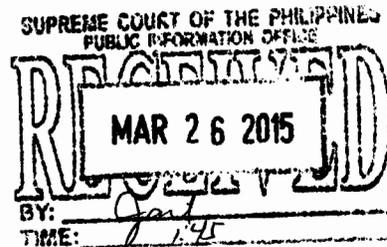




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 18, 2015, which reads as follows:*

***G.R. No. 174351 - PUYAT STEEL CORPORATION, Petitioner, v. CENTRAL BOARD OF ASSESSMENT APPEALS AND THE PROVINCIAL ASSESSOR, PROVINCE OF BATANGAS, Respondents.***

Before this Court is a Petition for Review on *Certiorari* assailing the Decision<sup>1</sup> dated August 2, 2006 of the Court of Tax Appeals (CTA) *En Banc* in EB Case No. 119 which dismissed the appeal of Puyat Steel Corporation (PSC) and affirmed *in toto* the Decision<sup>2</sup> dated April 19, 2005 and Resolution<sup>3</sup> dated August 19, 2005 of the Central Board of Assessment Appeals (CBAA) in CBAA Case No. L-39. The CBAA, in turn, set aside the Order dated April 20, 2003 of the Local Board of Assessment Appeals (LBAA), Province of Batangas, in LBAA Case No. 2002-2 ordering the re-assessment and re-evaluation of the taxes on the real properties of PSC; and declared the extant tax assessment of the Office of the Provincial Assessor of Batangas as “final, undisturbed and enforceable.”

<sup>1</sup> *Rollo*, pp. 224-230; penned by Associate Justice Caesar A. Casanova with Associate Justices Ernesto D. Acosta, Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy and Olga Palanca-Enriquez, concurring.

<sup>2</sup> *Id.* at 179-186; penned by Associate Justice Cesar S. Gutierrez with Associate Justices Angel P. Palomares and Rafael O. Cortes, concurring.

<sup>3</sup> *Id.* at 198-200.

The antecedents of the case are as follows:

PSC owns and operates a steel plant in Barrio Masaya, Rosario, Batangas, for manufacturing and processing galvanized iron sheets and other steel products.<sup>4</sup>

In a letter dated October 20, 1998, Lauro C. Andaya, the Provincial Assessor of Batangas (Provincial Assessor), requested Arlene Mariano (Mariano), PSC Administration & Finance Manager, to submit a sworn financial statement on the value of the buildings, machineries, and other improvements in the steel plant of PSC, pursuant to Section 203 of Republic Act No. 7160, otherwise known as the Local Government Code;<sup>5</sup> to state when PSC started the operation of the steel plant; and to allow an inspection of the steel plant premises.<sup>6</sup>

In a follow-up letter dated December 17, 1998, the Provincial Assessor reminded Mariano to submit the requested sworn financial statement and warned her that if she failed to comply, the properties of PSC would be valued, for the purpose of real property tax assessment, at ₱1,500,000,000.00, as published in the November 1998 issue of the DWAM News Bureau.<sup>7</sup>

Despite receipt of the two previous letters, Mariano failed to submit a sworn financial statement. In a third letter dated February 3, 1999, the Provincial Assessor directed Mariano to appear before his office to provide information regarding the nature and value of the properties of PSC and to produce the following: (a) an itemized sworn statement of machineries in the steel plant including their acquisition costs, freight, insurance, bank charges, brokerage, arrastre and handling, duties and taxes, plus costs of inland transportation, handling, and installation charges at the plant site; (b) a sworn statement on the construction costs of buildings and other structures; and (c) the latest lay-out plan of the plant site. The Provincial Assessor also reiterated his request to inspect the steel plant premises of PSC.<sup>8</sup>

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<sup>4</sup> Id. at 9.

<sup>5</sup> SECTION 203. *Duty of Person Acquiring Real Property or Making Improvement Thereon.* – It shall also be the duty of any person, or his authorized representative, acquiring at any time real property in any municipality or city or making any improvement on real property, to prepare, or cause to be prepared, and file with the provincial, city or municipal assessor, a sworn statement declaring the true value of subject property, within sixty (60) days after the acquisition of such property or upon completion or occupancy of the improvement, whichever comes earlier.

<sup>6</sup> Records, pp. 60-61.

<sup>7</sup> Id. at 63.

<sup>8</sup> Id. at 65.

Still receiving no response, the Provincial Assessor sent a fourth letter dated May 21, 1999 giving Mariano until May 31, 1999 to submit the required sworn financial statement and informing the latter that a team from the Office of the Provincial Assessor would inspect the steel plant premises of PSC on June 14, 1999.<sup>9</sup>

Following non-compliance with his letters, the Provincial Assessor issued on November 3, 1999 a Notice of Assessment and Tax Bill against PSC demanding payment of real property taxes in the total amount of ₱12,977,457.40.<sup>10</sup> PSC received on December 7, 1999 the Notice of Assessment and Tax Bill, together with Tax Declaration Nos. 027-00586, 027-00587, 027-00588, 027-00589, and 027-00590 for its real properties.

Cristobal L. Inza-Cruz (Inza-Cruz), PSC Vice-President and Comptroller, wrote a letter dated December 13, 1999 addressed to the Provincial Assessor, thru Mayor Rodolfo Villar of Rosario, Batangas, acknowledging receipt of the Notice of Assessment and Tax Bill and Tax Declarations, but appealing for the re-evaluation and re-assessment of its properties, particularly the machineries. The said letter was received by the Office of the Mayor of Rosario, Batangas on December 15, 1999. It was then followed by a series of communication between the officers and employees of PSC, on one hand, and the representatives of the Office of the Provincial Assessor, on the other.

Subsequently, on April 30, 2002, Jessie E. Cantos, the Provincial Treasurer of Batangas (Provincial Treasurer), issued a Warrant of Levy against PSC for the latter's delinquent real property taxes beginning 1999 up to April 2002 amounting to ₱74,574,595.86.<sup>11</sup>

Thereafter, Salvio D. Perez, PSC Vice-President and General Manager, sent a letter dated May 10, 2002 addressed to the Provincial Assessor requesting tax exemption on its machineries and re-evaluation and re-assessment of the taxes on its real properties;<sup>12</sup> and another letter dated May 13, 2002 addressed to the Provincial Treasurer seeking the deferment of the implementation of the Warrant of Levy until such time that the Provincial Assessor had acted upon the letter dated May 10, 2002.<sup>13</sup> Thereafter, PSC made partial payments on the assessed real property taxes on May 24, 2002 and July 8, 2002 in the aggregate amount of ₱3,444,144.59.

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<sup>9</sup> Id. at 66.

<sup>10</sup> *Rollo*, p. 35.

<sup>11</sup> Id. at 126.

<sup>12</sup> Id. at 42-43.

<sup>13</sup> Id. at 44-45.

PSC filed a Petition<sup>14</sup> with the LBAA on July 9, 2002 praying for the reduction/revision of the assessment or the adoption of an entirely new assessment of its real properties, and the condonation of the penalties and surcharges imposed upon it. PSC alleged that the assessment of the Provincial Assessor is inaccurate since it included the following: (a) training costs of foreign engineers; (b) movable items like handling facilities, equipment, and machineries that were installed at its EDSA Mandaluyong Plant; and (c) certain machineries and equipment that were still undergoing a period of commissioning by its foreign supplier, Cockerill Mechanical Industries of Belgium. To further justify its prayer for a re-assessment of its real property taxes, PSC averred that it incurred financial losses in 1999 to 2000 because of the Asian financial crisis, and that its commercial operation was delayed due to the fine tuning of its equipment.

On April 20, 2003, the LBAA issued an Order<sup>15</sup> finding that: (a) the tax assessment of the Provincial Assessor was devoid of legal basis since it was merely supported by the unsigned and unverified report purportedly submitted by Mariano, but which Mariano already repudiated; and (b) PSC received the Notice of Assessment and Tax Bill on December 7, 1999 and appealed the same within the 60-day period through Inza-Cruz's letter dated December 13, 1999 which was filed with the Office of the Mayor of Rosario, Batangas on December 15, 1999. Hence, the LBAA decreed:

WHEREFORE, foregoing premises considered, this Board is unanimous in ordering the Provincial Assessor to re-assess and re-evaluate the assessments made on the properties of Puyat Steel Corporation declared on Tax Declaration Nos. 027-00586; 027-00587; 027-00588; 027-0589; and 027-0590, all situated in Bo. Masaya, Rosario based on authentic, valid and legal documents, and to furnish this Board with said re-assessment and re-evaluation. This Board likewise orders Puyat Steel Corporation to notify this Board within fifteen (15) days upon receipt of the re-assessment and re-evaluation of the Provincial Assessor, as to the (sic) whether their Appeal/Protest would still be given due course.<sup>16</sup>

The Provincial Assessor filed an Appeal<sup>17</sup> with the CBAA arguing that the Petition of PSC before the LBAA was filed beyond the 60-day reglementary period under Section 226 of the Local Government Code. The Provincial Assessor also contended that PSC did not pay the assessed

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<sup>14</sup> Records, pp. 37-40.

<sup>15</sup> Id. at 41-45.

<sup>16</sup> Id. at 44-45.

<sup>17</sup> Id. at 46-58.

real property taxes under protest before filing its Petition as required by Section 231, in relation to Section 252, of the Local Government Code.

The Provincial Assessor additionally maintained that he had sent four letters to PSC requesting for the submission of a sworn statement of its real properties in Barrio Masaya, Rosario, Batangas, but PSC ignored his letters. Consequently, the Provincial Assessor proceeded with the assessment of the properties of PSC based on the following: an ocular inspection of the steel plant premises on June 15, 1999; various notices to proceed and award to third party contractors, signed by Eugenio P. Puyat II, PSC Vice-President and General Manager;<sup>18</sup> sales invoice of various machinery amounting to ₱571,500,000.00;<sup>19</sup> purchase orders of PSC;<sup>20</sup> a comparative valuation with comparative properties of companies engaged in the same business; and the 1998 financial statement of PSC filed with the Securities and Exchange Commission showing that PSC started its commercial operations in the third quarter of 1998.

The LBAA countered in its Comment<sup>21</sup> that it gave due course to the appeal of PSC despite the latter's failure to pay the tax under protest because unlike a regular court, the LBAA is not bound by the strict rules of procedure and that it can relax the rigid application of the rules to give way to substantial justice. The LBAA likewise protested the presentation by the Provincial Assessor of documents for the first time on appeal before the CBAA. The LBAA lastly asserted that its Order dated April 20, 2003 was merely interlocutory and not yet appealable to the CBAA.

The CBAA rendered a Decision<sup>22</sup> on April 19, 2005 in favor of the Provincial Assessor. According to the CBAA, the Petition of PSC was filed before the LBAA only after two years, seven months, and two days after receipt of the Notice of Assessment and Tax Bill, way beyond the 60-day period provided by law. The reglementary period to appeal is both mandatory and jurisdictional, and non-observance of the same deprives the LBAA of its original jurisdiction to hear and decide the petition. In the end, the CBAA held:

WHEREFORE, the appealed Order is set aside and relegated to the dustbin of nullity. The assailed tax assessments are considered final, undisturbed and enforceable.<sup>23</sup>

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<sup>18</sup> Id. at 77-97.

<sup>19</sup> Id. at 98-99.

<sup>20</sup> Id. at 100-101.

<sup>21</sup> Id. at 153-161.

<sup>22</sup> Id. at 170-177.

<sup>23</sup> Id. at 177.

The CBAA denied the Motion for Reconsideration of PSC in a Resolution dated August 19, 2005.<sup>24</sup>

Aggrieved, PSC filed a Petition for Review<sup>25</sup> with the CTA *En Banc* insisting that the CBAA had no jurisdiction over the appeal of the Provincial Assessor, as said appeal was prematurely filed. PSC argued that the Notice of Assessment and Tax Bill was not yet final because said Notice explicitly allowed PSC to question any error in the assessment. This also meant that the 60-day reglementary period did not commence to run upon receipt of the Notice of Assessment and Tax Bill by PSC on December 7, 1999 and that PSC timely filed its Petition before the LBAA on July 9, 2002.

Moreover, PSC disputed the tax assessment rendered by the Provincial Assessor as it was merely based on an unsigned and unverified report purportedly submitted by Mariano, but which Mariano subsequently repudiated; and the Provincial Assessor only presented the documents on which said assessment was based for the first time on appeal before the CBAA. PSC further challenged the documents presented by the Provincial Assessor before the CBAA for the following reasons: (a) the notices to proceed and award to third party contractors did not show that the projects or undertakings covered by the same were actually completed; (b) a comparative assessment of similar properties in fact showed that the real properties of PSC were over-valued; (c) the machineries of PSC covered by Invoice Nos. 96/0003 and 96/0004 were delivered and installed at the plant of PSC in Mandaluyong, not the one in Batangas; and (d) most of the machineries of PSC were undergoing a period of commissioning. PSC, therefore, asseverated that there was a need for a re-evaluation or re-assessment of the value of its real properties and the real property taxes due thereon.

Finally, PSC claimed that its appeal was rightfully given due course by the LBAA even though PSC only paid ₱3,444,144.59 out of the ₱74,574,595.86 assessed real property taxes, considering the adverse effects of the Asian financial crisis on its commercial operations.

On August 2, 2006, the CTA *En Banc* rendered a Decision,<sup>26</sup> affirming the CBAA Decision. The CTA *En Banc* ruled that PSC filed its Petition before the LBAA beyond the 60-day reglementary period for appeal under Section 226 of the Local Government Code. Inza-Cruz's letter dated December 13, 1999, addressed to the Provincial Assessor but

<sup>24</sup> Id. at 194-196.

<sup>25</sup> Id. at 3-24.

<sup>26</sup> *Rollo*, pp. 224-230.

coursed through the Municipal Mayor of Rosario, Batangas, appealing for re-evaluation and re-assessment, was not a recourse authorized by law and did not toll the reglementary period. Resultantly, the assessment made by the Provincial Assessor became final. The dispositive portion of the Decision of the CTA *En Banc* reads:

WHEREFORE, premises considered, the assailed Decision and Resolution of the Central Board of Assessment Appeals in CBAA Case No. L-39, entitled "The Provincial Assessor of Batangas vs. The Local Board of Assessment Appeals, Province of Batangas and Puyat Steel Corporation, Province of Batangas" are hereby AFFIRMED *in toto*, and the instant Petition for Review is hereby DENIED DUE COURSE and DISMISSED for lack of merit.<sup>27</sup>

PSC is now before the Court *via* the instant Petition for Review on *Certiorari* based on a lone assignment of error:

THE COURT OF TAX APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN RENDERING THE ASSAILED DECISION SUSTAINING THE CBAA ORDERS AND RULING THAT THE ASSESSMENT OF THE PROVINCIAL ASSESSOR OF BATANGAS BECAME FINAL FOR THE COMPANY'S FAILURE TO PROPERLY APPEAL THE SAME.<sup>28</sup>

There is no merit in the instant Petition.

Contrary to the contention of PSC, the Provincial Assessor's appeal before the CBAA was not prematurely filed. The Order dated April 20, 2003 of the LBAA was already final insofar as the Notice of Assessment and Tax Bill dated November 3, 1999 was concerned.

PSC identified its Petition as one "For The Revision, Reduction Or Adopting Altogether Of Another Assessment Level On Properties Covered by Tax Declarations Nos. 027-00586, 027-00587, 027-00588, 027-00589, and 027-00590 situated At Bo. Masaya, Rosario, Batangas." PSC prayed for the following reliefs:

PREMISES CONSIDERED, it is respectfully prayed of this Honorable Local Board of Assessment Appeals (i) to reduce or revise the assessment or [adopt] altogether [a] new assessment of Puyat Steel Corp.'s properties, particularly on machineries and equipment[; and] (ii) to condone penalties and surcharges imposed therein.<sup>29</sup>

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<sup>27</sup> Id. at 229.

<sup>28</sup> Id. at 14.

<sup>29</sup> Id. at 49.

In its Order dated April 20, 2003, the LBAA already categorically declared “the petition meritorious” following its finding that “the assessment on the properties was without legal basis as it relied on the unsigned and unverified report that was not admitted by this Board to form part of their records[;]” and, in the end, ordered the Provincial Assessor “to re-assess and re-evaluate the assessments made on the properties of Puyat Steel Corporation x x x based on authentic, valid and legal documents x x x.” Hence, the LBAA had effectively invalidated and set aside the Notice of Assessment and Tax Bill dated November 3, 1999 issued by the Provincial Assessor against PSC and granted the relief sought by PSC as the re-assessment and re-evaluation would inarguably result in a reduced or revised or altogether new assessment. While it is true that in the same Order, the LBAA directed the Provincial Assessor to furnish the Board with a copy of the re-assessment and re-evaluation and the PSC to notify the Board within 15 days from receipt of the re-assessment and re-evaluation by the Provincial Assessor as to whether its Petition would still be given due course, these directives strictly pertained to the re-assessment and re-evaluation, a matter that would be entirely different and distinct from the Notice of Assessment and Tax Bill dated November 3, 1999 which was already invalidated and set aside. Further proceedings before the LBAA would be limited to the re-assessment and re-evaluation without need to re-open or review the Notice of Assessment and Tax Bill dated November 3, 1999.

The LBAA Order dated April 20, 2003 should be deemed as a final order insofar as the issues resolved therein are concerned and, therefore, already appealable. As the Court defined in *Republic of the Philippines v. Tacloban Ice Plant*,<sup>30</sup> “[a] court order is final in character if it puts an end to the particular matter resolved or settles definitely the matter therein disposed of, such that no further questions can come before the court except the execution of the order. Such an order or judgment may validly refer to the entire controversy or to some definite and separate branch thereof.” The Court similarly declared in *Day v. RTC of Zamboanga City, Branch XIII*<sup>31</sup> that “[a]n order which decides an issue or issues in a complaint is final and appealable, although the other issue or issues have not been resolved, if the latter issues are distinct and separate from the others.”

<sup>30</sup> 327 Phil. 764, 775 (1996).

<sup>31</sup> G.R. No. 79119, November 22, 1990, 191 SCRA 610, 616-617.

On the matter of prescription of the appeal of PSC before the LBAA, the Court refers to Section 226 of the Local Government Code which provides:

SEC. 226. *Local Board of Assessment Appeals.* - Any owner or person having legal interest in the property who is not satisfied with the action of the provincial, city or municipal assessor in the assessment of his property may, **within sixty (60) days from the date of receipt of the written notice of assessment**, appeal to the Board of Assessment Appeals of the province or city by filing a petition under oath in the form prescribed for the purpose, together with copies of the tax declarations and such affidavits or documents submitted in support of the appeal. (Emphasis supplied.)

It is undisputed that PSC received the Notice of Assessment and Tax Bill dated November 3, 1999 on December 7, 1999. The said Notice of Assessment and Tax Bill specified the real properties of PSC and their corresponding classifications and market and/or assessed values; as well as the real property tax due on each property and total amount of real property taxes due and payable. Note 5 of the Notice plainly stated that PSC "x x x may, within 60 days from the date of receipt hereof, appeal to the Board of Assessment Appeal of the province." Counting 60 days from its receipt of the Notice of Assessment and Tax Bill, PSC had only until February 5, 2000 to appeal the same before the LBAA, but since the date fell on a Saturday, PSC had until the next working day, February 7, 2000, a Monday, to file its appeal. Clearly, the filing by PSC of its Petition before the LBAA on July 9, 2002, about two years and seven months from its receipt of the Notice of Assessment and Tax Bill, was made way beyond the 60-day reglementary period to appeal under Section 226 of the Local Government Code.

PSC cannot insist that the tax assessment on its properties was not yet final. It is well-settled in jurisprudence that the notice of assessment shall be the last action of the local assessor on a particular assessment, from which the owner of the property may already appeal to the LBAA. Inza-Cruz's letter dated December 13, 1999 appealing for re-evaluation and re-assessment and the series of communication between the officers and employees of PSC and the representatives of the Office of the Provincial Assessor did not suspend the finality of the Notice of Assessment and Tax Bill dated November 3, 1999. Upon its issuance of the Notice of Assessment and Tax Bill dated November 3, 1999, the Provincial Assessor no longer had the jurisdiction to reconsider the same.

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Although the following pronouncements of the Court in the landmark case of *Callanta v. Office of the Ombudsman*<sup>32</sup> were on the provisions of Presidential Decree No. 464, otherwise known as the Real Property Tax Code, they are still relevant and applicable to the Petition at bar involving similar provisions of the Local Government Code:

*First Issue: Authority of the City Assessor to Reconsider  
Real Property Assessments*

Petitioners anchor the validity of their acts upon the absence of a specific provision of law expressly prohibiting the assessor from making adjustments or corrections in the assessment of real properties, and upon the long-standing practice of the city assessor's office in making such adjustments/corrections believed in good faith to be sanctioned under Sec. 22, PD 464 (now Sec. 220 of RA 7160), which reads:

“Sec. 22. *Valuation of Real Property.* – Upon the discovery of real property or during the general revision of property assessments as provided in Section twenty-one of this Code or at any time when requested by the person in whose name the property is declared, the provincial or city assessor or his authorized deputy shall make an appraisal and assessment in accordance with Section five hereof of the real property listed and described in the declaration irrespective of any previous assessment or taxpayer's valuation thereon: *Provided, however,* That the assessment of real property shall not be increased oftener once every five years in the absence of new improvements increasing the value of said property or of any change in its use, except as otherwise provided in this Code.”

Public respondents, on the other hand, insist that petitioners have no legal authority to act upon requests for reconsideration or appeals of property owners, a power which is explicitly vested upon the LBAA under Sec. 30 of the Real Property Tax Code, as amended, which provides:

“Sec. 30. *Local Board of Assessment Appeals.* – Any owner who is not satisfied with the action of the provincial or city assessor in the assessment of his property may, within sixty days from the date of receipt by him of the written notice of assessment as provided in this Code, appeal to the Board of Assessment Appeals of the province or city, by filing with it a petition under oath using the form prescribed for the purpose, together with the copies of the tax declarations and such affidavit or documents submitted in support of the appeal.”

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<sup>32</sup> 349 Phil. 584 (1998).

We find no merit in the contentions of petitioners. Enlightening is the following disquisition by the counsel for the ombudsman on the above-cited legal provisions:

“The instances referred to [under Sec. 22] are as follows:

- 1) upon the discovery of real property;
- 2) during the general revision of property assessments as provided in Section 21 of the Code; and
- 3) at anytime [sic] when requested by the person in whose name the property is declared.

It is not disputed that the assessment/valuation involved herein were conducted by virtue of the 1988 general revision of property assessments under No. 2 instance above.

After an assessment has been conducted, the assessor shall within thirty days issue a written notice of such new or revised assessment to the person in whose name the property is declared. (Section 27, PD 464). If the owner is not satisfied with the action of the assessor in the assessment of his property, he may appeal within sixty days from receipt of the notice of assessment to the Local Board of Assessment Appeals pursuant to Section 30 of P.D. 464 which provides:

X X X X

**Under the aforecited procedure, the issuance of a notice of assessment by the local assessor shall be his last action on a particular assessment. On the side of the property owner, it is this last action which gives him [the] right to appeal to the Local Board of Assessment Appeals. The above procedure also, does not grant the property owner the remedy of filing a motion for reconsideration before the local assessor.**

**The act of herein petitioners in providing the corresponding notices of assessment the chance for the property owners concerned to file a motion for reconsideration and for acting on the motions filed is not in accordance with law and in excess of their authority and therefore constitutes ultra vires acts.”**

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Applying the above, we agree with the following conclusions of the deputy ombudsman:

“x x x The appraisal and assessment done pursuant to the 1988 general revision work were within the purview of the second instance (i.e. during the general revision x x x as set forth in said Sec. 22[)]. But to make the same appraisal and assessment upon the request of the property owners who were not satisfied with the result of the first valuation of their property is grossly out of context in the application of the third instance allowed by Sec. 22. [W]hat the property owners involved were actually asking were practically a reappraisal and reassessment of the properties (because an appraisal and assessment had already been made under the second instance and their request was prompted by the receipt of the written notice of such valuation), the allowance for which is nowhere to be discerned in the provisions of Sec. 22 x x x.”

To repeat, Sec. 22 clearly provides three (3) occasions when assessments of real properties may be made by the local assessor. In the case at bar, the second instance gave rise to the revised assessed values for which the property owners subsequently sought reconsideration. **Sec. 30 of the same Code is equally clear that the aggrieved owners should have brought their appeals before the LBAA. Unfortunately, despite the advice to this effect contained in their respective notices of assessment, the owners chose to bring their requests for a review/readjustment before the city assessor, a remedy not sanctioned by the law. To allow this procedure would indeed invite corruption in the system of appraisal and assessment. It conveniently courts a graft-prone situation where values of real property may be initially set unreasonably high, and then subsequently reduced upon the request of a property owner. In the latter instance, allusions of a possible covert, illicit trade-off cannot be avoided, and in fact can conveniently take place. Such occasion for mischief must be prevented and excised from our system.**

In this case, based on a list of properties submitted by petitioners comparing their (1) previous assessed values (“old values”), (2) assessed values under the general revision (“revised values”), and (3) the unauthorized adjusted values (“unauthorized values”), the Court observes that the old values of some properties were increased by more than 1,000% (or 10 times) in the general revision, but were reduced to only about half under the unauthorized adjustments. **The large discrepancies seem to indicate a tendency to overvalue initially and thereafter to reduce the increases upon “request” of the property owner affected. To avoid this dubious, suspicious, bribable and compromising situation, the law itself specifically provided an appellate body – the LBAA – before which property owners may**



**seek relief. Neither habit nor good faith can amend this appellate procedure provided under the law.**

Indeed, the long-standing practice adverted to by petitioners does not justify a continuance of their acts. We cannot sanction such compromising situations. **Henceforth, whenever the local assessor sends a notice to the owner or lawful possessor of real property of its revised assessed value, the former shall thereafter no longer have any jurisdiction to entertain any request for a review or readjustment. The appropriate forum where the aggrieved party may bring his appeal is the LBAA, as provided by law.**<sup>33</sup> (Emphases supplied.)

In *FELS Energy, Inc. v. The Province of Batangas*,<sup>34</sup> the Court adopted the ruling in *Callanta* to Section 226 of the Local Government Code, thus:

Instead of appealing to the Board of Assessment Appeals (as stated in the notice), NPC opted to file a motion for reconsideration of the Provincial Assessor's decision, a remedy not sanctioned by law.

The remedy of appeal to the LBAA is available from an adverse ruling or action of the provincial, city or municipal assessor in the assessment of the property. It follows then that the determination made by the respondent Provincial Assessor with regard to the taxability of the subject real properties falls within its power to assess properties for taxation purposes subject to appeal before the LBAA.

We fully agree with the rationalization of the CA in both CA-G.R. SP No. 67490 and CA-G.R. SP No. 67491. The two divisions of the appellate court cited the case of *Callanta v. Office of the Ombudsman*, where we ruled that under Section 226 of R.A. No. 7160, the last action of the local assessor on a particular assessment shall be the notice of assessment; it is this last action which gives the owner of the property the right to appeal to the LBAA. The procedure likewise does not permit the property owner the remedy of filing a motion for reconsideration before the local assessor. x x x.

x x x x

For its part, the appellate court declared in CA-G.R. SP No. 67491:

x x x The Court announces: *Henceforth, whenever the local assessor sends a notice to the owner or lawful possessor of real property of its revised assessed value, the former shall no longer have any jurisdiction to entertain any request for a review or readjustment. The*

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<sup>33</sup> Id. at 595-599.

<sup>34</sup> 545 Phil. 92 (2007).

*appropriate forum where the aggrieved party may bring his appeal is the LBAA as provided by law.* It follows ineluctably that the 60-day period for making the appeal to the LBAA runs without interruption. This is what We held in SP 67490 and reaffirm today in SP 67491.

**To reiterate, if the taxpayer fails to appeal in due course, the right of the local government to collect the taxes due with respect to the taxpayer's property becomes absolute upon the expiration of the period to appeal. It also bears stressing that the taxpayer's failure to question the assessment in the LBAA renders the assessment of the local assessor final, executory and demandable, thus, precluding the taxpayer from questioning the correctness of the assessment, or from invoking any defense that would reopen the question of its liability on the merits.**

In fine, the LBAA acted correctly when it dismissed the petitioners' appeal for having been filed out of time; the CBAA and the appellate court were likewise correct in affirming the dismissal. **Elementary is the rule that the perfection of an appeal within the period therefor is both mandatory and jurisdictional, and failure in this regard renders the decision final and executory.**<sup>35</sup> (Emphases supplied.)

Inza-Cruz's letter dated December 13, 1999, addressed to the Provincial Assessor, thru the Municipal Mayor of Rosario, Batangas, was not the appeal contemplated under the law that would toll the running of the 60-day reglementary period. Per Section 226 of the Local Government Code, appeal of the assessment of the property is done by filing before the LBAA "a petition under oath in the form prescribed for the purpose, together with the copies of the tax declarations and such affidavits or documents submitted in support of the appeal."

The Court emphasizes that the right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered. PSC had lost its right to appeal before the LBAA because of prescription, which is not a mere technicality. The Court reiterates that perfection of an appeal in the manner and within the period permitted by law is not only mandatory, but jurisdictional, and the failure to perfect that appeal renders the judgment of the court final and executory.<sup>36</sup>

Lastly, the Court takes note that the LBAA proceeded with the hearing of the Petition of PSC even when the latter neither paid the real

<sup>35</sup> Id. at 106-108.

<sup>36</sup> *Go v. BPI Finance Corp.*, G.R. No. 199354, June 26, 2013, 700 SCRA 125, 132.

property taxes due under protest nor gave a surety bond, in violation of Section 7 of the Rules of Procedure Before the Local Board of Assessment Appeals, that reads:

Section 7. *Effect of Appeal on Collection of Taxes.* – An appeal shall not suspend the collection of the corresponding realty taxes on the real property subject of the appeal as assessed by the Provincial, City or Municipal Assessor, without prejudice to the subsequent adjustment depending upon the outcome of the appeal. **An appeal may be entertained but the hearing thereof shall be deferred until the corresponding taxes due on the real property subject of the appeal shall have been paid under protest or the petitioner shall have given a surety bond,** subject to the following conditions:

(1) the amount of the bond must not be less than the total realty taxes and penalties due as assessed by the assessor nor more than double said amount;

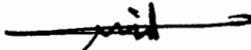
(2) the bond must be accompanied by a certification from the Insurance Commissioner (a) that the surety is duly authorized to issue such bond; (a) that the surety bond is approved by and registered with said Commission; and (c) that the amount covered by the surety bond is within the writing capacity of the surety company; and

(3) the amount of the bond in excess of the surety company's writing capacity, if any, must be covered by Reinsurance Binder, in which case, a certification to this effect must likewise accompany the surety bond. (Emphasis supplied.)

**WHEREFORE,** premises considered, the instant Petition for Review on *Certiorari* is **DENIED** and the appealed Decision dated August 2, 2006 of the Court of Tax Appeals *En Banc* in EB Case No. 119 is **AFFIRMED.**

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
Division Clerk of Court

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- over -



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