REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

NATIONAL FOOD AUTHORITY, represented by MARIO M. GONZALES Regional Director of NFA Region II, Petitioner,	**CTA AC NO. 192**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
PROVINCE OF NUEVA VIZCAYA, RHODA D. SORIANO-MORENO, Office of the Provincial Treasurer and the Provincial Assessor's, Province of Nueva Vizcaya, Respondents.	Promulgated: SEP 21 2020 9:05 a.m.

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is petitioner's **Motion for Reconsideration (of the Decision dated 3 February 2020)**, filed on February 21, 2020, with respondents' **Comment/Opposition (To Petitioner-Appellant's Motion for Reconsideration**, filed through registered mail on June 30, 2020 and received by the Court on July 15, 2020.

On February 3, 2020, a Decision was promulgated by this Court, finding respondents' real property tax assessment final and executory for petitioner's failure to exhaust administrative remedies, the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the Petition for Review is **DENIED**, for lack of merit. Accordingly, the

Decision dated July 28, 2017, rendered by the Regional Trial Court Branch 29 of Bayombong, Nueva Vizcaya, and its Resolution dated September 29, 2017 are **AFFIRMED**. No pronouncement as to costs.

SO ORDERED."

In its Motion, petitioner seeks to reverse the findings in the above Decision raising the following grounds as its arguments, *viz.*:

I. The Honorable Court erred in holding that exhaustion of administrative remedies is required in this case.

II. The Honorable Court did not address the issue on whether or not petitioner is a government instrumentality, thus, exempt from payment of real property taxes, which is the main issue raised by petitioner before the Regional Trial Court.

III. The Honorable Court erred in holding that the Petition for Prohibition filed by the petitioner was filed out of time.

With regard to the first ground, petitioner claims that exhaustion of administrative remedies is not required in this case since it is not assailing the reasonableness of the amount in the Notice of Delinquency issued by the respondents. Instead, the Petition for Prohibition it filed before the Regional Trial Court (RTC) of Bayombong, Nueva Vizcaya, clearly states that it is questioning respondents' authority to assess, impose and collect real property taxes against petitioner on the ground that it is a government instrumentality which is exempt from payment of real property tax.

As to the second ground, petitioner claims that under Republic Act (RA) No. 11203,[1] it is a government instrumentality exempt from payment of real property taxes because petitioner's mandate is to maintain and manage a national buffer stock which will be used for emergency situations and to sustain disaster relief programs of the government during natural or man-made calamities which are purely governmental.

[1] AN ACT LIBERALIZING THE IMPORTATION, EXPORTATION AND TRADING OF RICE, LIFTING FOR THE PURPOSE THE QUANTITATIVE IMPORT RESTRICTION ON RICE, AND FOR OTHER PURPOSES, approved on February 14, 2019.

Lastly, petitioner asserts that the Petition for Prohibition was filed within the sixty (60)-day period from receipt of the Notice of Delinquency by the petitioner's Central Office Legal Affairs Department in Quezon City. It argues that while the said Notice of Delinquency was received by its employee at its provincial office in Nueva Vizcaya on March 23, 2016, the same was indorsed to its Central Office Legal Affairs Department only on April 16, 2016.

On the other hand, in their comment, respondents argue that this Court was correct when it denied the Petition for Prohibition filed with the RTC for petitioner's failure to exhaust administrative remedies. They assert that petitioner essentially anchors its Petition on a claim for exemption from payment of real property taxes, a question of fact which should be resolved, at the very instance by the Local Board of Assessment Appeals (LBAA).

Respondents also assails petitioner's reliance on RA No. 11203 to support its claim that it is a government instrumentality. They argue that the RA is irrelevant and immaterial and therefore finds no application in present case for the simple reason that said RA does not amend nor change petitioner's charter and capitalization under Presidential Decree (PD) No. 1770,[2] in the sense that it categorizes petitioner as a stock corporation which is subject to real property tax. Nonetheless, respondents assert that even assuming arguendo that the Petition for Prohibition was proper and was timely filed by petitioner, its properties are subject to real property tax since it is a government owned and controlled corporation (GOCC).

Finally, respondents claim that this Court committed no reversible error when it ruled that the Petition for Prohibition was filed out of time. They argue that the sixty (60)-day period should be counted from notice or receipt by petitioner of the assessment made by the local assessor, considering that it is the one that may be the subject of appeal to the LBAA under Section 226 of the Local Government Code (LGC) of 1991, as amended, and not from notice or receipt of the final demand to pay issued by respondent Provincial Treasurer. Unfortunately, however, despite receipt of the assessment in 2008, petitioner failed to file the necessary action questioning said assessment. In fact, it only filed Petition for Prohibition before the trial court on June 14, 2016.

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[2] RECONSTITUTING THE NATIONAL GRAINS AUTHORITY TO THE NATIONAL FOOD AUTHORITY, BROADENING ITS FUNCTIONS AND POWERS AND FOR OTHER PURPOSES, dated January 14, 1981.

Petitioner's motion for reconsideration is bereft of merit.

Notably, the arguments presented by petitioner are essentially rehashes of what have been considered, weighed and resolved by this Court in the Decision assailed.

To recall, petitioner filed a Petition for Prohibition (With Application for the Issuance of a Preliminary Injunction and/or Temporary Restraining Order) under Section 2 of Rule 65 of the Rules of Court before RTC of Bayombong, Nueva Vizcaya, questioning the authority and power of the respondents to impose and collect real property taxes, on the ground that it is a government instrumentality that is exempt from payment thereof.

However, a special civil action under Rule 65 of the Rules of Court is available **only** in cases when a tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and *there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law*. It is not a mode of appeal, and cannot also be made as a substitute for appeal. It will not lie in cases where other remedies are available under the law.[3] As such, a party who is seeking the remedy of prohibition under Rule 65 of the Rules of Court must first show that there is no any other plain, speedy and adequate remedy in the ordinary course of law.

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 which may involve a question of fact should be resolved at the first instance by the LBAA.[4] This may be inferred from Section 206 of the LGC of 1991, as amended, which states that:

> "**SEC. 206.** *Proof of Exemption of Real Property from Taxation.*– Every person by or for whom real property is declared, who shall claim tax exemption for such property under this Title shall file with the provincial, city or

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[3] *Philippine Tourism Authority v. Philippine Golf Development & Equipment, Inc.*, G.R. No. 176628, March 19, 2012.

[4] *Camp John Hay Development Corporation v. Central Board of Assessment Appeals, et al.*, G.R. No. 169234, October 2, 2013.

> municipal assessor within thirty (30) days from the date of the declaration of real property sufficient documentary evidence in support of such claim including corporate charters, title of ownership, articles of incorporation, bylaws, contracts, affidavits, certifications and mortgage deeds, and similar documents. If the required evidence is not submitted within the period herein prescribed, the property shall be listed as taxable in the assessment roll. However, if the property shall be proven to be tax exempt, the same shall be dropped from the assessment roll."

Thus, 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.[5]

Verily, the LGC of 1991, clearly sets forth the administrative remedies available to a taxpayer or real property owner who is not satisfied with the assessment or **reasonableness** of the real property tax sought to be collected.[6] Section 252 of the said Code emphatically directs that the taxpayer/real property owner questioning the assessment should first pay the tax due before his protest can be entertained. As a matter of fact, the words "paid under protest" shall be annotated on the tax receipts. It is only after the taxpayer has paid the tax due that he may file a protest in writing, within thirty (30) days from payment of said tax, to the provincial, city, or municipal treasurer, who shall decide the protest within sixty (60) days from its receipt. In no case is the local treasurer obliged to entertain the protest unless the tax due has been paid.[7]

Furthermore, within the period prescribed by law, any owner or person having legal interest in the property not satisfied with the action of the provincial, city, or municipal assessor in the assessment of his property may file an appeal with the LBAA of the province or city concerned, as provided in Section 226 of the LGC of 1991 as amended. Thereafter, within thirty (30) days from receipt, he may elevate, by filing a notice of appeal, the adverse decision of the LBAA with the Central Board of Assessment Appeals (CBAA), which exercises exclusive jurisdiction to hear and decide all appeals from the decisions,

[5] *National Power Corporation v. Province of Quezon, et al.*, G.R. No. 171586, January 25, 2010.
[6] *Dr. Pablo R. Olivares et al., v. Mayor Joey Marquez, et al.*, G.R. No. 155591, September 22, 2004.
[7] Ibid.

orders, and resolutions of the Local Boards involving contested assessments of real properties, claims for tax refund and/or tax credits, or overpayments of taxes.[8]

Clearly, petitioner availed the wrong remedy before the lower court. To stress, petitioner's claim for exemption from payment of real property tax is in the nature of questioning the reasonableness or correctness of the assessment. Accordingly, it should have first complied with the requirement of payment under protest and appeal to LBAA and then to CBAA under the rule on exhaustion of administrative remedies as discussed above.

It is the duty of the Court to apply the law the way it is worded. Basic is the rule of statutory construction that when the law is clear and unambiguous, the court is left with no alternative but to apply the same according to its clear language. The courts can only pronounce what the law is and what the rights of the parties thereunder are. Fidelity to such a task precludes construction or interpretation, unless application is impossible or inadequate without it. Thus, it is only when the law is ambiguous or of doubtful meaning may the court interpret or construe its true intent.[9]

With regard to the timeliness of filing the Petition for Prohibition with the lower court, it is clear under Sections 2 and 4, Rule 65 of the Rules of Court that the Petition for Prohibition must be filed not later than sixty (60) days **from notice of the judgment, order or resolution**.

In the present case, the Notices of Delinquency issued by Provincial Treasurer, Ms. Rhoda D. Soriano-Moreno on March 23, 2016, were received by petitioner's employee, Milagros Torralba, on the same day, as admitted by petitioner. Thus, counting sixty (60) days from its receipt on March 23, 2016, petitioner had until May 23, 2016[10] within which to file the Petition. Evidently, the Petition for Prohibition filed before the RTC on June 14, 2016 was filed out of time.

It must be emphasized that procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules. While in certain instances, the

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[8] *Camp John Hay Development Corporation v. Central Board of Assessment Appeals, et al.*, G.R. No. 169234, October 2, 2013.
[9] *H. Villarica Pawnshop, Inc., et al. v. Social Security Commission, et al.*, G.R. No. 228087, January 24, 2018.
[10] May 22, 2016 fell on a Sunday.

Court allows a relaxation in the application of the rules, it never intends to forge a weapon for erring litigants to violate the rules with impunity. Party-litigants and their counsel are well advised to abide by, rather than flaunt, procedural rules, for these rules illumine the path of the law and rationalize the pursuit of justice. It is this symbiosis between form and substance that guarantees that discernible result.[11]

In view of the foregoing, this Court finds no cogent reason to deviate from its finding that it has no jurisdiction to entertain the present case for petitioner's failure to comply with the procedural requirements laid down under Sections 252, 226 and 229 of the LGC of 1991, as amended.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (of the Decision dated 3 February 2020), is **DENIED** for lack of merit.

SO ORDERED.

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

I Concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[11] *Bernice Joan Ti v. Manuel S. Diño*, G.R. No. 219260, November 6, 2017.