REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THE LAND AND HOMEOWNERS
ASSOCIATION OF TACLOBAN,
Petitioner,

- versus -

C.T.A. CASE NO. 2292

THE CITY BOARD OF ASSESS-
MENT APPEALS OF TACLOBAN,
Respondent.

x - - - - - - - - - - - - x

Oct 30/72

R E S O L U T I O N

This is a petition to review a resolution of the City Board of Assessment Appeals of Tacloban City recommending to the Honorable Secretary of Finance a 30% across-the-board reduction of the realty tax imposed under a general reassessment made by the City Assessor of Tacloban City effective January 1, 1969.

The petitioner, The Land and Home Owners Association of Tacloban, is composed of landowners of Tacloban City. It is registered in the Securities and Exchange Commission since August 18, 1971. It was first organized on January 13, 1969 after the land owners of Tacloban City discovered that a general reassessment made by the City Assessor of Tacloban effective January 1, 1969, raised the assessed value of land in the city to as high as 600% to 800%. On the same day of January 13, 1969, petitioner passed a resolution identified as Resolution No. 1 addressed to the City Board of Assessment Appeals of Tacloban, asking for the suspension of the effectivity of said reassessment, not knowing that no such board had yet been formed by the City.

On January 20, 1969, petitioner formally transmitted a copy of the aforesaid Resolution No. 1 to the Municipal Board of Tacloban. On January 28, 1969 said Board passed Resolution No. 28 addressed to the President of the Philippines and the Secretary of Finance urgently requesting the suspension of the effectivity of the controverted general assessment.

On March 24, 1969 the Secretary of Finance issued Provincial Circular No. 1-69 which provides that until further instruction, the basis of the computation of realty tax payments should be the assessed valuation as of January 1, 1968 including the additional one percentum (1%) realty tax for the Special Education Fund levied under Section 4 of Republic Act No. 5447, due in the calendar year 1969, with instruction to the Provincial and City Assessors to conduct further review and analysis of the obtaining schedules of real property values and to initiate amendments thereon if such schedules of values are ascertained to be the source of assessment inequities. On March 13, 1970, the Secretary of Finance issued Provincial Circular No. 1-70 superseding Provincial Circular No. 1-69. Circular No. 1-70 provides that the real property assessed valuations as of January 1, 1969 be made the basis of computing real property tax due for the calendar year 1970, including the additional one percentum

(1%) of realty tax for the Special Educational Fund levied under Section 4 of Republic Act No. 5447. The circular also contains the same instructions as that of Circular No. 1-69 urging further review and analysis of the assessments.

On June 13, 1970, petitioner passed its Resolution No. 2 again assailing the controverted general assessment alleging that it was made without consultation with the property owners concerned and without complying with the procedure provided by the Revised Charter of Tacloban City otherwise known as Republic Act No. 3068 regarding publication.

After the City Board of Assessment Appeals of Tacloban City was constituted sometime in November 1970 hearings on the appeal were conducted. By tacit agreement of the parties the Board did not take up the assessments individually but as a whole. On January 29, 1971, the Board rendered its decision in the form of a resolution which reads as follows:

> WHEREAS, the Land and Homeowners Association of Tacloban City in their memorandum dated December 23, 1970 to this Board have questioned the re-assessment of real properties in the City of Tacloban for not complying the requirements of law such as notification to landowners of said re-assessment and the publication of notice thereof;
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> WHEREAS, although it is the consensus of this Board that the aforesaid re-assessment was improperly made for failure to comply the requirements of law aside from the fact there is no basis, this Board feels, however, that the re-assessment should stand;

WHEREAS, it is the considered view of this Board that to offset financial reverses that landowners may be subjected to on account of the afore-mentioned re-assessment, it is hereby recommended that the said re-assessment be slashed by 30%;

WHEREFORE, on motion duly seconded,

RESOLVED, to recommend, as this Board does hereby respectfully recommend, to the Honorable, the Secretary of Finance, for 30% across-the-board reduction of realty tax imposed under the new re-assessment made by the City Assessor of Tacloban, effective January 1, 1971;

RESOLVED, further, to let a copy of this resolution be furnished the Honorable, the Secretary of Finance, Manila, for his favorable consideration.

Carried by majority decision.

On March 1, 1971 the Secretary of the petitioner received copy of the foregoing resolution-decision. On March 12, 1971, petitioner filed a motion for reconsideration of said resolution praying that the Board:

1. Issue an order declaring the re-assessments of all real properties in Tacloban made and computed as of January 1, 1969 by the City Assessor as illegal for not having complied with the provisions of the Revised City Charter of Tacloban, Republic Act 4776;

2. Issue an order enjoining the City Assessor to conduct further review and analysis of the obtaining schedule of real property values with a view of revising and correcting all the re-assessments made and computed as of January 1, 1969, so as to arrive at the true and just reassessments of all real properties in Tacloban City, under the strict compliance with the provisions of Sections 49 and 50, Republic Act 4776.

3. Recommend to the President of the Republic of the Philippines, thru the Secretary of Finance, that:

a. Payment for the realty taxes for calendar year 1971 be based on the old rates computed as of January 1, 1968, in accordance with the provisions of Provincial Circular No. 1-69 of the Secretary of Finance dated March 24, 1969, marked as Exhibit "G", until the new re-assessments of all real properties in Tacloban City are fully completed and provisions of law strictly complied with;

b. Those taxpayers, who already paid their realty taxes under the erroneous reassessments made by the City Assessor for 1970, be given deductions or credit based on the computation as of January 1, 1968 for calendar year 1970; and

c. Those who have not paid at all their taxes for calendar year 1970 be allowed to pay under the old computation as of January 1, 1968, as directed by the Secretary of Finance in his Circular No. 1-69, dated March 24, 1969 marked Exhibit "G" and on the legal ground that their failure to pay was not through their own fault and, therefore, should not be penalized for the illegal reassessments made by the City Assessor.

On April 23, 1971, the respondent Board denied the motion for reconsideration copy of which denial was received by Claro Saavedra, the secretary of petitioner, on May 17, 1971. On June 16, 1971, petitioner transmitted by registered mail its appeal to this Court.

In the main, the petition, as subsequently amended, first assails the assessments as having been made without complying with the procedure provided by the Charter of Tacloban City, and, second, assails the actuation of Board of Assessment Appeals in that the "issue of excessive and unreasonable reassessment was not also treated by respondent Board."

Respondent for its part urges in its defense that (1) this Court has no jurisdiction to hear this case, the appeal having been filed out of time, (2) that the petitioner has no legal personality to sue, (3) that the amended petition is inadequate in form and substance and (4) that the controverted actuations of the respondent are valid and legal.

When this case was called for hearing, the Court threshed out the issue of jurisdiction before going into the merits of the case since the Court's jurisdiction is under challenge. Evidence was thus focused and limited to this issue. From the evidence adduced by the parties, it soon became clear that the secretary of the petitioner received the resolution-decision of the respondent Board dated January 29, 1971, on March 1, 1971. On March 12, 1971, petitioner filed a motion for reconsideration of this decision which was denied by respondent on April 23, 1971. Notice of this denial was received by petitioner only on May 17, 1971. Petitioner's appeal to this Court was sent by registered mail and the envelope thereof shows that same was mailed on June 16, 1971. It thus appear that from March 1, 1971 when the decision was received, to March 12, 1971 when the motion for reconsideration was filed, 11 days of the 30-day period of appeal elapsed; from March 12 to May 17, the date of receipt of the denial of the motion for reconsideration, the period for appeal was suspended; from May 17, 1971 to June 16, 1971, the date of the mailing of the petition for review, 30 days elapsed. A total of 41 days obviously elapsed from notice of the appealed decision to the filing of the appeal, which is well over the period for appeal provided by law. Under Section 11 of Republic Act 1125 any person, association or corporation adversely affected by a decision or ruling of any Provincial or City Board of Assessment Appeals may appeal to the Court of Tax Appeals within thirty days after the receipt of such decision or ruling. The settled doctrine is that this thirty day period is jurisdictional. (Johnston Lumber Co. v. Court of Tax Appeals, G.R. No. 9292, April 23, 1957, 101 Phil. 151 (1957); Acting Commissioner of Internal Revenue v. Joseph, G.R. No. 14034, August 31, 1962; Filipinas Investment & Finance Corp. v. Commissioner of Internal Revenue, G.R. No. 23501, May 16, 1967; Ampang Tan v. Commissioner of Internal Revenue, G.R. No. 10940, Sept. 25, 1959, 106 Phil. 233 (1959); Pangasinan Trans. Co., Inc. v. Blaquera, G.R. No. 13101, April 29, 1960, 107 Phil. 975 (1960).)

Petitioner, however, urges that the notice of the decision of January 29, 1971 which was given to its secretary, Claro Sáavedra, was not a valid notice because under the accepted doctrine in this jurisdiction, same should have been given to its counsel, Attorney Fernando T. Mate. It is well to recall that Attorney Mate appeared for the petitioner during the hearing of this case before the respondent board; that thereafter, in a letter dated March 1, 1971, addressed to respondent, Attorney Mate, signing not as mere counsel but as president of the petitioner inquired if petitioner's appeal to said Board had already been decided by respondent; that at the foot of said letter there appears a notation by Claro Saavedra, secretary of the petitioner, that he received a copy of the resolution-decision of January 29, 1971 on that same day of March 1, 1971; that the motion for reconsideration dated March 12, 1971, is signed by Attorney Fernando T. Mate, again, not as mere counsel but as president of the Land and Homeowners Association of Tacloban; that the notice of the resolution of the respondent denying the motion for reconsideration dated May 14, 1971 is addressed to the president of the petitioner and appears to have been received by Claro Saavedra as secretary of the petitioner on May 17, 1971; that the petition for review and the notice of appeal to this Court also appear to be signed by Attorney Fernando T. Mate, not as mere counsel but as president of the petitioner; and that the amended petition for review which was subsequently filed in this Court also appear to be signed by Attorney Fernando T. Mate, again, not as mere counsel but as president of the petitioner. It is obvious from all these that Attorney Mate himself has made it well understood that his actuations in this case is that of counsel and president of the petitioner and the notice to him as president suffices.

WHEREFORE, this appeal is hereby dismissed on jurisdictional grounds, without pronouncement as to costs.

SO ORDERED

Quezon City, October 30, 1972.

RAMON L. AVANCEÑA
Associate Judge

WE CONCUR:

ROMAN M. UMALI
Presiding Judge

ESTANISLAO R. ALVAREZ
Associate Judge