REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

TAGUIG CITY GOVERNMENT, HON. MA. LAARNI CAYETANO, in her capacity as the (former) Mayor of the City of Taguig, and ATTY. MARIANITO MIRANDA, in his capacity as the (former) Treasurer of the City of Taguig, *Petitioners*,	**CTA *EB* NO. 2404** *(CTA AC Nos. 229 & 230)* Present: **DEL ROSARIO, P.J., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** and **FERRER-FLORES,** *JJ.*
-versus-	
SERENDRA CONDOMINIUM CORPORATION, *Respondent.*	Promulgated: JAN 30 2023 4:15 pm

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D E C I S I O N

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a **Petition for Review (Re: Decision dated 10 September 2020 and Resolution dated 19 November 2020 of the Second Division, Court of Tax Appeals)**,[1] filed through registered mail on 5 February 2021 by petitioner Taguig City Government, Hon Ma. Laarni Cayetano in her capacity as the (former) Mayor of the City of Taguig, and Atty. Marianito Miranda, in his capacity as the (former) Treasurer of the City of Taguig, with respondent Serendra Condominium Corporation's **Comment/ Opposition (to Petitioners' Petition for Review dated 05 February 2021) [Re: Decision dated 10 September 2020 and Resolution dated 19 November 2020 of the Second Division, Court of Tax Appeals]**,[2] filed

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1 *EB* Records, pp. 59-158, with annexes.
2 *EB* Records, pp. 187-320, with annexes.

through registered mail on 26 July 2021. Petitioners seek the reversal of the Decision, dated 10 September 2020 ("Assailed Decision"), and Resolution, dated 19 November 2020 ("Assailed Resolution"), and pray that a new decision be rendered, ordering respondent liable for payment of business taxes, business plate/sticker, and environmental impact fee ("EIF") for the taxable year 2013 in the total amount of Five Million Seven Hundred One Thousand Twenty-Six Pesos and 72/100 (₱5,701,026.72) and for payment of the costs of suit.

The Parties

Petitioner Taguig City Government is a public corporation created by virtue of Republic Act No. 8487, the Charter of the City of Taguig, with seat of authority at the City Hall of Taguig represented by the incumbent Executive Head and Mayor of the City of Taguig, Hon. Lino Edgardo S. Cayetano and the current City Treasurer of the City of Taguig, Atty. Jonathan Voltaire L. Enriquez, who has the legal function and responsibility to assess and collect taxes, fees, and charges from corporate and individual taxpayers as levied and imposed by the tax ordinances of the City of Taguig. Its office is located at Taguig City Hall, Gen. A. Luna Street, Taguig City.[3]

Hon. Ma. Laarni Cayetano is the former Executive Head and Mayor of the City of Taguig who was succeeded by Hon. Lino Edgardo S. Cayetano, the incumbent Executive Head and Mayor of the City of Taguig. The incumbent Mayor of the City of Taguig holds office at the Office of the City Mayor, Taguig City Hall, Gen. A. Luna Street, Taguig City.[4]

Atty. Marianito Miranda is the former City Treasurer of the City of Taguig who was succeeded by Atty. Jonathan Voltaire L. Enriquez, the acting City Treasurer of Taguig City. The current City Treasurer of the City of Taguig holds office at the Office of the City Treasurer, Taguig City Hall, Gen. A. Luna Street, Taguig City.[5]

Respondent Serendra Condominium Corporation is a domestic non-stock, non-profit corporation duly organized and existing under Philippine laws with principal office address at Serendra, 11th Avenue, Bonifacio Global City, Taguig City.[6] It is a non-stock, non-profit corporation incorporated on 12 March 2008 as per the Certificate of Incorporation issued by the Securities and Exchange Commission.[7]

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[3] *See* Consolidated Memorandum (For Taguig City Government, et. al.), Division Records for CTA AC No. 229, Vol. 1, p. 356.
[4] *Ibid.*
[5] *Ibid.*
[6] *See* Memorandum for Respondent, *id.*, p. 422; Exhibit "P-3" of respondent.
[7] *See* Stipulation of Facts, Pre-Trial Conference, Civil Case No. 74669 as adopted by the CTA Division.

The Facts

The relevant factual antecedents as found by the Regional Trial Court ("RTC") and culled from the records of the case follow.

On 19 January 2013, respondent applied for the renewal of its business permit to operate in the City of Taguig for the year 2013.[8] As a condition for the renewal of the said permit, the City of Taguig required petitioner to pay the total amount of ₱5,710,137.72 composed of the following:[9]

Business tax	₱ 2,333,843.32
Environmental Impact fee	2,682,283.80
Fire Code	851.00
Environmental Impact Fee	684,749.60
Building inspection fee	160.00
Business Plate/Sticker	150.00
Electrical inspection fee	200.00
Fire permit fee	200.00
Form fee	150.00
Mayor's permit fee	6,000.00
Mechanical inspection fee	200.00
Medical/Health Inspection fee	10.00
Plumbing Inspection Fee	100.00
Sanitary Inspection Fee	1,100.00
Signboard Fee	140.00
Total	**₱ 5,710,137.72**

To complete the renewal of its permit to operate in the City of Taguig, respondent paid the subject impositions on 25 January 2013.[10]

On 13 January 2015, respondent sent a letter, dated 12 January 2015, to petitioners claiming refund or tax credit of the total amount of ₱5,701,026.72 paid as local business tax (₱2,333,843.32), two (2) Environmental Impact Fees (₱2,682,283.80 and ₱684,749.60) and Business Plate/Sticker (₱150.00).[11] Petitioners did not grant respondent's request for refund or tax credit.[12]

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[8] *See* Assailed Decision, Division Records CTA AC No. 229 Vol. 2, pp. 488-529.
[9] *Ibid.*
[10] *See* pars. 10-12 Consolidated Memorandum (For Taguig City Government, et. al), Division Records CTA AC No. 229 Vol. 1, pp. 356-357; *See also* pars. 16-18, Memorandum of Serendra Condominium Corporation, *id.*, p. 424.
[11] *See* pars. 10-12 Consolidated Memorandum (For Taguig City Government, et. al), *id.*, p. 357; *See also* par. 21, Memorandum of Serendra Condominium Corporation, *id.*, p. 425.
[12] *See* par. 14 Consolidated Memorandum (For Taguig City Government, et. al), *id.*, p. 357; *See also* par. 21, Memorandum of Serendra Condominium Corporation, *id*, p. 425.

On 23 January 2015, respondent filed a Complaint before the Regional Trial Court of Taguig City for refund or tax credit of erroneously and illegally collected local business tax, EIF, and Business Plate/Sticker in the amount of ₱5,701,026.72.[13]

On 18 March 2019, the RTC rendered a Decision finding herein respondent exempt from payment of local business tax and Business Plate/Sticker and liable for EIF. The dispositive part of the Decision reads:

> "WHEREFORE, judgment is hereby rendered as follows:
>
> 1. Plaintiff is exempt from the payment of business tax and business plate/sticker and Ordering the Defendants to refund the total amount of Two Million Three Hundred Thirty Three Thousand Nine Hundred Ninety Three Pesos and 32/100 Centavos (Php2,333,993.32) plus legal interest thereon at the rate of six percent (6%) per annum commencing on the date of the filing of the instant complaint, until the aforesaid amount is fully paid.
> 2. Finding the Plaintiff liable for the payment of environmental impact fees.
> 3. Finding the Defendants liable for attorney's fees in the amount of Seventy Thousand Pesos (Php70,000.00), plus litigation expenses.
> 4. Ordering the Defendants to pay the costs of the suit.
>
> SO ORDERED."[14]

Both parties filed their respective Motions for Partial Reconsideration, which the RTC denied in its Order, dated 1 August 2019.[15]

On 23 September 2019, respondent filed its Petition for Review, which was docketed as CTA AC No. 230.[16] Within the extended period granted by the Court in Division,[17] petitioners filed their Petition for Review via registered mail on 30 September 2019.[18] CTA AC No. 230 was then consolidated with CTA AC No. 229.[19]

On 10 September 2020, the Court in Division partially granted the consolidated cases CTA AC Nos. 229 and 230 through the Assailed Decision.[20] The dispositive portion of the Assailed Decision reads:

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[13] *See* par. 15 Consolidated Memorandum (For Taguig City Government, et. al), *id.* p. 357; *See also* par. 22 Memorandum of Serendra Condominium Corporation, *id*, p. 425.
[14] Decision, dated 18 March 2019, *id.*, pp. 51-65.
[15] Order, dated 1 August 2019, *id.*, pp. 66-70.
[16] *Id.*, pp. 5-32.
[17] Resolution, dated 27 September 2019, *id.*, p. 13.
[18] *Id.*, pp. 14-48.
[19] Resolution, dated 22 January 2020, *id.*, pp. 323-331.
[20] Division Records for CTA AC No. 229, Vol. 2, pp. 488-529.

> "**WHEREFORE,** the Petition for Partial Review filed by Taguig City Government et. al. docketed as CTA AC No. 229 as well as the Petition for Review filed by Serendra Condominium Corporation docketed as CTA AC No. 230 are both **PARTIALLY GRANTED.** Accordingly, the Decision dated March 18, 2019 and the Order dated August 1, 2019 of the Regional Trial Court, Branch 153, Taguig City in Civil Case No. 74669 are **MODIFIED.**
>
> Taguig City Government et.al. are **ORDERED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of Serendra Condominium Corporation the amount of ₱5,701,026.72 representing erroneously or illegally paid local business tax, business plate/sticker fee and environmental impact fee for the year 2013. Cost of suit against Taguig City Government, et. al.
>
> **SO ORDERED."** [21]

Petitioners filed a Motion for Reconsideration on 7 October 2020, praying to reverse the Assailed Decision and for the Court in Division to order respondent liable for LBT, EIF, and business plate/ sticker for taxable year 2013 in the total amount of ₱5,701,026.72.[22]

Petitioners' Motion for Reconsideration was denied in the Court in Division's Assailed Resolution dated 19 November 2020,[23] the dispositive part of which reads:

> "**WHEREFORE,** Taguig City Government et. al.'s Motion for Reconsideration (of the Decision dated 10 September 2020) is **DENIED** for lack of merit.
>
> **SO ORDERED."** [24]

Aggrieved, petitioners filed the instant Petition for Review with the Court *En Banc* through registered mail on 5 February 2021[25] within the extended period[26] allowed by the Court *En Banc*. Respondent then filed its Comment/Opposition (To Petitioners' Petition for Review dated 05 February 2021) [Re: Decision dated 10 September 2020 and Resolution dated 19 November 2020 of the Second Division, Court of Tax Appeals] through registered mail on 26 July 2021.[27]

On 11 November 2021, the case was submitted for decision.[28] Hence, this Decision.

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[21] Decision, dated 10 September 2020, *id.*, pp. 488-529.
[22] *Id.*, pp. 530-548.
[23] Resolution, dated 12 October 2020, *id.*, pp. 569-571.
[24] Resolution, dated 12 October 2020, *id.*, pp. 569-571.
[25] *EB* Records, pp. 59-158.
[26] *Id.*, p. 58.
[27] *Id.*, pp. 187-320.
[28] Resolution, dated 11 November 2021, *id.*, 321-323.

Issues[29]

The issues submitted for resolution of the Court *En Banc* are:

(1) Whether the Court in Division erred in finding that respondent is not subject to local business tax and business plate/sticker fee;

(2) Whether the Court in Division erred in finding that respondent is not subject to EIF; and

(3) Whether the Court in Division erred in finding petitioners liable for costs of suit.

Arguments of the Parties

Petitioners' Arguments[30]

Petitioners present the following arguments:

First, in relation to the imposition of local business tax and business plate/sticker fee, petitioners chiefly argue that respondent is engaged in profit-making activities and is thus subject to local business tax and business plate/sticker fee. Petitioners anchor their claim on paragraph (h) of the secondary purpose in the Articles of Incorporation purportedly allowing respondent to engage in business activities geared for profit.

Petitioners aver that the exception in ***Yamane v. BA Lepanto Condominium***[31] ("***Yamane Case***") is applicable considering the evidence on record shows that paragraph (h) of respondent's secondary purpose in its Articles of Incorporation does not restrict respondent from engaging in profit-making activities. According to petitioners, this is in direct violation of ***Republic Act No. No. 4726 otherwise known as the Condominium Act*** and respondent's Master Deed. Petitioners further claim that respondent had engaged in business and is therefore subject to LBT and business plate/sticker fee as shown from respondent's 2012-2013 AFS.

Petitioners maintain that the Court in Division erred when it failed to consider the evidence on record showing that respondent is specifically subject to the local business tax as a Contractor and business plate/sticker fee under ***Sections 74 and 75(e) of the Taguig Revenue Code***. Petitioners, relying

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[29] *See* Grounds in Support of the Petition (with Assignment of Errors), Petition for Review, *EB* Records, pp. 70-71.

[30] *See* Discussion, Petition for Review, *EB* Records, pp. 72-103.

[31] G.R. No. 154993, 25 October 2005.

on the well-settled principle that tax exemptions are strictly construed against the taxpayer, claim that there is no specific provision of law showing that respondent is exempt from the payment of LBT and business plate/sticker fee.

Second, anent the imposition of EIF, petitioners maintain that the Court in Division erred when it ruled that respondent is not engaged in business despite the clear and unequivocal language of ***Ordinance No. 116-08*** imposing liabilities to condominium corporations, whether engaged in business or not, for payment of EIF. Petitioners explain that ***Ordinance No. 116-08*** supplements ***Ordinance No. 111-07*** thus the former must be read in line with the general intent of the latter. Petitioners take the stance that ***Ordinance No. 24-93 or the Revenue Code of the Municipality of Taguig*** provides that all business establishments defined therein, such as respondent, are subject to EIF.

Petitioners also maintain that the Court in Division erred in not taking into account the regulatory purpose of the EIF in determining the intent of the Sanggunian in enacting ***Ordinance No. 116-08***. According to petitioners, the EIF is not only imposed to cover costs of garbage hauling but is also an encompassing fee on all establishments operating within the jurisdiction of the City of Taguig to compensate the negative impact that industrialization and commercial developments bring to the environment and to the society.

Finally, petitioners insist that respondent should bear the costs of suit as their claim is not frivolous and that they are authorized to impose local business tax, business plate/sticker fee, and EIF against respondent.

Respondent's Arguments[32]

Meanwhile, respondent counter-argues that:

First, the Court in Division was correct in ruling that petitioners erroneously imposed local business tax, business plate/sticker fee, and EIF on respondent who is not engaged in business. It insists that it is not engaged in business or organized for profit as supported by the ***Condominium Act*** and indicated in its Articles of Incorporation and By-laws. The established jurisprudence in the ***Yamane Case*** applies to the present case absent any proof from petitioners that the exception applies. Petitioners' reliance on respondent's AFS insofar as it concluded that respondent is engaged in business and subject to local business tax and business plate/sticker fee is misplaced. Respondent insists that it is not a contractor under the ***Taguig Revenue Code*** and is therefore not liable for local business tax and business

[32] *See* Comment/ Opposition (To Petitioner's Petition for Review dated 05 February 2021) [Re: Decision dated 10 September 2020 and Resolution dated 19 November 2020 of the Second Division, Court of Tax Appeals], *EB* Records, pp. 61-73.

plate/sticker fee. There is no need for respondent to prove exemption from the imposition of LBT and business plate/sticker fee as it is not covered by the taxes and fees being levied against it.

Second, respondent is not liable for EIF as it is only imposed on entities engaged in business. Respondent disputes petitioners claim that EIF is imposable on any entity whether engaged in business or not. Respondent points out that the wording of ***Ordinance No. 111-07*** as amended by ***Ordinance No. 116-08*** clearly imposes EIF only on businesses. Respondent also refers to the term "business" defined in the ***Revenue Code of the City of Taguig*** to cover activities with a view to profit.

Finally, respondent maintains that petitioners are liable for attorney's fees, litigation expenses, and cost of suit considering that evident bad faith is evinced by their arbitrary imposition of local taxes without legal basis.

The Ruling of the Court *En Banc*

The Court *En Banc* finds the present Petition for Review partly meritorious.

The general rule laid down in the *Yamane Case* applies in the present case as respondent is not engaged in profit-making activities.

Petitioners fault the finding of the Court in Division that the general rule laid down in the ***Yamane Case applies*** in the present case. According to petitioners, the exception in the ***Yamane Case*** should be applied. In so concluding, petitioners insist that evidence shows that respondent was organized contrary to the ***Condominium Act***, which prohibits condominium corporations from engaging in profit-making activities.

The ***Yamane Case*** sets the general rule that condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seeks to declare otherwise, and the exception to the rule, such as when the fact that the condominium corporation engages in activities for profit is sufficiently established. The ***Yamane Case*** pertinently provides:

> "Again, whatever capacity the Corporation may have pursuant to its power to exercise acts of ownership over personal and real property is limited by its stated corporate purposes, which are by themselves further limited by the Condominium Act. A condominium corporation, while enjoying such powers of ownership, is prohibited by law from transacting its properties for the purpose of gainful profit.

> Accordingly, and with a significant degree of comfort, we hold that **condominium corporations are generally exempt from local business taxation under the Local Government Code, irrespective of any local ordinance that seeks to declare otherwise.**
>
> Still, **we can note a possible exception to the rule**. It is not unthinkable that **the unit owners of a condominium would band together to engage in activities for profit under the shelter of the condominium corporation.** Such activity would be prohibited under the Condominium Act, but **if the fact is established, we see no reason why the condominium corporation may be made liable by the local government unit for business taxes.** Even though such activities would be considered as ultra vires, since they are engaged in beyond the legal capacity of the condominium corporation, the principle of estoppel would preclude the corporation or its officers and members from invoking the void nature of its undertakings for profit as a means of acquitting itself of tax liability.
>
> Still, the City Treasurer has not posited the claim that the Corporation is engaged in business activities beyond the statutory purposes of a condominium corporation. The assessment appears to be based solely on the Corporation's collection of assessments from unit owners, such assessments being utilized to defray the necessary expenses for the Condominium Project and the common areas. There is no contemplation of business, no orientation towards profit in this case. Hence, the assailed tax assessment has no basis under the Local Government Code or the Makati Revenue Code, and the insistence of the city in its collection of the void tax constitutes an attempt at deprivation of property without due process of law."
> (Citations omitted; emphasis supplied.)

As illustrated in the ***Yamane Case***, following American condominium law, the possible exception as to when condominium corporations may be engaged in business could arise when portions of condominium projects are leased or rented as barber shops, drug stores, beauty shops, or other corner enterprises.[33] However, the ***Yamane Case*** cautions that under Philippine law, a condominium corporation may *not* adopt purposes other than those provided in the Condominium Act. If the fact that the condominium corporation engaged in activities for profit is established, then the condominium corporation may be subject to local business tax.

Petitioners primarily rely on the secondary purpose of respondent, particularly paragraph (h) of the Articles of Incorporation, which purportedly allow respondent to engage in profit-making activities. Paragraph (h) pertinently provides:

> "(h) To operate, by itself or through others, recreation, service and similar facilities within the common areas of the Project in order to serve the **needs of the occupants thereof and others who are willing to avail themselves of such facilities**, and **to use any income therefrom to meet its operating and other expenses and expenditures**;"
> (Emphasis supplied.)

[33] *See* footnote 61, Yamane v. BA Lepanto Condominium Corporation, G.R. No. 154993, 25 October 2005.

Petitioners' contention is untenable.

A plain reading of paragraph (h) proves otherwise. Nothing in paragraph (h) even suggests that respondent is allowed to engage in profit-making activities. In fact, paragraph (h) provides that any income received from use of facilities shall be used to defray operating and other expenses and expenditures of Serendra. Consistent with the ruling in ***Yamane Case,*** the assessments were utilized merely to defray the necessary expenses for the Condominium Project and the common areas and thus, there is no contemplation of business nor orientation towards profit.

This is also consistent with the primary purpose of respondent to engage in the business of holding title to the common areas and management of Serendra in accordance with the provision of the ***Condominium Act*** and the Master Deed.[34] Particularly, respondent's primary purpose is as follows:

> "**To own or hold title to the common areas in the condominium project known and identified as SERENDRA**, which has been constituted pursuant to the provisions of the Condominium Act on the property described in and brought under the operations of said Act by: (i) the Master Deed with Declaration of Restrictions dated February 11, 2004 and identified as Doc. No. 326, Page No. 67, Book No. VIII, Series of 2004 of the notarial register of Sheila Marie L. Uriarte-Tan, a Notary Public for Makati City and registered with the Registry of Deed of the City of Taguig on March 11, 2004 as Primary Entry No. 433, (ii) ... (said instruments all amendments and supplements thereto shall hereinafter be collective referred to as *"Master Deed"* and the condominium project as may be covered by one or more certificates of registration issued by the Housing and Land Use Regulatory Board and its successor agencies shall hereinafter be referred to as the "*Project*"), and **to manage and administer the operation of the Project and the affairs of its members pursuant to and in accordance with the provisions of Republic Act No. 4726 and the Master Deed**." (Emphasis supplied)

A further examination of the Master Deed reveals that the income derived by respondent is in the form of "dues", which strictly refers to fees and assessments levied upon the units to defray expenses and other charges for the condominium project: [35]

> "'**Dues**' shall refer to the fees and assessments levied by the Condominium Corporation upon the Units to cover the payment of expenses and other charges for Project."

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[34] Respondent's Exhibit "C", RTC Civil Case No. 74669.
[35] Section 1.1, Master Deed.

Petitioner then claims that these profit-making activities pursuant to paragraph (h) are manifested in the collection of fees for the exclusive use of facilities as reflected in *Note 3, page 6* and *Note 13, page 14* of respondent's 2012-2013 Audited Financial Statement.[36]

Contrary to petitioners' contention, *Note 3, page 6* clearly provides that 'Other Membership Dues' represent billings to **members** for the exclusive use of amenities and facilities of respondent. Members do not refer to non-unit owners. To foreclose any doubt, the Articles of Incorporation defines members as follows:[37]

> "The members of the Corporation shall consist of **all the owners of the units in the Project** registered as such in the Registry of Deeds of Taguig City. Membership in the Corporation cannot be transferred, conveyed, encumbered or otherwise disposed of separately from the condominium unit of which it is an appurtenance. Any transfer, conveyance, encumbrance or other disposition of a unit shall include the appurtenant membership in this corporation. **Any member who ceases to own a unit in the Project automatically ceases to be a member of the Corporation.**"
> (Emphasis supplied.)

Meanwhile, *Note 13, page 14* provides that 'Other Membership Dues' represent dues levied on members who reserve the use of social amenities which is intended to recover the cost of utilities and other association-provided services resulting from the exclusive use of such amenities. Any collection received by respondent from members for the exclusive use of amenities does not partake of profit. Instead, the collections are used to pay for the cost of utilities.

The Court *En Banc* thus affirms the ruling of the Court in Division that the ***Yamane Case*** applies in the present case:

> "In substantially similar fashion, the taxpayer in the present case is also a condominium corporation which was required to pay LBT, among others, by the city treasurer. The city treasurer in the present case likewise based its computation of the LBT on the amount of association dues collected by the condominium corporation from its members. The taxpayer disagrees with the city treasurer and claims that it is not subject to LBT on the ground that as a condominium corporation, it is not engaged in trade or business. The local treasurer took the opposite view and maintains that the taxpayer is engaged in trade or business. Specifically, the city treasurer posits that the taxpayer is engaged in the sale of service and that the dues and fees received by the condominium corporation from the unit members and tenants constitute income payments or compensation for the services furnished to them.

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[36] Respondent Exhibit "J", RTC Civil Case No. 74669.
[37] Fifth paragraph, Articles of Incorporation.

> As may be gleaned from the discussion above, it is fairly evident that **the relevant facts and the issue involved in *Yamane* and those of the present case are substantially the same. Accordingly, it behooves this Court to adhere to the Supreme Court's ruling in Yamane and apply the same as precedent to the present case.**"
> (Citations omitted; emphasis supplied.)

Given the foregoing, petitioners failed to establish the fact that respondent had actually engaged in business activities to apply the exception in the ***Yamane Case***. To reiterate, a reading of paragraph (h) of the Articles of Incorporation and pertinent portions of the 2012-2013 AFS do not expressly allow nor show that respondent is engaged in profit-making activities. Paragraph (h) is consistent with the ***Condominium Act*** and the Master Deed. Thus, the Court in Division did not err in applying the general rule in the ***Yamane Case*** and holding that respondent is exempt from local business tax.

Respondent is not subject to local business tax under the Taguig Revenue Code.

Crucial to the resolution of the present case is the determination of the basis and nature of the imposition levied by petitioners against respondent.

The ***Local Government Code of 1991*** ("LGC") empowers cities to levy taxes, fees, and charges which a city or municipality may impose.[38] Corollary thereto, the then Municipality of Taguig enacted the ***Municipal Ordinance No. 24 series of 1993***, otherwise known as ***The Revenue Code of the Municipality of Taguig***, which was thereafter amended by ***Taguig City Ordinance No. 85 series of 2005*** (collectively, "Taguig Revenue Code") to support and sustain the demand intrinsic to the city's continuing growth and progress.

Here, the basis of petitioners' assessment is premised on ***Sections 74 and 75(e) of the Taguig Revenue Code*** which imposes local business tax on contractors. Pertinent portions of ***Section 75(e)*** are reproduced below:

> "TITLE III
> Tax on Business
>
> CHAPTER 12
> Graduated Tax on Business
>
> ...
>
> SEC. 75. Imposition of Tax. – There shall be **levied an annual tax** on the **following businesses at rates prescribed** therefore:
>
> ...

[38] Section 151, LGC.

e) On **contractors and other independent contractors defined in SECTION 74 of this Code**; and on **owners or operators of business establishments rendering or offering services** such as advertising agencies, rental of space of signs, signboards, billboard or advertisements, animal hospitals, assaying laboratories, belts and buckle shops, blacksmith shops, bookbinders, booking offices for film exchange, booking office for transportation on commission basis; breeding of game cocks and other sporting animals belonging to others; business management services; collecting agencies; escort services; feasibility studies, consultancy services; garages; garbage disposal contractors; gold and silversmith shops; inspection services for incoming and outgoing cargoes; interior decorating services; janitorial services; job placements or recruitment agencies; landscaping contractors; lathe machine shops; management consultants not subject to professional tax; medical and dental laboratories; mercantile agencies; messengerial services; operators of shoe shine stand; painting shops; perma-press establishments; rent-a-plant services; polo players; school for and/or horseback riding academy; real estate appraisers; real estate brokerages; photostatic; white/blue printing, photocopying, typing and mimeographing services; car rental, rental of heavy equipment, rental of bicycles and/or tricycles; furniture, shoes, watches, household appliances, boats, typewriters, etc.; roasting of pigs, fowls, animals; silkscreen or T-shirt printing shops; stables; travel agencies; vaciador shops; veterinary clinics; video rentals and/or coverage services; dancing school/speed reading/EDP; nursery, vocationally and other schools not regulated by the Department of Education (DepEd), day care centers; etc., the following rates shall apply:

...

Gross Sales/Receipts for the Preceding Calendar Year			**Amount of Tax Per Annum**
	LESS than	50,000.00	EXEMPT
50,000.00	or more but less than	75,000.00	924.00
75,000.00	or more but less than	100,000.00	1,386.00
100,000.00	or more but less than	150,000.00	2,079.00
150,000.00	or more but less than	200,000.00	2,772.00
200,000.00	or more but less than	250,000.00	3,812.00
250,000.00	or more but less than	300,000.00	4,851.00
300,000.00	or more but less than	400,000.00	6,468.00
400,000.00	or more but less than	500,000.00	8,663.00
500,000.00	or more but less than	750,000.00	9,713.00
750,000.00	or more but less than	1,000,000.00	10,763.00
1,000,000.00	or more but less than	2,000,000.00	12,075.00
2,000,000.00	or MORE		Plus 65% of 1%

For purposes of this Section, all general engineering, general building and specialty contractors with principal offices located outside Taguig but with multi-year projects located in the City of Taguig, shall

secure the required city business permit and shall be subjected to pay the city taxes, fees and charges based on the total contract price payable in annual or quarterly installments within the project team.

Upon completion of the project, the taxes shall be recomputed on the basis of the **gross sales/receipts for the preceding calendar years and the deficiency tax, if there is any, shall be collected as provided in this Code**, and shall retire the city business permits secured upon full completion of the projects undertaken in the City of Taguig."
(Emphasis supplied.)

In turn, ***Section 74 of the Taguig Revenue Code*** defines the term contractors as follows:

"TITLE III
Tax on Business

SECTION 74. Definitions. —

Contractor includes **persons, natural or juridical,** not subject to professional tax **whose activity consists essentially of the sale of all kinds of services for a fee regardless of whether or not the performance of the service calls for the exercise or use of the physical or mental faculties of such contractor or his employees.**

As used in this Article, the term contractor shall include **general engineering, general building and specialty contractors** as defined under applicable laws, filling, demolition and salvage works contractors, proprietors or operators of mine drilling apparatus, proprietors or operators of computer services/rental, proprietors or operators or dockyards, persons engaged in the installation of water system, and gas or electric light, heat, or power, proprietors or operators of smelting plants; engraving, plating, and plastic lamination establishments; proprietors or operators of establishments for repairing, repainting, upholstering, washing or greasing of vehicles, heavy equipment, vulcanizing, recapping and battery charging; proprietors or operators of furniture shops and establishments for planting or surfacing and recutting of lumber, sawmills under contract to saw or cuts logs belonging to others; proprietors or operators of dry-cleaning or dyeing establishments, steam laundries, and laundries using washing machines, proprietors or owners of shops for the repair of any kind of mechanical and electrical devices, instrument, apparatus, or furniture and shoe repairing by machine or any mechanical contrivance, proprietors of tailor shops, dress shops, milliners and hatters, beauty parlors, barbershops, massage clinics, sauna Turkish and Swedish baths, slenderizing and building saloons and similar establishments; photographic studios; funeral parlors; proprietors or operators of arrastre and stevedoring, warehousing, or forwarding establishments; master plumbers, smiths, and house or sign painters; printers, bookbinders, lithographers, publishers except those engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of advertisements; business agents, private detective or watchman agencies, commercial and immigration brokers, and cinematographic film owners, lessors and distributors."
(Emphasis supplied)

In the present case, petitioners classified respondent as a "contractor" under ***Section 74 of the Taguig Revenue Code*** for purposes of local business tax prescribed in ***Section 75(e) of the same Code***. Alternatively, petitioners' claim that even assuming respondent does not qualify as a "contractor", it is still liable under ***Section 75(e) of the same Code*** which imposes local business tax on operators of business establishments rendering or offering services.

Petitioners' claims are unmeritorious.

To reiterate, respondent's primary purpose as stated in its Articles of Incorporation as submitted in evidence shows that respondent is primarily engaged in the business of holding title to the common areas and management of Serendra.[39] The Court disagrees with petitioners' contention that the secondary purpose of the AOI which seemingly allow non-occupants to use respondent's facilities for a fee manifests respondent's intention to earn profit from such activity. Respondent's facilities are not open to the general public. Any fee collected from occupants or guests of such occupants may be considered reasonable and necessary fees for the upkeep of Serendra and does not render respondent as engaged in business.

Here, petitioners failed to establish that respondent engaged in business activities. In fact, petitioners are uncertain on whether to classify respondent as a contractor or owner/operator of a business establishment rendering or offering services. Other than petitioners' bare allegation that respondent is a contractor, or alternatively, as owner or operator of business establishment rendering or offering services, subject to local business tax, petitioner did not present sufficient proof to support said contention. Settled is the rule that allegation does not constitute proof.

More importantly, in the more recent case of ***Delos Santos v. Commissioner of Internal Revenue***,[40] the Supreme Court emphasized that condominium corporations are not engaged in trade or business and any fee or charge collected is purely for the benefit of condominium owners. It explained that the fee or other charges forms part of a pool of funds from which the condominium corporation will draw funds for the general upkeep of the condominium project:

> "This Court reiterated the pronouncement in ***Yamane v. BA Lepanto Condominium Corporation***, **that a condominium corporation is not engaged in trade or business. Association dues are not intended for profit, but for the maintenance of the condominium project. The collection of association dues, membership fees, and other charges is purely for the benefit of the condominium owners:**

[39] Respondent's Exhibit "C", Civil Case No. 74669
[40] G.R. No. 222548, 22 June 2022,

> For when a condominium corporation manages, maintains, and preserves the common areas in the building, **it does so only for the benefit of the condominium owners.** It cannot be said to be engaged in trade or business, thus, the collection of association dues, membership fees, and other assessments/charges is **not a result of the regular conduct or pursuit of a commercial or an economic activity, or any transactions incidental thereto.**
>
> **Neither can it be said that a condominium corporation is rendering services to the unit owners for a fee, remuneration of consideration.** Association dues, membership fees, and other assessments/charges **form part of a pool from which a condominium corporation must draw funds in order to bear the costs for maintenance, repair, improvement, reconstruction expenses and other administrative expenses.**
>
> Indisputably, the nature and purpose of a condominium corporation negates the carte blanche application of our value-added tax provisions on its transactions and activities."

(Citations omitted; emphasis supplied.)

Anent petitioners' contention on the application of the rule of strict interpretation on tax exemptions, the Court *En Banc* finds that the rule on strict interpretation of tax statues in the imposition of tax laws applies. In ***Medicard Philippines, Inc. v. Commissioner of Internal Revenue***, the Supreme Court reiterated the strict interpretation in the imposition of taxes:[41]

> "To be sure, there are pros and cons in subjecting the entire amount of membership fees to VAT. But the Court's task however is not to weigh these policy considerations but to determine if these considerations in favor of taxation **can even be implied from the statute where the CIR purports to derive her authority.** This Court rules that they cannot because the language of the NIRC is pretty straightforward and clear. As this Court previously ruled:
>
> > **What is controlling in this case is the well-settled doctrine of strict interpretation in the imposition of taxes, not the similar doctrine as applied to tax exemptions**. The rule in the interpretation of tax laws is that a statute will not be construed as imposing a tax unless it does so clearly, expressly, and unambiguously. A tax cannot be imposed without clear and express words for that purpose. Accordingly, the general rule of requiring adherence to the letter in construing statutes applies with peculiar strictness to tax laws and the provisions of a taxing act are not to be extended by implication. In answering the question of who is subject to tax statutes, it is basic that in case of doubt, such statutes are to be construed most strongly against the government and in favor of the subjects or citizens because burdens are not to be imposed nor presumed to be imposed,

[41] G.R. No. 222743, 5 April 2017

> beyond what statutes expressly and clearly import. As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws. (Citation omitted and emphasis and underlining ours)
>
> For this Court to subject the entire amount of MEDICARD's gross receipts without exclusion, the **authority should have been reasonably founded from the language of the statute**. That language is wanting in this case. In the scheme of judicial tax administration, the need for certainty and predictability in the implementation of tax laws is crucial. Our tax authorities fill in the details that Congress may not have the opportunity or competence to provide."
> (Citations omitted; emphasis supplied.)

All told, petitioners failed to establish the authority from which its assessment is founded. Thus, respondent is not subject to local business tax and business plate/sticker fee.

The Court has no jurisdiction to rule on EIF which is a regulatory fee.

Petitioners anchor their claim on respondent's liability for EIF on ***Ordinance No. 111-07***, as amended by ***Ordinance No. 116-08***.

Before resolving the issue on whether respondent is subject to EIF pursuant to ***Ordinance No. 111-07***, as amended by ***Ordinance No. 116-08***, it is crucial for the Court *En Banc* to determine whether the fees imposed under the subject ordinances are in fact taxes thereby subjecting the local tax case within the jurisdiction of the Court of Tax Appeals ("CTA"). A court or tribunal should first determine whether or not it has jurisdiction over the subject matter presented before it, considering that any act that it performs without jurisdiction shall be null and void and without any binding legal effect.[42] Indeed, in ***Mitsubishi Motors Philippines Corporation v. Bureau of Customs***,[43] the Supreme Court further explained that when a court has no jurisdiction, its only power is to dismiss the action:

> "Jurisdiction is defined as the **power and authority of a court to hear, try, and decide a case.** In order for the court or an adjudicative body **to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter.** It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is **conferred by law** and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**"

[42] Bernadette S. Bilag, et al., vs. Estela Ay-Ay, G.R. No. 189950, 24 April 2017.
[43] G.R. No. 209830, 17 June 2015.

(Citations omitted; emphasis and underscoring supplied.)

The jurisdiction of the CTA with respect to local tax cases is conferred by ***R.A. No. 9282***, as amended by ***R.A. No. 1125***, as follows:

"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 <u>in local tax cases</u> originally decided or resolved by them in the exercise of their original or appellate jurisdiction**; . . ."

(Emphasis and underscoring supplied)

It is settled that the CTA is a court of special jurisdiction. As such, it can only take cognizance of such matter as are clearly within its jurisdiction.[44] Hence, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim.[45]

Petitioners maintain that the EIF is in the nature of a garbage/pollution service charge and is not a charge or an imposition on the privilege of engaging in business. Rather, it is for operating a specific establishment within the jurisdiction of Taguig, whether or not trade or business that produces garbage or creates some adverse environmental impact in the course of its operation is conducted therein. Respondent posits that it is irrelevant whether the EIF is classified as a regulatory fee or tax.

In ***Smart Communications, Inc. v. Municipality of Malvar, Batangas***,[46] the test in determining whether an ordinance is regulatory or revenue-raising are the purpose and effect of the ordinance, *viz.*:

> "Since the main purpose of Ordinance No. 18 is to regulate certain construction activities of the identified special projects, which included "cell sites" or telecommunications towers, the fees imposed in Ordinance No. 18 are primarily regulatory in nature, and not primarily revenue-raising. While the fees may contribute to the revenues of the Municipality, this effect is merely incidental. Thus, the fees imposed in Ordinance No. 18 are not taxes.

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[44] Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc., G.R. No. 221780, 25 March 2019 *citing* Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc., G.R. No. 190021, 22 October 2014.

[45] AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 185969, 19 November 2014.

[46] G.R. No. 204429, 18 February 2014.

> In *Progressive Development Corporation v. Quezon City*, the Court declared that "**if the generating of revenue is the primary purpose and regulation is merely incidental, the imposition is a tax; but if regulation is the primary purpose, the fact that incidentally revenue is also obtained does not make the imposition a tax.**"
>
> In *Victorias Milling Co., Inc. v. Municipality of Victorias*, the Court reiterated that the **purpose and effect of the imposition determine whether it is a tax or a fee, and that the lack of any standards for such imposition gives the presumption that the same is a tax.**
>
> We accordingly say that the **designation given by the municipal authorities does not decide whether the imposition is properly a license tax or a license fee.** The determining factors are the **purpose and effect of the imposition as may be apparent from the provisions of the ordinance.** Thus, "[w]hen **no police inspection, supervision, or regulation is provided, nor any standard** set for the applicant to establish, or that he agrees to attain or maintain, but **any and all persons engaged in the business designated, without qualification or hindrance,** may come, and a license on payment of the stipulated sum will issue, to do business, subject to no prescribed rule of conduct and under no guardian eye, but according to the unrestrained judgment or fancy of the applicant and licensee, the **presumption is strong that the power of taxation, and not the police power, is being exercised.**"
>
> Contrary to Smart's contention, Ordinance No. 18 expressly provides for the **standards which Smart must satisfy prior to the issuance of the specified permits, clearly indicating that the fees are regulatory in nature.**"
> (Citations omitted; Emphasis supplied.)

Based on the foregoing, the test in determining the nature of the imposition, either tax or a regulatory fee, is its purpose. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax.[47] On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated.[48] Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax, but if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee.[49]

The Court in Division found that the EIF is in the nature of a regulatory fee rather than a tax, *viz.*:

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[47] City of Cagayan De Oro vs. Cagayan Electric Power & Light Co., Inc., G.R. No. 224825, 17 October 2018, *citing* Philippine Airlines, Inc. vs. Edu, G.R. No. L-41383, 15 August 1998.

[48] City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc., G.R. No. 224825, October 17, 2018, *citing* Chevron Philippines, Inc. vs. Bases Conversion Development Authority, G.R. No. 173863, 15 September 2010.

[49] City of Cagayan De Oro v. Cagayan Electric Power & Light Co., Inc., G.R. No. 224825, 17 October 2018, *citing* Gerochi, et al. vs. Department of Energy, G.R. No. 159796, 17 July 2007.

"After meticulous reading of the Assailed Ordinance, this Court agrees with the conclusion reached by the lower court that the EIF is in the nature of a regulatory fee rather than a tax given that the imposition thereof is in line with the express policy of the local government of Taguig City "to prescribe regulations on entities doing business within its territorial jurisdiction" and also for purposes of "hauling and management of solid waste generated by the citizens and businesses of the City." On the other hand, there is nothing in the Assailed Ordinance which suggest that the imposition of the EIF is essentially for revenue-raising purposes.

The foregoing conclusion is consistent with the Supreme Court's ruling in *City of Cagayan De Oro v. Cagayan Electric & Light Co., Inc.*, wherein it was explained that:

> The term 'taxes' has been defined by case law as 'the enforced proportional contributions from persons and property levied by the state for the support of government and for all public needs.' While, under the Local Government Code, a 'fee' is defined as 'any charge fixed by law or ordinance for the regulation or inspection of a business or activity.'
>
> From the foregoing jurisprudential and statutory definitions, it can be gleaned that the purpose of an imposition will determine its nature as either a tax or a fee. If the purpose is primarily revenue, or if revenue is at least one of the real and substantial purposes, then the exaction is properly classified as an exercise of the power to tax. On the other hand, if the purpose is primarily to regulate, then it is deemed an exercise of police power in the form of a fee, even though revenue is incidentally generated. Stated otherwise, if generation of revenue is the primary purpose, the imposition is a tax but, if regulation is the primary purpose, the imposition is properly categorized as a regulatory fee."

Nevertheless, this Court takes exception to the lower court's finding that SCC is subject to the EIF. Truth be told, this Court concurs with SCC's position that it is, indeed, the intent of the legislative body of Taguig City to impose the EIF prescribed under the Assailed Ordinance only to those entities engaged in business within Taguig City. Considering this Court's earlier pronouncement that SCC is not engaged in business, SCC is, therefore, not subject to the EIF imposed under the Assailed Ordinance." (Citations omitted; emphasis supplied.)

The Court *En Banc* agrees with the Court in Division's finding that the EIF is a regulatory fee and not a tax. The fact that the imposition is a regulatory fee is even made more glaring by the following provisions of the ordinance:

First, the purpose of the EIF is imposed to compensate for the negative social or environmental cost to the City of Taguig. ***Section 115 of Ordinance No. 111-2007*** pertinently provides:

> "SECTION 15: ENVIRONMENTAL IMPACT FEE
> An environmental fee is imposed on all business establishments defined to compensate the negative social or environmental cost which will eventually be borne by the City of Taguig: ..."

Second, the collections from EIF shall be used primarily to defray cost of hauling and management of solid waste generated by the citizens and businesses of the city. ***Sections 2 and 3 of Ordinance No. 116-2008*** pertinently provides:

> "Section 2: DECLARATION OF POLICY-
> It is hereby declared the policy of the local government of Taguig to prescribe regulations on entities doing business within its territorial jurisdiction not only to uphold the interests of the City Government and its people, but, to ensure as well that the private sector complements the efforts of this local government to make the city a destination for investors, and that they are not mere investors but also partners in the progress and development of this City. It is also hereby declared that the local government of Taguig shall be solely responsible and accountable for the hauling and management of solid waste generated by the citizens and businesses of the City."

> "Section 3: COVERAGE –
> This Ordinance shall define the City's waste management policies, procedures, and corresponding fees for companies operating or shall operate within the territorial jurisdiction of the City of Taguig.
> ..."

Third, the ordinance sets guidelines and qualifications on the imposition of EIF. ***Section 4 of Ordinance No. 116-2008*** provides:

> "Section 4: GUIDELINES –
> The fees to be paid by business as prescribed in this ordinance are to be based on the total area occupied as used in the conduct of the operations of each, whether the premises are owned or leased. For commercial buildings wherein multiple locators are occupying space, such as office buildings, shopping centers/malls, and commercial complexes, the landlord and/or the property manager shall be solely responsible for the fees due on the total area for common use and service areas of the building only. In the event that any tenant of a commercial building fails/refuses to pay the environmental impact fee due on the leased area occupied by the business, the landlord/property owner automatically becomes liable for the said fee of the tenant. For residential condominiums or multiple dwelling structures, the landlord or condominium corporation or entity shall be responsible for the fees due on the total area for common use and service areas of the building.
> ..."

All these lead this Court to conclude that the EIF is a regulatory fee and not a tax. As such, the Court *En Banc* takes exception to the Court in Division's conclusion that respondent is not subject to EIF. To the Court *En Banc's* mind, the Court in Division had no jurisdiction to rule on the issue of whether respondent is subject to EIF as the issue is not a local tax and thus,

erred in ruling on the issue of whether respondent is subject to EIF. Being outside the CTA's jurisdiction, the issue pertaining to the imposition of EIF as a regulatory fee should be dismissed.

No basis for either party to recover legal interest, attorney's fees, litigation expenses, and costs of suit,

The Court *En Banc* finds no basis to award either party with the legal interest, attorney's fees, litigation expenses, and costs of suit pursuant to ***Article 2208 of the Civil Code of the Philippines***, which provides that in the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered. Both parties also fail sufficiently point to the exceptions provided in ***Article 2208*** that would warrant the award of attorney's fees and expenses of litigation. The same holds true with respect to the claim for legal interest.

In fine, having found partial merit in the present Petition for Review, the award of legal interest, attorney's fees, litigation expenses, and costs of suit against petitioners have no basis. There is also no basis to award legal interest, attorney's fees, litigation expenses, and costs of suit against respondent. Both parties shall respectively bear their own costs.

WHEREFORE, in light of the foregoing considerations, the Petition for Review filed by Taguig City Government, Hon. Ma. Laarni Cayetano, in her capacity as the (former) Mayor of the City of Taguig, and Atty. Marianito Miranda, in his capacity as the (former) Treasurer of the City of Taguig is **PARTIALLY GRANTED**.

Accordingly, the dispositive portions of the Assailed Decision, dated 10 September 2020, and Assailed Resolution, dated 19 November 2020, are hereby **MODIFIED**.

The Assailed Decision is hereby **REVERSED** insofar as it orders the refund of the Environmental Impact Fee. Such claim for refund is hereby **DISMISSED** for lack of jurisdiction.

The rest of the Assailed Decision is hereby **AFFIRMED**. Taguig City Government, Hon. Ma. Laarni Cayetano, in her capacity as the (former) Mayor of the City of Taguig, and Atty. Marianito Miranda, in his capacity as the (former) Treasurer of the City of Taguig are hereby **ORDERED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of Serendra Condominium Corporation the amount of ₱2,333,843.33 representing

erroneously or illegally paid local business tax and business plate/sticker fee for the year 2013. The costs of suit are to be borne by both parties.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

(With due respect—see Dissenting Opinion.)
ROMAN G. DEL ROSARIO
Presiding Justice

(With due respect, I vote to affirm the Assailed Decision.)
ERLINDA P. UY
Associate Justice

(With Concurring Opinion.)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

(With due respect, I vote to affirm the Assailed Decision.)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(With due respect, I vote to affirm the Court in Division's Decision.)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

TAGUIG CITY GOVERNMENT, HON. MA. LAARNI CAYETANO, in her capacity as the (former) Mayor of the City of Taguig, and ATTY. MARIANITO MIRANDA, in his capacity as the (former) Treasurer of the City of Taguig, Petitioners,	**CTA EB No. 2404** (CTA AC Nos. 229 & 230)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.***, **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** and **FERRER-FLORES,** *JJ.*
SERENDRA CONDOMINIUM CORPORATION, Respondent.	Promulgated: JAN 30 2023 4:15 pm

x- -x

DISSENTING OPINION

DEL ROSARIO, P.J.:

With utmost respect, I am constrained to withhold my assent on the *ponencia* which partially grants the Petition for Review; modifies the assailed Decision dated September 10, 2020 and assailed Resolution dated November 19, 2020; reverses the assailed Decision dated September 10, 2020 insofar as it orders the refund of the environmental impact fee (EIF); dismisses the claim for refund of EIF for lack of jurisdiction; and, affirms the rest of the assailed Decision ordering the refund or issuance of tax credit certificate in favor of respondent representing local business tax (LBT), and Business Plate/Sticker fee for the year 2013.

I submit that it was proper for the Court in Division to address the issue on respondent's liability to EIF and rule that respondent is not subject to EIF.

Upon perusal of the records, there is only a single cause of action involved, that is respondent's claim for refund of or tax credit of the total amount of ₱5,701,026.72 composed of LBT, EIF and Business Plate/Sticker paid on January 25, 2013[1] for the **purpose of renewing its Business Permit**. The cause of action arose precisely because petitioner required payment of aforestated costs as a condition precedent to the issuance of Business Permit.

On January 12, 2015, respondent filed its claim for refund in the amount ₱5,701,026.72 with petitioners.[2] Petitioners denied its claim. Thus, respondent filed a complaint before the Regional Trial Court of Taguig City on January 23, 2015 for refund or tax credit of erroneously and illegally collected LBT, EIF and Business Plate/Sticker in the amount of ₱5,701,026.72.

The RTC of Taguig City rendered a Decision on March 18, 2019, finding respondent exempt from payment of LBT and Business Plate/Sticker but liable for payment of EIF.

Considering that the RTC Decision 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.[3] The same decision, 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.**

Contrary to the Concurring Opinion of my esteemed colleague, Justice Ma. Belen M. Ringpis-Liban, the RTC decision being appealed from cannot be split between the CTA for the decision on the LBT, and the Court of Appeals for the decision on the EIF. **Only one case was filed before the RTC, hence there was only one case docket from the RTC which may be elevated on appeal. To require separate appeals to the CTA and the Court of Appeals would create**

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[1] Assailed Decision dated September 10, 2020, CTA EB No. 2404 Docket, p. 118.
[2] Assailed Decision dated September 10, 2020, CTA EB No. 2404 Docket, p. 118.
[3] 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;

administrative confusion as to which court the docket *a quo* should be elevated.

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.[4]

The disquisition in *Roberto R. De Luzuriaga, Sr. vs. Hon. Midpantao L. Adil, et al.*,[5] 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 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)*

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

[5] *Roberto R. De Luzuriaga, Sr. vs. Hon. Midpantao L. Adil, et al.* G. R. No. L-58912, May 7, 1985.

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 claim for refund of the amount representing EIF is intertwined with the claim for refund of LBT, as both were paid pursuant to petitioner's request as a 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 respondent's business permit to operate in the City of Taguig for the year 2013 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.

Lastly, even assuming that the appeal of the RTC decision can be split between the CTA and the Court of Appeals, the CTA only has jurisdiction on respondent's liability for LBT. The CTA has accordingly no jurisdiction to grant (albeit the *ponencia* granted) relief involving the Business Plate/Sticker Fee which is also a regulatory fee and not a tax. The rationale of the *ponencia* in dismissing the claim for refund of EIF for lack of jurisdiction is therefore inconsistent with the relief granted.

In sum, I humbly submit that it was proper for the CTA in Division to address the issue on respondent's liability to EIF and rule that respondent is not subject to EIF. The Petition for Review should therefore be denied and the Court in Division's assailed Decision dated September 10, 2020 and assailed Resolution dated November 19, 2020 in CTA AC Nos. 229 and 230 be affirmed.

All told, I VOTE for the Court to DENY the Petition for Review and AFFIRM the Court in Division's assailed Decision dated September 10, 2020 and assailed Resolution dated November 19, 2020 in CTA AC Nos. 229 and 230.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

TAGUIG CITY GOVERNMENT, HON. MA. LAARNI CAYETANO, in her capacity as the (former) Mayor of the City of Taguig, and ATTY. MARIANITO MIRANDA, in his capacity as the (former) Treasurer of the City of Taguig, Petitioners,	**CTA EB NO. 2404** (CTA AC Case Nos. 229 & 230)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **UY,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** *and* **FERRER-FLORES,** *JJ.*
SERENDRA CONDOMINIUM CORPORATION, Respondent.	Promulgated: JAN 30 2023 4:15pm

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CONCURRING OPINION

RINGPIS-LIBAN, *J.*:

I concur with the *ponencia* that the environmental impact fee ("EIF") imposed by the City of Taguig is a regulatory fee, and is beyond the reach of this Court's judicial review.

The case before Us is unusual. What was appealed with the Court in Division in CTA AC Case Nos. 229 & 230 is the Decision of the Regional Trial Court ("RTC") - Taguig City. Said decision is composed of two (2) separate parts: the grant of the claim for refund or tax credit of the alleged erroneously collected

local business tax ("LBT"), and the denial of the claim for refund or tax credit of the alleged erroneously collected EIF.

Although both fees were levied under the Revenue Ordinance of Taguig, it must be emphasized that the LBT is revenue-raising, while the EIF is regulatory in nature. As such, they should not be lumped under one ordinance, but should be the subject of separate ordinances.

Time and again, it was held that jurisdiction is conferred by law, and it is not the courts or parties to determine the same. Specifically, the Court of Tax Appeals has exclusive appellate jurisdiction to review by appeal the decisions, orders or resolutions of the RTC **only** in local tax cases originally decided or resolved in the exercise of its original or appellate jurisdiction.[1] Therefore, this Court can only take cognizance of the RTC's decision on the LBT but not on the EIF. The RTC's decision on the EIF is in turn appealable to the Court of Appeals.

This is permissible for there are two (2) causes of action in the original complaint of Respondent with RTC - Taguig City, the claim for refund for LBT and EIF. They are separate and distinct from each other, and will not violate the rule against splitting of action.

Lastly, the Supreme Court decision of *Roberto R. De Luzuriaga, Sr. v. Hon. Midpantao L. Adil, Et. Al.*[2] should not be applied by analogy. In the said case, the issue of ownership and possession were intertwined; whereas in the case at bar, LBT and EIF were imposed by the City of Taguig under differing circumstances and purpose. More importantly, the courts involved in the said case are courts of general jurisdiction (*i.e.,* Municipal Circuit Court and Court of First Instance); whereas this Court is a court of special jurisdiction.

From all the foregoing, I vote to **PARTIALLY GRANT** the instant Petition for Review.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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1 Republic Act No. 1125, as amended by Republic Act No. 9282.
2 G.R. No. L-58912, May 07, 1985.