* — The pre-trial is mandatory. The court shall consider:

(a) The possibility of an amicable settlement or of a submission to alternative modes of dispute resolution;

(b) The simplification of the issues;

(c) The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;

xxx xxx xxx

(f) The propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist"

In relation thereto, a court may now render *motu proprio* a summary judgment or judgment on the pleadings and such submission shall be included in the Pre-Trial Order pursuant to Section 10, Rule 18 of the 2019 Rules of Civil Procedure which provides:

"Section 10. *Judgment after pre-trial.* — Should there be no more controverted facts, or no more genuine issue as to any material fact, or an absence of any issue, or should the answer fail to tender an issue, the court shall, without prejudice to a party moving for judgment on the pleadings under Rule 34 or summary judgment under Rule 35, *motu proprio* include in the pre-trial order that the case be submitted for summary judgment or judgment on the pleadings, without need of position papers or memoranda. In such cases, judgment shall be rendered within ninety (90) calendar days from termination of the pre-trial.

The order of the court to submit the case for judgment pursuant to this Rule shall not be the subject to appeal or *certiorari*."

We can only assume that the RTC did not conduct a Pre-Trial Conference on the belief that the present case is already an "appeal" from the inaction of the local treasurer. In its *Motion for Reconsideration (of the Decision dated 22 August 2022)*,[83] petitioner already raised the ground that the Court *a quo* erred when it summarily decided the instant case and deprived it of due process. Interestingly, this was not addressed in the Order dated October 26, 2022,[84] and the RTC

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[83] RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 162 to 172.
[84] Docket, pp. 40 to 41; RTC Docket (Civil Case No. R-MND-21-01036-CV), pp. 218 to 219.

merely held that "[a]fter carefully considering the grounds raised by the Petitioner in its motion for reconsideration, the court finds no new or substantial matters adduced by the Petitioner that would warrant a modification, let alone, the reversal sought."

In *Yamane, in her capacity as the City Treasurer of Makati City vs. BA Lepanto Condominium Corporation*,[85] the Supreme Court held that the law did not vest appellate jurisdiction on the regional trial courts over the denial by the local treasurer of a tax protest and described the regional trial court's jurisdiction in this instance as original in character, *viz.*:

> "Yet significantly, the Local Government Code, or any other statute for that matter, does not expressly confer appellate jurisdiction on the part of regional trial courts from the denial of a tax protest by a local treasurer. On the other hand, Section 22 of B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts. Unlike in the case of the Court of Appeals, B.P. 129 does not confer appellate jurisdiction on Regional Trial Courts over rulings made by non-judicial entities."

Being an original action, pre-trial should have been conducted over petitioner's claim for refund. Had the Court *a quo* proceeded with the pre-trial and trial of the case, the parties could have entered into stipulations and admission of facts, clarified and defined the issues and matters to be resolved to expedite court proceedings, present evidence, both documentary and testimonial, and cross-examine, test and dispel each other's evidence. The Court *a quo*, in turn, would have had the opportunity to carefully weigh, evaluate, and scrutinize them and have such sufficient evidence on which to anchor its factual findings.

Considering all of the foregoing, the remand of the case for the conduct of pre-trial and further proceedings for the reception of evidence, if necessary, to thoroughly examine the claims and defenses of the parties is in order.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, the assailed Decision dated August 22, 2022 and Order dated October 26, 2022, both rendered by the RTC of Mandaluyong City – Branch

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[85] G.R. No. 154993, October 25, 2005.

212, in Civil Case No. R-MND-21-01036-CV, are hereby **REVERSED** and **SET ASIDE**. Let this case be **REMANDED** to RTC of Mandaluyong City – Branch 212, for further proceedings to settle factual issues and to decide the case accordingly, consistent with this Decision.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest 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
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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