CTA Form No. 8

22-000539-0014

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 277

BELLAGIO ONE CONDOMINIUM ASSOCIATION, BELLAGIO TWO CONDOMINIUM ASSOCIATION, INC., FORBESWOOD HEIGHTS CONDOMINIUM ASSOCIATION, INC., FORBESWOOD PARKLANE CONDOMINIUM ASSOCIATION, INC., UPTOWN RITZ RESIDENCE CONDOMINIUM ASSOCIATION, INC.,
Petitioners,

- versus -

THE CITY TREASURER OF TAGUIG CITY, MR. VOLTAIRE L. ENRIQUEZ AND THE CITY GOVERNMENT OF TAGUIG CITY, REPRESENTED BY HON. MAYOR LINO CAYETANO,
Respondents.

NOTICE OF DECISION

To:

BELLO VALDEZ & FERNANDEZ JGLAW
17th Floor, Robinsons Equitable Tower
4 ADB Avenue corner P. Poveda Drive
Ortigas Center, Pasig City

ATTY. FATIMA ALCONCEL-RELENTE
ATTY. MICELENE C. MALASA
City Legal Office
4th Floor, Taguig City Hall
Gen. A. Luna Street, Barangay Tuktukan
1637 Taguig City

CITY GOVERNMENT OF TAGUIG
Taguig City Hall, Gen. A. Luna Street
Taguig City

MR. VOLTAIRE L. ENRIQUEZ
City Treasurer of Taguig City
Office of the City Treasurer
Taguig City Hall, Gen. A. Luna Street
Taguig City

ATTY. JOHN PAUL Z. NANIT
Clerk of Court V
REGIONAL TRIAL COURT
Branch 271, Taguig City
2nd Floor, Hall of Justice, DPWH Compound
General Santos Avenue, Upper Bicutan
Taguig City, Metro Manila

GREETINGS:

You are hereby notified by these presents that on **April 18, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 22, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

BELLAGIO ONE CONDOMINIUM ASSOCIATON, INC., BELLAGIO TWO CONDOMINIUM ASSOCIATION, INC., FORBESWOOD HEIGHTS CONDOMINIUM ASSOCIATION, FORBESWOOD PARKLANE CONDOMINIUM ASSOCIATION, INC., UPTOWN RITZ RESIDENCE CONDOMINIUM ASSOCIATION, INC.,
Petitioners,

- versus -

THE CITY TREASURER OF TAGUIG CITY, MR. VOLTAIRE L. ENRIQUEZ, AND THE CITY GOVERNMENT OF TAGUIG CITY REPRESENTED BY HON. MAYOR LINO CAYETANO,
Respondents.

CTA AC No. 277

Members:
DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO *JJ.*

Promulgated:

APR 18 2024 ; 10:00AM

x- -x

DECISION

REYES-FAJARDO, *J.*:

This Petition for Review (under Rule 4, Section 3 of the Revised Rules of the Court of Tax Appeals),[1] filed on November 2, 2022 by Bellagio One Condominium Association, Inc., Bellagio Two Condominium Association, Inc., Forbeswood Heights Condominium Association, Inc., Forbeswood Parklane Association, Inc., Uptown Ritz Residence Condominium, Inc. against the City Treasurer of Taguig City, Mr. Voltaire L. Enriquez and the City Government of Taguig City, represented by Hon. Mayor Lino Cayetano assails the Order dated September 1, 2022[2] and Order dated October 3, 2022[3], rendered by the Regional Trial Court of Taguig, Branch 271 of Taguig City (RTC-Taguig), in Civil Case No. 826, granting Taguig City's Motion to Dismiss.

PARTIES

Petitioners Bellagio One Condominium Association, Inc. (Bellagio One); Bellagio Two Condominium Association, Inc. (Bellagio Two); Forbeswood Heights Condominium Association, Inc. (Forbeswood Heights); Forbeswood Parklane Condominium Association, Inc. (Forbeswood Parklane); and Uptown Ritz Residence Condominium Association, Inc. (Uptown Ritz Residence) are condominium corporations duly organized and existing under the laws of the Republic of the Philippines, with principal office addresses at 1 Forbestown Road cor. Burgos Circle, Forbestown Center, Fort Bonifacio Taguig City;[4] 2 Forbestown Road cor. Burgos Circle, Forbestown Center, Fort Bonifacio Taguig City;[5] M.L. Quezon St., San Miguel, Taguig City;[6] Forbeswood Parklane Condominium Building, Block 2 Lot 1, West Crescent Park Road, Bonifacio Global

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1 Docket, pp. 5-62.

2 Docket, pp. 108 to 113.

3 Docket, pp. 114 to 116.

4 Par. 2, *Petition for Review*, Docket, p. 6. Refer also to par. 1, *Complaint*, RTC Docket – Vol. 1 (Civil Case No. 826), p. 7.

5 Par. 3, *Petition for Review*, Docket, p. 6. Refer also to par. 2, *Complaint*, RTC Docket – Vol. 1 (Civil Case No. 826), p. 7.

6 Par. 4, *Petition for Review*, Docket, p. 7. Refer also to par. 3, *Complaint*, RTC Docket – Vol. 1 (Civil Case No. 826), pp. 7 to 8.

City, Taguig City;[7] and 36th St. corner 8th Avenue, Bonifacio Global City, respectively.[8]

Respondent City Government of Taguig, represented by its Mayor, Lino Cayetano, is a local government unit which implements and enforces Municipal Ordinance No. 24, s. of 1993, otherwise known as "The Revenue Code of Taguig," as amended. It may be served with summons, pleadings, and other legal processes at Taguig City Hall, Gen. A. Luna Street, Taguig City.[9]

Respondent Voltaire L. Enriquez City is being sued in his capacity as Treasurer of Taguig City and as such is authorized, among others, to act upon and decide claims for refunds and/or tax credit of illegally and erroneously collected local business taxes. He may be served with summons, pleadings, and other legal processes at Taguig City Hall, Gen. A. Luna Street, Taguig City.[10]

FACTS

On January 6, 7, 15, 16, and 17, 2020, respondent City Treasurer of Taguig separately issued Billing Statements, requiring petitioners to pay contractor (condominium association), environmental impact fee, mayor's permit fee, sanitary inspection fee, medical/health fee, building inspection fee, electrical inspection fee, plumbing inspection fee, mechanical inspection fee, fire permit fee, sticker, form fee, sign board, Fire Code Republic Act (RA) No. 9514, and cedula corporation, relative to their renewal of business permits for 2020 with respondent City Government of Taguig[11]

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7 Par. 5, *Petition for Review*, Docket, p. 7. Refer also to par. 4, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 8.

8 Par. 6, *Petition for Review*, Docket, p. 7. Refer also to par. 5, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 8.

9 Par. 8, *Petition for Review*, Docket, p. 8. Refer also to par. 7, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826) vis-à-vis par. 1(a), *Answer*, RTC Docket RTC Docket - Vol. 3 (Civil Case No. 826), pp. 9, and 1212 to 1213, respectively.

10 Par. 7, *Petition for Review*, Docket, p. 8. Refer also to par. 6, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826) vis-à-vis par. 1(a), *Answer*, RTC Docket RTC Docket - Vol. 3 (Civil Case No. 826), pp. 8, and 1212 to 1213, respectively.

11 Pars. 16 to 20, *Petition for Review*, vis-à-vis Pars. 4 to 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 10 to 12, and 145 to 146, respectively. Refer also to pars. 22 to 26, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer)*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 17 to 19, and 1212 to 1213, respectively.

Petitioners paid said billing statements the details of which are as follows:

Name of Taxpayer	Amount Paid	Date Paid
Bellagio One	₱304,817.75	January 15, 2020[12]
Forbeswood Parklane	₱432,681.74	January 15, 2020[13]
Bellagio Two	₱479,311.61	January 17, 2020[14]
Forbeswood Heights	₱1,745,945.38	January 20, 2020[15]
Uptown Ritz Residence	₱193,695.76	January 20, 2020[16]

On January 6, 8, 9, 13, and 15, 2021, respondent City Treasurer of Taguig, separately issued Billing Statements, requiring petitioners to pay contractor (condominium association), environmental impact fee, mayor's permit fee, sanitary inspection fee, medical/health fee, building inspection fee, electrical inspection fee, plumbing inspection fee, mechanical inspection fee, fire permit fee, sticker, form fee, sign board, Fire Code RA No. 9514, and cedula corporation, relative to the renewal of their business permits for 2021 with respondent City Government of Taguig.[17]

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12 Par. 16, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 10, and 145 to 146, respectively. Refer also to par. 22, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 17, and 1212 to 1213, respectively.

13 Par. 19, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 12, and 145 to 146, respectively; Refer also to par. 25, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 18, and 1212 to 1213, respectively.

14 Par. 17, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 11, and 145 to 146, respectively. Refer also to par. 23, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 23, and 1212 to 1213, respectively.

15 Par. 18, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 11, and 145 to 146, respectively. Refer also to par. 24, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 18, and 1212 to 1213, respectively.

16 Par. 20, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 12, and 145 to 146, respectively. Refer also to par. 26, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 18 to 19, and 1212 to 1213, respectively.

17 Pars. 21 to 25, *Petition for Review*, vis-à-vis pars. 4 to 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 12 to 15, and 145 to 146, respectively. Refer also to pars. 27 to 31, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Folder 3 (Civil Case No. 826), pp. 19 to 21, and 1212 to 1213, respectively.

Petitioners paid said billing statements, the details of which are as follows:

Name of Taxpayer	**Amount Paid**	**Date Paid**
Bellagio One	₱304,817.75	January 12, 2021[18]
Forbeswood Heights	₱1,406,457.16	January 12, 2021[19]
Bellagio Two	₱310,390.85	January 13, 2021[20]
Forbeswood Parklane	₱287,399.83	January 15, 2021[21]
Uptown Ritz Residence	₱240,066.18	January 18, 2021[22]

On January 14, 2021, petitioners Bellagio One, Bellagio Two, and Forbeswood Parklane, separately filed with respondent City Treasurer of Taguig, their formal written claims for refund in accordance with Section 196 of Republic Act No. 7160, otherwise known as the Local Government Code (LGC) of 1991, impugning the local business tax (LBT), environmental impact fee, and business plate/sticker fee for 2020 and requesting for the refund of the LBT, environmental impact fee, and business plate/sticker fee it paid for 2020.[23]

On January 17, 2022, petitioners Bellagio One, Bellagio Two, and Forbeswood Parklane separately filed with respondent City Treasurer of Taguig, their formal written claims for refund,

18 Par. 21, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 12 to 13 and 145 to 146, respectively. Refer also to par. 27, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 19, and 1212 to 1213, respectively.

19 Par. 23, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 13 to 14, and 145 to 146, respectively; Refer also to Par. 29, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 20, and 1212 to 1213, respectively.

20 Par. 22, *Petition for Review*, vis-à-vis Par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 13, and 145 to 146, respectively. Refer also to par. 28, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 19 to 20, and 1212 to 1213, respectively.

21 Par. 24, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 14, and 145 to 146, respectively. Refer also to par. 30, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis Par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 20 to 21, and 1212 to 1213, respectively.

22 Par. 25, *Petition for Review*, vis-à-vis par. 5, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 14 to 15, and 145 to 146, respectively. Refer also to par. 31, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(b), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 21, and 1212 to 1213, respectively.

23 Par. 26, *Petition for Review*, vis-à-vis par. 10, *Comment (To Petitioners' Petition for Review dated 02 November 2022)*, Docket, pp. 15, and 150 to 151, respectively. Refer also to par. 32, *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(c), *Answer*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 21 to 22, and 1212 to 1213, respectively.

impugning the LBT, environmental impact fee, and business plate/sticker fee and requesting for a refund of LBT, environmental impact fee, and business plate/sticker fee it paid for 2021.[24]

On January 18, 2022, petitioners Uptown Ritz Residence and Forbeswood Heights separately filed with respondents, their formal written claims for refund, impugning the LBT, environmental impact fee, and business plate/sticker fee and requesting for a refund of LBT, environmental impact fee, and business plate/sticker fee it paid for 2020 and 2021.[25]

On February 3, 2022, petitioners filed an appeal before the RTC-Taguig, docketed as Civil Case No. 826. [26] Their judicial recourse was on account of respondent City Treasurer of Taguig's inaction on their written claims for refund.

On May 25, 2022, respondents filed an Answer with Motion to Dismiss (Lack of Jurisdiction Over the Subject Matter of the Claim and Barred by Statute of Limitations),[27] to which petitioners filed their Opposition to Answer with Motion to Dismiss on May 31, 2022.[28]

On September 1, 2022, the RTC-Taguig issued the assailed Order,[29] the dispositive portion of which states:

> **ALL THE FOREGOING CONSIDERED,** the ***Motion to Dismiss*** is hereby **GRANTED.** The instant case is hereby **DISMISSED.**
>
> **SO ORDERED.**

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24 Par. 27, *Petition for Review,* vis-à-vis par. 10, *Comment (To Petitioners' Petition for Review dated 02 November 2022),* Docket, pp. 16, and 150 to 151, respectively. Refer also to par. 33, *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(c), *Answer,* RTC Docket - Vol. 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

25 Par. 28, *Petition for Review,* vis-à-vis par. 10, *Comment (To Petitioners' Petition for Review dated 02 November 2022),* Docket, pp. 16, and 150 to 151, respectively. Refer also to par. 33, *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826 vis-à-vis par. 1(c), *Answer,* RTC Docket - Vol. 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

26 RTC Docket - Vol. 1 (Civil Case No. 826), pp. 6 to 61.

27 RTC Docket - Vol. 3 (Civil Case No. 826), pp. 1212 to 1245.

28 RTC Docket - Vol. 3 (Civil Case No. 826), pp. 1419 to 1470.

29 Docket, pp. 108 to 113; RTC Docket - Vol. 3 (Civil Case No. 826), pp. 1472 to 1477.

On September 21, 2022, petitioners filed their Motion for Reconsideration (of the Order dated 01 September 2022), to the assailed Order dated September 1, 2022[30] to which respondents posted their Comment/Opposition (To Plaintiff's Motion for Reconsideration of the Order dated 01 September 2022) on October 3, 2022.

On even date, the RTC-Taguig rendered the equally assailed Order,[31] denying petitioners' Motion for Reconsideration, as follows:

> **FOREGOING CONSIDERED**, the *Motion for Reconsideration* is hereby ***DENIED***. The Order of **September 1, 2022, STANDS.**
>
> **SO ORDERED.**

On November 2, 2022, petitioners filed a Petition for Review (under Rule 4, Section 3 of the Revised Rules of the Court of Tax Appeals) before the Court in Division, seeking the: (1) annulment of RTC-Taguig's Orders; (2) refund of the amounts, representing the LBT, environmental impact fee, and business plate/ sticker fee that they allegedly paid; and (3) payment of attorney's fees in the amount of ₱200,000.00, litigation expenses and cost of suit.[32]

On March 22, 2023, respondents posted their Comment (To Petitioners' Petition for Review dated 02 November 2022).[33]

Under Resolution dated April 18, 2023, this case was submitted for decision.[34]

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[30] RTC Docket – Vol. 3 (Civil Case No. 826), pp. 1476 to 1492.
[31] Docket, pp. 114 to 116; RTC Docket – Vol. 3 (Civil Case No. 826), pp. 1494 to 1496.
[32] Docket, pp. 5 to 77.
[33] Docket, pp. 143 to 173.
[34] Minute Resolution dated April 18, 2023, Docket-Vol. unpaged.

ISSUES

The Court is called upon to answer the following matters:

First. Did RTC-Taguig erred when it granted respondents' Motion to Dismiss and ruled that petitioners' claims for refund were belatedly filed?

Second. Are petitioners entitled to the refund of the LBT, environmental impact fee, and business plate/sticker fee paid for 2020 and 2021?

Third. Are petitioners entitled to the award of attorney's fees?[35]

ARGUMENTS

Petitioners fault the RTC-Taguig in granting respondents' Motion to Dismiss. The reasons are: (1) the Billing Statements issued by respondent City Treasurer of Taguig are not assessments as contemplated in Section 195 of the LGC; (2) their claims for refund are anchored on Section 196 of the LGC; (3) their claims for refund were filed within the two (2)- year period in Section 196 of the LGC; and, (4) their prior payment of the assailed taxes and impositions do not preclude the filing of a subsequent claim for refund and/or tax credit of the same.

Petitioners further claim that they are not subject to LBT, environmental impact fee, and business plate/sticker fee because they are condominium corporations not engaged in business activities. They, too, assert their entitlement to the claimed attorney's fees.

On the other hand, respondents point out that the Billing Statements issued against petitioners are notices of assessment which stated the facts and nature of the taxes assessed as commanded by Section 195 of the LGC. Given that petitioners' claims for refund were filed beyond the period of sixty (60) days from receipt of said billing

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[35] Assignment of Errors, *Petition for Review*, Docket, pp. 16 to 17.

statements, respondents conclude that RTC-Taguig is correct in finding that said billing statements became conclusive and unappealable.

Besides, since petitioners are engaged in the sale of services for a fee, respondents state that their prayer for the refund of the amount they paid for LBT, must be rejected.

Respondents also claim that Taguig City Ordinance No. 116, Series of 2008, provides that condominium corporations are liable for the environmental impact fee, such as petitioners.

Respondents finally retort that petitioners' claim for attorney's fees is not within the exception provided in Article 2208 of the New Civil Code of the Philippines.

RULING

The Petition has partial merit.

First-off, does the Court have jurisdiction over this case?

Yes, only to the extent of the matter regarding the LBT. Section 7(a)(3) of Republic Act (RA) No. 1125, as amended by RA No. 9282, provides for the jurisdiction of the Court of Tax Appeals (CTA) on local tax cases:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> ...
>
> 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;[36]

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[36] Boldfacing supplied.

Section 3(a)(3), Rule 4 of the Revised Rules of the Court of Tax Appeals clarified that the CTA in Division has jurisdiction over the decisions, orders, or resolutions of the RTC in local tax cases decided or resolved by them in the exercise of their original jurisdiction.[37] In this regard, *Mactel Corporation v. The City Government of Makati, et al. (Mactel)*[38] held that "... the CTA's appellate jurisdiction over decisions, orders or resolutions of the RTC becomes operative only when the RTC has ruled on a local tax case." In reverse, if the RTC's final decision, order, or resolution does *not* pertain to a local tax case, then the CTA is bereft of jurisdiction to entertain the same.

Here, the refund being sought stemmed from the billing statements issued by respondent City Treasurer of Taguig pertaining to LBT, environmental impact fee, and business plate/sticker fee paid by petitioners for the years 2020 and 2021. Of these three items of exactions, only the assailed Orders with respect to LBT is subject of the Court's jurisdiction because it is a local tax. On the other hand, environmental impact fee and business plate/sticker fees are *not* local taxes; hence, the Court may not address controversies pertaining thereto, for lack of jurisdiction, pursuant to Section 7(a)(3) of RA No. 1125, as amended by RA No. 9282, as interpreted in *Mactel*.

Next, was the dismissal made by the RTC-Taguig correct?

No.

Sections 195 and 196 of the LGC provide:

> Section 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 notice of assessment stating the nature of the tax, fee, or charge, the amount**

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37 SECTION 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

...

(3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction; |

38 See *Mactel Corporation v. The City Government of Makati, et al.*, G.R. No. 244602, July 14, 2021.

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.**

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 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 the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit.**[39]

Petitioners contend that contrary to the RTC-Taguig's finding, the billing statements issued to them are not the notices of assessment contemplated by Section 195 of the LGC. Rather, their administrative claims for refund are pivoted on Section 196 of the LGC.

The Court finds for petitioner.

Refund is available under both Sections 195 and 196 of the Local Government Code: for Section 196, because it is the express remedy sought, and for Section 195, as a consequence of the declaration that the assessment was erroneous or invalid. Whether the remedy availed of was under Section 195 or Section 196 is not determined by the taxpayer paying the tax and then claiming a refund. What determines the appropriate remedy is the local government's basis for the collection of the tax. It is explicitly stated in Section 195 that it is a remedy against a notice of assessment issued by the local treasurer, upon a finding that the correct taxes, fees, or

39 Boldfacing supplied.

charges have not been paid. The notice of assessment must state "the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interests and penalties."[40]

ICTSI,[41] citing *City of Manila v. Cosmos Bottling Corp.*,[42] confirmed that Section 195 provides the procedure for contesting an assessment issued by the local treasurer; while Section 196 provides the procedure for the recovery of an erroneously paid or illegally collected tax, fee, or charge. The Supreme Court decreed:

> Obviously, **the application of Section 195 is triggered by an assessment 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 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.[43]

Pertinently, *National Power Corporation v. The Province of Pampanga, et al.*,[44] citing *Yamane v. BA Lepanto Condominium Corp.*,[45] stressed that the taxpayers must be sufficiently informed of the

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40 *International Container Terminal Service, Inc., v. The City of Manila, et al. (ICTSI)*, G.R. No. 185622, October 17, 2018.
41 G.R. No. 185622, October 17, 2018.
42 G.R.. No. 196681, June 27, 2018.
43 Boldfacing supplied.
44 G.R. No. 230648, October 6, 2021.
45 G.R. No. 154993 October 25, 2005.

nature of the deficiency tax, fee, or charge, as well as the amount of deficiency, surcharge, interest, and penalty:

> Ostensibly, **the notice of assessment, which stands as the first instance the taxpayer is officially made aware of the pending tax liability, should be sufficiently informative to apprise the taxpayer the legal basis of the tax. Section 195 of the Local Government Code does not go as far as to expressly require that the notice of assessment specifically cite the provision of the ordinance involved but it does require that it state the nature of the tax, fee or charge, the amount of deficiency, surcharges, interests and penalties.** ...[46]

Indeed, Section 195 of the LGC, along with *ICTSI* and *NPC*, made it clear that a notice of assessment must state the nature of the tax, fee, or charge, the amount of deficiency, the surcharges, interest and penalties. Absent said information, a document cannot be treated as a notice of assessment, for purposes of Section 195 of the LGC.

There is no such notice of assessment here.

In this case, petitioners submitted the billing statements issued by respondent City Treasurer of Taguig in connection with their application for renewal of business permits for 2020 and 2021.[47] Said billing statements reveal that there were no deficiency, surcharge, interest, or penalty due thereon. Accordingly, the Court cannot validly treat the billing statements as notices of assessment within the contemplation of Section 195 of the LGC. For these reasons, the Court holds that: (1) RTC-Taguig erroneously treated petitioners' appeal to it as an action covered by Section 195 of the LGC; and, (2) petitioners correctly invoked Section 196 of the LGC as the proper legal anchorage of their refund claim.

Towards that end, *Metro Manila Shopping Mecca Corp., et al. v. Toledo (Mecca)*[48] condensed the requirements for a refund claim under Section 196 of the LGC as follows:

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46 Boldfacing supplied.

47 Annexes "HH," "JJ," "LL," "OO," "QQ," "SS," "UU," and "XX," *Complaint*, RTC Docket - Vol. 3 (Civil Case No. 826), pp. 272, 274, 276, 279, 281, 283, 285, and 288, respectively.

48 G.R. No. 190818, June 5, 2013.

A perusal of Section 196 of the LGC reveals that in order to be entitled to a refund/credit of local taxes, the following procedural requirements must concur: first, the taxpayer concerned must file a written claim for refund/credit with the local treasurer; and second, the case or proceeding for refund has to be filed within two (2) years from the date of the payment of the tax, fee, or charge or from the date the taxpayer is entitled to a refund or credit.

Here, petitioners paid said LBTs contained in the billing statements for 2020 and 2021 on the following dates and filed their administrative and judicial claims for refund with respondent City Treasurer of Taguig as follows:

2020					
Name of Taxpayer	**Amount paid**	**Date of payment**	**Deadline for filing of administrative and judicial claim**	**Date of filing of administrative claim**	**Date of filing of judicial claim**
Bellagio One	₱304,817.75	January 15, 2020[49]	January 15, 2022	January 14, 2022[50]	February 3, 2022
Forbeswood Parklane	₱432,681.74	January 15, 2020[51]	January 15, 2022	January 14, 2022[52]	February 3, 2022
Bellagio Two	₱479,311.61	January 17, 2020[53]	January 17, 2022	January 14, 2022[54]	February 3, 2022
Forbeswood Heights	₱1,745,945.38	January 20, 2020[55]	January 20, 2022	January 18, 2021[56]	February 3, 2022
Uptown Ritz Residence	₱193,695.76	January 20, 2020[57]	January 20, 2022	January 18, 2021[58]	February 3, 2022

2021					
Name of Taxpayer	**Amount paid**	**Date of payment**	**Deadline for filing of administrative and judicial claim**	**Date of filing of administrative claim**	**Date of filing of judicial claim**
Bellagio One	₱304,817.75	January 12, 2021[59]	January 12, 2023	January 17, 2022[60]	February 3, 2022

49 Annex "II," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 273.
50 Annex "ZZ," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), pp. 290 to 294.
51 Annex "NN," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 278.
52 Annex "BBB," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), pp. 369 to 373.
53 Annex "KK," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 275.
54 Annex "AAA," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), pp. 326 to 330.
55 Annex "MM," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 277.
56 Par. 33, *Complaint*, vis-à-vis par. 1(c), *Answer*, RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.
57 Annex "PP," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 280.
58 Par. 33, *Complaint*, vis-à-vis par. 1(c), *Answer*, RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.
59 Annex "RR," *Complaint*, RTC Docket - Vol. 1 (Civil Case No. 826), p. 282.
60 Par. 33, *Complaint*, vis-à-vis par. 1(c), *Answer*, RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

Forbeswood Parklane	₱287,399.83	January 15, 2021[61]	January 15, 2023	January 17, 2022[62]	February 3, 2022
Bellagio Two	₱310,390.85	January 13, 2021[63]	January 13, 2023	January 17, 2022[64]	February 3, 2022
Forbeswood Heights	₱1,406,457.16	January 12, 2021[65]	January 12, 2023	January 18, 2021[66]	February 3, 2022
Uptown Ritz Residence	₱240,066.18	January 18, 2021[67]	January 18, 2023	January 18, 2021[68]	February 3, 2022

Adverting to the immediately above presentation, petitioners timely filed its: *one,* administrative claims for refund for 2020 and 2021; and *two,* judicial claims for 2021. However, petitioners' judicial claims for 2020, were belatedly filed as shown above.[69] *Ergo,* petitioners' belated filing of its Petition for Review on February 3, 2022 deprived RTC-Taguig of jurisdiction to hear its claims for refund of LBT for 2020.

Considering that the Court's jurisdiction is confined only to the RTC-Taguig's final action on a local tax case, the Court's directive to remand this case to the RTC-Taguig for the determination of the merits thereof is limited only to petitioners' refund claim for LBTs paid for 2021.

Finally, anent the issue on attorney's fees, the general rule is that the same cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 of the Civil

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61 Annex "WW," *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826), p. 287.

62 Par. 33, *Complaint,* vis-à-vis par. 1(c), *Answer,* RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

63 Annex "TT," *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826), p. 284.

64 Par. 33, *Complaint,* vis-à-vis par. 1(c), *Answer,* RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

65 Annex "VV," *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826), p. 286.

66 Par. 33, *Complaint,* vis-à-vis par. 1(c), *Answer,* RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

67 Annex "YY," *Complaint,* RTC Docket - Vol. 1 (Civil Case No. 826), p. 289.

68 Par. 33, *Complaint,* vis-à-vis par. 1(c), *Answer,* RTC Docket - Vols. 1 and 3 (Civil Case No. 826), pp. 22, and 1212 to 1213, respectively.

69 The filing periods of pleadings and other court submissions falling due in January 2022 in all courts were only extended until **February 1, 2022** pursuant to Supreme Court Administrative Circular No. 01-2022 dated January 20, 2022. Boldfacing supplied.

Code demands factual, legal, and equitable justification.[70] The Court finds no justification for the award of attorney's fees to petitioners.

WHEREFORE, the Court **RESOLVES** to:

1. **PARTIALLY GRANT** the Petition for Review (under Rule 4, Section 3 of the Revised Rules of the Court of Tax Appeals), filed by Bellagio One Condominium Association, Inc., Bellagio Two Condominium Association, Inc., Forbeswood Heights Condominium Association, Inc., Forbeswood Parklane Condominium Association, Inc. and Uptown Ritz Residence Condominium Association, Inc.

2. **AFFIRM** the assailed Orders dated September 1, 2022 and October 3, 2022, both rendered by the Regional Trial Court, Branch 271 of Taguig City in Civil Case No. 826, only with respect to the refund claims pertaining to Local Business Tax for 2020 is concerned.

3. **REVERSE** the assailed Orders dated September 1, 2022 and October 3, 2022, both rendered by the Regional Trial Court, Branch 271 of Taguig City in Civil Case No. 826, only with respect to the refund claims pertaining to Local Business Tax for 2021 is concerned.

4. **REMAND** the case to the Regional Trial Court, Branch 271 of Taguig City in Civil Case No. 826, for further proceedings on the merits of the refund claims pertaining to Local Business Taxes for 2021.

5. **DISMISS** the case insofar as petitioners' claims for refund pertaining to environmental impact fee, and business plate/sticker fee for 2020 and 2021 are concerned, for lack of jurisdiction.

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70 *Erlinda Dinglasan Delos Santos, et al. v. Alberto Abejon, et al.*, G.R. No. 215820, March 20, 2017.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

(With due respect, see Concurring and Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

BELLAGIO ONE CONDOMINIUM ASSOCIATION, INC., BELLAGIO TWO CONDOMINIUM ASSOCIATION, INC., FORBESWOOD HEIGHTS CONDOMINIUM ASSOCIATION, FORBESWOOD PARKLANE CONDOMINIUM ASSOCIATION INC., UPTOWN RITZ RESIDENCE CONDOMINIUM ASSOCIATION, INC., *Petitioners,*	**CTA AC No. 277** Present: **DEL ROSARIO**, *P.J.*, *Chairperson*, **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
-versus-	
THE CITY TREASURER OF TAGUIG CITY, MR. VOLTAIRE L. ENRIQUEZ, AND THE CITY GOVERNMENT OF TAGUIG CITY REPRESENTED BY HON. MAYOR LINO CAYETANO, *Respondents.*	Promulgated: APR 18 2024 10:00AM

x - x

CONCURRING & DISSENTING OPINION

***DEL ROSARIO, P.J.*:**

I totally concur with the findings and ruling of the *ponencia*, except with respect to its pronouncement anent the Court's jurisdiction on the issue on petitioners' liability for environmental impact fees (EIF) and business plate/sticker fees for the years 2020 and 2021. With due respect, I submit that the determination of such liability should likewise be made by the court *a quo* upon the remand of the case.

Upon perusal of the records, there is only a single cause of action involved, that is petitioners' claims for refund for local business tax (LBT), EIF, and business plate/sticker fees for the years 2020 and 2021 in the aggregate amount of ₱5,252,751.57, broken down as follows:

Claimants	**Year**	**Amounts claimed**	**Date of payment**
1. Bellagio One Condominium Association, Inc.	2020	₱279,884.75	January 15, 2020
	2021	₱279,884.75	January 12, 2021
2. Bellagio Two Condominium Association, Inc.	2020	₱448,749.11	January 17, 2020
	2021	₱279,828.35	January 13, 2021
3. Forbeswood Heights Condominium Association	2020	₱1,619,680.93	January 20, 2020
	2021	₱1,280,192.71	January 12, 2021
4. Forbeswood Parklane Condominium Association Inc.	2020	₱395,574.74	January 15, 2020
	2021	₱265,993.33	January 15, 2021
5. Uptown Ritz Residence Condominium Association, Inc.	2020	₱177,904.22	January 20, 2020
	2021	₱225,058.68	January 18, 2021
Total		₱5,252,751.57	

They were paid for the **purpose of renewing its Business Permit**. The cause of action arose precisely because respondents required payment of aforestated costs as a condition precedent to the issuance of Business Permit.

The table below shows the relevant dates of petitioners' administrative and judicial claims for refund, *viz.:*

For Year 2020

Name	Date of Payment	Last day of filing	Date of Administrative Claim	Date of Judicial Claim
Bellagio One Condominium Association, Inc.	January 15, 2020	January 15, 2022	January 14, 2022	**February 3, 2022**
Bellagio Two Condominium Association, Inc.	January 15, 2020	January 15, 2022	January 14, 2022	**February 3, 2022**
Forbeswood Parklane Condominium Association Inc.	January 17, 2020	January 17, 2022	January 14, 2022	**February 3, 2022**

Forbeswood Heights Condominium Association	January 20, 2020	January 20, 2022	January 18, 2022	**February 3, 2022**
Uptown Ritz Residence Condominium Association, Inc.	January 20, 2020	January 20, 2022	January 18, 2022	**February 3, 2022**

For Year 2021

Name	Date of Payment	Last day of filing	Date of Administrative Claim	Date of Judicial Claim
Bellagio One Condominium Association, Inc.	January 12, 2021	January 12, 2023	January 17, 2022	**February 3, 2022**
Bellagio Two Condominium Association, Inc.	January 15, 2021	January 15, 2023	January 17, 2022	**February 3, 2022**
Forbeswood Parklane Condominium Association Inc.	January 13, 2021	January 13, 2023	January 17, 2022	**February 3, 2022**
Forbeswood Heights Condominium Association	January 12, 2021	January 12, 2023	January 18, 2022	**February 3, 2022**
Uptown Ritz Residence Condominium Association, Inc.	January 18, 2021	January 18, 2023	January 18, 2022	**February 3, 2022**

Based on the foregoing tables, petitioners Bellagio One Condominium Association, Inc., Bellagio Two Condominium Association, Inc., and Forbeswood Parklane Condominium Association Inc. filed their administrative claim for refund for the year 2020 on January 14, 2022; while petitioners Forbeswood Heights Condominium Association and Uptown Ritz Residence Condominium Association, Inc. filed their administrative claim for refund on January 18, 2022. For the year 2021, petitioners Bellagio One Condominium Association, Inc., Bellagio Two Condominium Association, Inc., and Forbeswood Parklane Condominium Association Inc. filed their administrative claim for refund on January 17, 2022; while petitioners Forbeswood Heights Condominium Association and Uptown Ritz Residence Condominium Association, Inc. filed their administrative claim for refund on January 18, 2022.

As the two-year prescriptive period to file the administrative and judicial claims for refund was about to lapse, all of the petitioners filed their judicial claims for refund of erroneously and illegally collected LBT, EIF and Business Plate/Sticker for the years 2020 and 2021 in the total amount of ₱5,252,751.57 before the RTC of Taguig City on February 3, 2022.

On May 25, 2022, respondents filed an Answer with Motion to Dismiss (Lack of Jurisdiction over the Subject Matter of the Claim and Barred by Statute of Limitations).

The RTC of Taguig City issued the assailed Order granting respondents' Motion to Dismiss, and dismissing the case on September 1, 2022.[1]

Considering that the RTC Order involves LBT, a local tax, the Court of Tax Appeals (CTA) has appellate jurisdiction over the same pursuant to Section 3 (a) (3), Rule 4 of the Revised Rules of the Court of Tax Appeals.[2] The same Order, however, involves respondent's liability for EIF, a regulatory fee, which ordinarily, would not be under the CTA's appellate jurisdiction. **But to allow an appeal of the EIF aspect of the case to the Court of Appeals would present a scenario wherein a single decision of the RTC, arising from a single cause of action, is appealed to two (2) different appellate courts.**

It must be noted that an appeal of a single decision cannot be split between two courts. The splitting of appeals encourages multiplicity of suits and invites possible conflict of dispositions between the reviewing courts which, needless to say, is not conducive to the orderly administration of justice.[3]

The disquisition in *Roberto R. De Luzuriaga, Sr. vs. Hon. Midpantao L. Adil, et al.*,[4] on the reason for the rule against splitting of action is enlightening:

> "In the forcible entry case (Civil Case No. 21-33C), the dispute between petitioner Luzuriaga and respondent Young about the possession of Agho Island arose out of their conflicting claims of ownership over the said island. The issue of ownership is

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[1] Docket, pp. 212 to 216.

[2] SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

xxx xxx xxx

(3) Decisions, resolutions or orders of the Regional Trial Courts in local tax cases decided or resolved by them in the exercise of their original jurisdiction;

[3] *Lito Limpangog and Jerry Limpangog vs. Court of Appeals and People of the Philippines*, G.R. No. 134229, November 26, 1999.

[4] G.R. No. L-58912, May 7, 1985.

indispensably involved. In a long line of cases **We have ruled that a party may institute only one suit for a single cause of action.** (Section 3, Rule 2 of the Rules of Court; *Laperal vs. Katigbak*, 4 SCRA 582). **If two or more complaints are brought from different parts of a single cause of action, the filing of the first may be pleaded in abatement of the other or others, and a judgment upon the merits in anyone is available as a bar in the others**. (Section 4, Rule 2; *Bacolod City vs. San Miguel, Inc.*, 29 SCRA 819). **The reason for the rule against the splitting of a cause of action is intended to prevent repeated litigation between the same parties in regard to the same subject of controversy; to protect the defendant from unnecessary vexation; and to avoid the costs incident to numerous suits.**

In the case at bar, Civil Case No. 13336 (an action to quiet title) was filed on April 21, 1980, whereas Civil Case No. 21-33C (the forcible entry case) was instituted before the Municipal Circuit Court of Estancia, Iloilo three (3) days thereafter, or on April 24, 1980. In his complaint for ejectment, petitioner Luzuriaga anchored his claim for rightful possession on his alleged ownership over the subject property. Thus, it is clear that the issue of possession is connected with that of ownership and, therefore, respondent CFI Judge Adil rightfully enjoined the Municipal Circuit Court of Estancia, Iloilo from proceeding with the trial of the ejectment controversy in Civil Case No. 21-33C. Besides, the respondent court could also grant the relief sought by petitioner by issuing a writ of preliminary mandatory injunction ousting private respondent from the property and placing him in possession thereof." *(Boldfacing supplied)*

In the foregoing case, even though the Municipal Circuit Court has the exclusive jurisdiction over the forcible entry case, the Court of First Instance enjoined the Municipal Circuit Court from proceeding with the trial of the ejectment controversy considering that the issue of possession is connected with that of ownership, thus, there was only a single cause of action.

Applying the foregoing by analogy, the claims for refund of the amount representing EIF is intertwined with the claims for refund of LBT, as both were paid pursuant to respondents' condition for the issuance of Business Permit. Otherwise stated, both the payment of LBT and the payment of EIF are pre-requisites for the renewal of petitioners' respective business permits to operate in the City of Taguig for the years 2020 and 2021 and thus, the issue on the payment of both LBT and EIF are intertwined with each other and involved only a single cause of action.

In sum, the issue on petitioners' liability for EIF and business plate/sticker fees for the years 2020 and 2021 should not be dismissed for lack of jurisdiction but remanded to the RTC of Taguig for the reception of evidence.

All told, I VOTE for the Court to also **GRANT** the Petition for Review insofar as the propriety of petitioners' liability to environmental impact fees and business plate/sticker fees for the years 2020 and 2021 and **REMAND** the case to the Regional Trial Court, Branch 271 of Taguig City in Civil Case No. 826 further proceedings.

ROMAN G. DEL ROSARIO
Presiding Justice