CTA Form No. 8

19-000471-0044

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

CTA CASE NO. 10174

OLYMPIC HEIGHTS CONDOMINIUM CORPORATION INC.,
Petitioner,

- versus -

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF JUDGMENT BASED ON COMPROMISE AGREEMENT

To:

The Solicitor General
Office of the Solicitor General
134 Amorsolo Street, Legaspi Village
Makati City

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Legal Division Revenue Region No.7-A
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17th Floor, Robinsons Equitable Tower
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Ortigas Center, Pasig City, Philippines

GREETINGS:

You are notified by these presents that on the **17th day of January 2023**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 18, 2023**.

Atty. Amelia Dolores B. Castillo-Esquivel
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
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OLYMPIC HEIGHTS CONDOMINIUM CORPORATION,
Petitioner,

- versus –

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10174

Members:

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

Promulgated:

JAN 17 2023
8:00 a.m.

x - x

JUDGMENT BASED ON COMPROMISE AGREEMENT

FERRER-FLORES, J.:

For resolution of the Court are the following:

1. Philippine Mediation Center – Court of Tax Appeals' (PMC-CTA's) **Mediator's Report, Successful Settlement** with attached Complete Compromise Agreement, filed on October 27, 2022; and

2. parties' **Joint Motion to Admit Joint Manifestation/Compliance Report**, filed on November 4, 2022.

On October 1, 2019, petitioner filed a *Petition for Review*, praying that judgment be rendered declaring the Final Assessment Notice (FAN) and the Final Decision on Disputed Assessment (FDDA), assessing the petitioner for deficiency income tax and value-added tax (VAT) in the amount of

₱7,872,040.28 and ₱5,911,367.54, respectively, or in the total amount of ₱13,833,407.82 for taxable year 2013, null and void for being in violation of petitioner's right to due process and for lack of factual and legal bases. This case was initially raffled to the Court's Second Division.

After the Court issued the Summons on October 7, 2019,[1] respondent filed the *Answer* on December 2, 2019.[2]

During the pre-trial conference on January 30, 2020, the parties agreed to refer this case for Mediation.[3] Thus, the Court directed the parties to immediately proceed and to personally appear or through their authorized representative at the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) on March 5, 2020.[4]

However, the parties decided not to have their case mediated by the PMC-CTA.[5] The Court set the case anew for pre-trial conference, on June 22, 2020.[6]

Afterwards, respondent filed a *Motion to Set Pre-trial Conference through Video Conference* on September 15, 2020,[7] while petitioner filed an *Ex-parte Motion with Manifestation (For Conduct of Hearings via Video Conference and for Ex Parte Presentation of Petitioner's Evidence)* on September 29, 2020.[8]

Both motions to conduct the pre-trial conference through videoconference were denied by the Court.[9]

The pre-trial conference was then held on February 15, 2021; however, the parties agreed to refer back this case again for mediation.[10]

The Court ordered the referral of the case back to mediation in the PMC-CTA.[11] The PMC-CTA then requested that the parties be granted

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1 Docket – Vol. I, p. 459.
2 Docket – Vol. I, pp. 475 to 487.
3 Minutes of the hearing held on, and Order dated, January 30, 2020, Docket – Vol. III, pp. 883 and 884, respectively.
4 Resolution dated January 30, 2020, Docket – Vol. III, p. 887.
5 No Agreement to Mediate dated March 5, 2020, Docket – Vol. Vol. III, p. 888.
6 Resolution dated June 9, 2020, Docket – Vol. III, p. 890.
7 Docket – Vol. III, pp. 894 to 897.
8 Docket – Vol. III, pp. 899 to 903.
9 Resolution dated October 27, 2020, Docket – Vol. III, pp. 906 to 910.
10 Minutes of the hearing held on, and Order dated, February 15, 2021, Docket – Vol. III, pp. 912 and 913, respectively.
11 Resolution dated February 15, 2021, Docket – Vol. III, p. 916.

additional time for them to reach an amicable settlement,[12] which was granted by the Court.[13]

On July 30, 2021, the parties filed a *Joint Motion to Suspend Proceedings,* in view of the acceptance of the settlement offer of petitioner by the Bureau of Internal Revenue (BIR),[14] which was granted by the Court.[15]

After various joint manifestations,[16] the parties were given additional time to submit the compromise agreement.[17]

Pursuant to CTA Administrative Circular No. 01-2022 dated June 21, 2022, this case was transferred to the Third Division of this Court.[18]

Following the termination of the mediation proceedings, the PMC-CTA forwarded on October 27, 2022 the *Mediator's Report,* signed by (Ret.) Justice Amelia R. Cotangco-Manalastas, stating that there has been a successful settlement in this case. Attached to the said Report are the following supporting documents:

1. Agreement to Mediate and Selection of Mediator dated March 1, 2021 (original copy);

2. Selection of Mediator dated March 1, 2021 whereby the parties selected (Ret.) Justice Amelia R. Cotangco-Manalastas to be the Mediator in the instant case (original copy);

3. Special Power of Attorney dated February 1, 2021 signed by the BIR Regional Director, Revenue Region (RR) No. 7A, Quezon City, Mr. Albino M. Galanza (original copy);

4. Secretary's Certificate dated September 25, 2019 signed by petitioner's Corporate Secretary, Ms. Elizabeth S. De Jesus (original copy);

5. Appearance of Parties in the Mediation Conference on June 2, 2021 (original copy);

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[12] *Request for Extension,* Docket – Vol. III, p. 917.
[13] Resolution dated June 28, 2021, Docket – Vol. III, p. 920.
[14] Docket – Vol. III, pp. 921 to 925.
[15] Resolution dated October 27, 2021, Docket – Vol. III, pp. 928 to 929.
[16] *Joint Manifestation, Joint Manifestation/Report, and Joint Manifestation/Report,* Docket – Vol. III, pp. 930 to 932, 937 to 939, and 944 to 946, respectively; *Joint Motion to Admit Joint Manifestation/Report* dated 09 August 2022, Docket – Vol. III.
[17] Resolutions dated February 15, 2022 and April 7, 2022, Docket – Vol. III, pp. 935 to 936 and 942 to 943, respectively; Resolutions dated June 21, 2022 and September 14, 2022, Docket – Vol. III.
[18] Order dated June 29, 2022, Docket – Vol. III.

6. Compromise Agreement dated December 1, 2021 signed by petitioner's duly authorized representative, Ms. Forteliza T. Silva, and respondent Commissioner of Internal Revenue, Caesar R. Dulay, and attested by (Ret.) Justice Amelia R. Cotangco-Manalastas (original copy);

7. Certificate of Availment (Compromise Settlement) and the signature page showing concurrence of the members of the National Evaluation Board in relation to petitioner's application for compromise settlement of its tax liabilities for taxable year 2013 (certified true copy);

8. The respective proofs of payment of the judicial compromise amount as follows:

    a. Payment Form (BIR Form No. 0605) and China Bank BTr-BIR payment slip amounting to ₱150,000.00 for VAT for the taxable year ending December 31, 2013 (certified true copy);

    b. Payment Form (BIR Form No. 0605) and China Bank BTr-BIR payment slip amounting to ₱150,000.00 for Income Tax for the taxable year ending December 31, 2013 (certified true copy); and

    c. Payment Form (BIR Form No. 0605) and China Bank BTr-BIR payment slip amounting to ₱50,000.00 for compromise penalty for the taxable year ending December 31, 2013 (certified true copy).

On November 4, 2022, the parties submitted their *Joint Motion to Admit Joint Manifestation/Compliance Report*, praying that the attached Joint Manifestation/Compliance Report be admitted as part of the case records. In the said joint manifestation, the parties manifested that certified true copies of the Certificate of Availment, National Evaluation Board (NEB) Approval, and Payment Forms were filed with the PMC-CTA on October 26, 2022, thus, all pertinent documents have already been submitted.

Based on the foregoing, the parties' **Joint Motion to Admit Joint Manifestation/Compliance Report** is **GRANTED**. Accordingly, the attached Joint Manifestation/Compliance Report is admitted as part of the case records and is noted.

Considering the submission of the above documents, the Court shall now act on the PMC-CTA's Mediator's Report of Successful Settlement and the parties' Compromise Agreement.

The relevant portions of the subject Compromise Agreement, duly attested by (Ret.) Justice Amelia R. Contangco-Manalastas, are hereby quoted as follows:

"Compromise Agreement

Undersigned parties **OLYMPIC HEIGHTS CONDOMINIUM CORPORATION, INC.** ('Olympic,' 'OLH,' or the 'Petitioner'), with principal office address at No. 10 Orchard Rd., Olympic Heights, Eastwood City Cyberpark, Bagumbayan, Libis, 1110 Quezon City, represented by its *Property Manager*, **FORTELIZA T. SILVA**, with office address at No. 10 Orchard Rd., Olympic Heights, Eastwood City Cyberpark, Bagumbayan, Libis, 1110 Quezon City, such representative being duly-authorized pursuant to the Secretary's Certificate dated **14 October 2021**, attached as ***Annex 'A'*** and made an integral part of this *Compromise Agreement*, **-AND- COMMISSIONER OF INTERNAL REVENUE** ('CIR' or the 'Respondent'), with office address at Room 511, BIR National Office Building, BIR Road, Diliman, Quezon City, both assisted by their respective counsel,

AGREE as follows:

WHEREAS, a dispute arose out of the following basic deficiency tax assessments for taxable year 2013 ('Y2013') as stated in the Formal Letter of Demand ('FLD') No. 040-B319-13 dated **23 January 2017**, and Final Decision on Disputed Assessment ("FDDA") Assessment No. **040-B319-13/FDDA** dated **30 August 2019** of the **BUREAU OF INTERNAL REVENUE** ('BIR') Revenue Region No. 7-A – Quezon City:

Tax Type	Amount
Income Tax ('IT')	PHP4,136,379.57
Value-Added Tax ('VAT')	3,036,205.61
Compromise Penalty ('CP')	50,000.00
TOTAL	**PHP7,222,585.18**

Such dispute eventually led to the filing of the instant Court of Tax Appeals ('CTA') Case No. 10174 by Olympic. A print-out of a scanned copy of the contested *FDDA* is attached as ***Annex "B"*** and made an integral part of this *Compromise Agreement;*

xxx xxx xxx.

WHEREAS, the parties have agreed to accept mediation to avoid prolonged litigation, as authorized by *A.M. No. 11-1-05-SC-PHILJA*;

WHEREAS, the assistance of the assigned mediator resulted in making the parties realize the advantage of ending their dispute by agreeing upon a compromise;

WHEREAS, in the course of the mediation proceedings, Olympic offered to pay a total of **PHP350,000.00** as compromise;

WHEREAS, on **05 July 2021**, **HREA FELIX PAUL R. VELASCO III** of the BIR's *Enforcement and Advocacy Service* issued a 'Memorandum', a photocopy of which is attached as ***Annex 'C'*** and made an integral part of this *Compromise*

Agreement, indicating that the BIR has accepted the **PHP350,000.00** compromise offered by Olympic.

NOW THEREFORE:

I) On **01 September 2021**, Olympic paid and the Respondent accepted, the total amount of **PHP350,000.00** as offered and agreed upon during the mediation proceedings, photocopies of the corresponding documentation are attached as ***Annex 'D' to 'D-2', 'E' to 'E-2', and 'F' to 'F-2'*** and made integral parts of this Compromise Agreement.

II) The parties have agreed to the following terms and conditions:

1. The **BUREAU OF INTERNAL REVENUE** shall withdraw and cancel all assessments against covered by the Formal Letter of Demand ('FLD') No. 040-B319-13 dated **23 January 2017**, and Final Decision on Disputed Assessment ('FDDA') Assessment No. **040-B319-13/FDDA** dated **30 August 2019** of the **BUREAU OF INTERNAL REVENUE** Revenue Region No. 7-A – Quezon City, for the alleged basic deficiency taxes for the taxable year 2013 ('Y2013'), particularly:

Tax Type	Amount
Income Tax ('T')	PHP4,136,379.57
Value-Added Tax ('VAT')	3,036,205.61
Compromise Penalty ('CP')	50,000.00
TOTAL	**PHP7,222,585.18**

2. The **BUREAU OF INTERNAL REVENUE** shall issue the *Certificate of Availment* confirming that the compromise agreement was approved by the National Evaluation Board of the **BUREAU OF INTERNAL REVENUE** as required under Section 204(A) of the National Internal Revenue Code ('NIRC'), pursuant to Section 1 of *CTA En Banc Resolution No. 7-2021*, 22 June 2021."

Under Article 1306 of the Civil Code of the Philippines, contracting parties may establish such stipulations, clauses, terms, and conditions, as they may deem convenient, provided that they are not contrary to law, morals, good customs, public order, or public policy. A compromise agreement is a contract whereby the parties make reciprocal concessions, avoid litigation, or put an end to one already commenced. It is an accepted, even desirable and encouraged, practice in courts of law and administrative tribunals.[19]

A compromise agreement is a contract whereby the parties make reciprocal concessions in order to resolve their differences and, thus, avoid or put an end to a lawsuit. They adjust their difficulties in the manner they have

[19] *California Manufacturing Company, Inc. vs. The City of Las Piñas, et al.*, G.R. No. 178461, June 22, 2009.

agreed upon, disregarding the possible gain in litigation and keeping in mind that such gain is balanced by the danger of losing. It must not be contrary to law, morals, good customs and public policy, and must have been freely and intelligently executed by and between the parties. A compromise agreement may be executed in and out of court. Once a compromise agreement is given judicial approval, however, it becomes more than a contract binding upon the parties. Having been sanctioned by the court, it is entered as a determination of a controversy and has the force and effect of a judgment.[20]

In this regard, Section 204(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, also provides that for cases other than financial incapacity, the minimum compromise rate is forty percent (40%) of the basic assessed tax. In case the basic tax exceeds ₱1,000,000.00, or where the settlement offered is less than the said prescribed minimum rates, the compromise must be approved by the Evaluation Board, which is composed of respondent and the four (4) Deputy Commissioners of the BIR.

Relative thereto, Section 6 of Revenue Regulations (RR) No. 30-2002[21], as last amended by RR No. 9-2013[22], provides:

> "SEC. 6. APPROVAL OF OFFER OF COMPROMISE. - Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by a majority of all the members of the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, granting the request of the taxpayer or favorable to the taxpayer, shall have the concurrence of the Commissioner.
>
> xxx xxx xxx
>
> The compromise offer shall be paid by the taxpayer upon filing of the application for compromise settlement. No application for compromise settlement shall be processed without the full settlement of the offered amount. In case of disapproval of the application for compromise settlement, the amount paid upon filing of the aforesaid application shall be deducted from the total outstanding tax liabilities."

Based on the foregoing, a compromise settlement falling within the jurisdiction of the NEB is valid, if the same was approved by a majority of all the members of the NEB, and that there was a full settlement of the offered amount.

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[20] *David vs. Paragas, Jr.*, G.R. No. 176973, February 25, 2015.

[21] SUBJECT : Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001.

[22] SUBJECT : Amending Certain Provisions of Revenue Regulations No. 30-2002

Finding the compromise agreement to be in order and in compliance with the established laws, rules and regulations, and taking into consideration the documents submitted by the parties in support thereof, the Court approves the parties' Compromise Agreement.

WHEREFORE, premises considered, the parties' **Joint Motion to Admit Joint Manifestation/Compliance Report** is **GRANTED.** Accordingly, the attached Joint Manifestation/Compliance Report is admitted as part of the case records.

Further, **PMC-CTA's Mediator's Report** and parties' **Joint Manifestation/Compliance Report** are **NOTED.**

Accordingly, the **Compromise Agreement** entered into by the parties and attached to the report is **APPROVED** and judgment is hereby rendered in accordance therewith. The parties are, thus, enjoined to faithfully comply with all the terms and conditions of the aforesaid Compromise Agreement.

Hence, this case is now deemed **CLOSED AND TERMINATED.**

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Judgment were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice