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The scourge of exploitation of labor, as shown by numerous petitions before us, remains pervasive. It is imperative for all government agencies concerned to exert all-out efforts to prevent any further violation or circumvention of the provisions of the Labor Code through deceptive devices and malpractices. Unscrupulous employers could not be allowed to hide behind labor-only contracting in order to escape the just claims of their workers and other employees.

WHEREFORE, the challenged resolutions dated October 23, 1995 and January 16, 1996, rendered by the NLRC in NLRC CA No. M-002543-95 are hereby *SET ASIDE*, and the decision of the Labor Arbiter of the NLRC Regional Arbitration Branch No. 09, Zamboanga City, promulgated on May 17, 1995, in NLRC Case No. RAB-09-1-0-00284-94 is hereby *REINSTATED*.

Costs against respondents.

SO ORDERED.

Bellosillo (Chairman), Puno, Mendoza, and *Buena, JJ.*, concur.

SECOND DIVISION

[G.R. No. 127139. February 19, 1999]

JAIME C. LOPEZ, *petitioner, vs.* **CITY OF MANILA and HON. BENJAMIN A.G. VEGA, Presiding Judge, RTC, Manila, Branch 39,** *respondents.*

SYNOPSIS

Section 219 of Republic Act 7160, or the Local Government Code of 1991, requires the conduct of the general revision of real property. In September 1995, the City Assessor's Office submitted the proposed schedule of fair market values to the City Council for its appropriate action. The Council, acting on the proposed schedule, conducted public hearings as required by law. The proposed ordinance was subjected to the regular

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process in the enactment of ordinances pursuant to the City Charter of Manila. The ordinance was approved by the City Mayor and was made effective on January 1, 1996. With the implementation of Manila Ordinance No. 7894, the tax on the land owned by the petitioner was increased by 580%. With respect to the improvement, the tax was increased by 250%. Consequently, petitioner filed a special proceeding for the declaration of nullity of the ordinance. The case was raffled, but on the same day, Manila Ordinance No 7905 took effect, reducing by 50% the assessment levels for the computation of tax due. The court directed the issuance of a writ of injunction and denied the motion to dismiss by the respondent. The latter filed a motion for reconsideration and cited the happening of a supervening event, i.e., the enactment and approval of Manila Ordinance No. 7905. The trial court granted the motion to dismiss, which was justified by the failure of petitioner to exhaust the administrative remedies and that the petition had become moot and academic. Petitioner filed a motion for reconsideration, but it was denied for lack of merit. Hence, this petition.

The Supreme Court found no cogent reason to depart from the findings of the trial court. As correctly found by the trial court, the petition does not fall under any of the exceptions to excuse compliance with the rule on exhaustion of administrative remedies. The Court, likewise, was in full accord with the ruling of the trial court that Manila Ordinance No. 7905 affects the resulting tax imposed on the market values of real properties as specified in Manila Ordinance No. 7894. Therefore, this supervening circumstance had rendered the petition moot and academic, for failure of petitioner to amend his cause of action.

SYLLABUS

1. **ADMINISTRATIVE LAW; EXHAUSTION OF ADMINISTRATIVE REMEDIES; RELIEF TO COURTS CAN BE SOUGHT ONLY AFTER EXHAUSTING ALL REMEDIES PROVIDED; RATIONALE.—** As a general rule, where the law provides for the remedies against the action of an administrative board, body, or officer, relief to courts can be sought only after exhausting all remedies provided. The reason rests upon the presumption that the administrative body, if given

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the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly. Therefore, where a remedy is available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency the opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to courts. This rule, however, admits certain exceptions.

2. **ID.; ID.; ID.; EXCEPTIONS; NOT APPLICABLE IN CASE AT BAR.—** As correctly found by the trial court, the petition does not fall under any of the exceptions to excuse compliance with the rule on exhaustion of administrative remedies, to wit: "One of the reasons for the doctrine of exhaustion is the separation of powers which enjoins upon the judiciary a becoming policy of non-interference with matters coming primarily within the competence of other department. xxx There are however a number of instances when the doctrine may be dispensed with the judicial action validly resorted to immediately. Among these exceptional cases are: (1) when the question raised is purely legal, (2) when the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) when there is urgent need for judicial intervention; (5) when the claim involved is small; (6) when irreparable damage will be suffered; (7) when there is no other plain, speedy and adequate remedy; (8) when strong public interest is involved; (9) when the subject of controversy is private land; and (10) in *quo-warranto* proceeding. In the court's opinion, however, the instant petition does not fall within any of the exceptions above-mentioned. xxx Instant petition involves not only questions of law but more importantly the questions of facts which therefore needed the reception of evidence contrary to the position of the respondent before the hearing of its motion for reconsideration. Now, on the second exception on the rule of exhaustion of administrative remedies, *supra,* there is no showing that administrative bodies, *viz.*, the Secretary of Justice, the City Treasurer, Board of Assessment Appeals, and the Central Board of Assessment Appeals are in estoppel. On the third exception, it does not appear that Ordinance No. 7894 or the amendatory Ordinance No. 7905 are patently illegal. Re the fourth exception, in the light of circumstances as pointed elsewhere herein, the matter does not need a compelling judicial intervention. On the fifth exception, the claim of the petitioner is not small. Re the sixth exception, the

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court does not see any irreparable damage that the petitioner will suffer if he had paid or will pay under protest as per the ordinance. He could always ask for a refund of the excess amount he paid under protest or be credited thereof if the administrative bodies mentioned in the law (R.A. 7180) will find that his position is meritorious. Re the seventh exception, the court is of the opinion that administrative relief provided for in the law are plain, speedy and adequate. On the eight exception, while the controversy involves public interest, judicial intervention as the petitioner would like this court to do should be avoided as demonstrated herein below in the discussion of the third issue. The ninth and tenth exception obviously are not applicable in the instant case.

3. **TAXATION; TAX ORDINANCE; REMEDIES AVAILABLE TO TAXPAYER WITH REGARD TO QUESTIONS ON THE LEGALITY THEREOF.—** With regard to questions on the legality of a tax ordinance, the remedies available to the taxpayer are provided under Section 187, 226, and 252 of R.A. 7160. *Section 187 of R.A. 7160* provides, that the taxpayer may question the constitutionality or legality of tax ordinance on appeal within thirty (30) days from effectivity thereof, to the Secretary of Justice. The petitioner after finding that his assessment is unjust, confiscatory, or excessive, must have brought the case before the Secretary of Justice for questions of legality or constitutionality of the city ordinance. *Under Section 226 of R.A. 7160,* an owner of real property who is not satisfied with the assessment of his property may, within sixty (60) days from notice of assessment, appeal to the Board of Assessment Appeals. Should the taxpayer question the excessiveness of the amount of tax, he must first pay the amount due, in accordance with *Section 252 of R.A. 7160.* Then, he must request the annotation of the phrase "paid under protest" and accordingly appeal to the Board of Assessment Appeals by filing a petition under oath together with copies of the tax declarations and affidavits or documents to support his appeal. The rule is well-settled that courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulations of activities coming under the special technical knowledge and training of such agencies. Furthermore, the crux of petitioner's cause of action is the determination of whether or not the tax is excessive, oppressive or confiscatory. This

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issue is essentially a question of fact and thereby, precludes this Court from reviewing the same.

4. **ID.; REAL PROPERTY TAX; STEPS TO FOLLOW FOR THE GENERAL REVISION OF REAL PROPERTY ASSESSMENTS; SUBSTANTIAL COMPLIANCE IN CASE AT BAR.—** Based on the evidence presented by the parties, the steps to be followed for the mandatory conduct of General Revision of Real Property assessments, pursuant to the provision of Sec. 219 of R.A. No. 7160 are as follows: "1. The preparation of Schedule of Fair Market Values. 2. The enactment of Ordinances: a) levying an annual "*ad valorem*" tax on real property and an additional tax accruing to the SEF; b) fixing the assessment levels to be applied to the market values of real properties; c) providing necessary appropriation to defray expenses incident to general revision of real property assessments; and d) adopting the Schedule of Fair Market Values prepared by the assessors." The preparation of fair market values as a preliminary step in the conduct of general revision was set forth in Section 212 of R.A. 7160, to wit: (1) The city or municipal assessor shall prepare a schedule of fair market values for the different classes of real property situated in their respective Local Government Units for the enactment of an ordinance by the sanggunian concerned. (2) The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned or the posting in the provincial capitol or other places as required by law. It was clear from the records that Mrs. Lourdes Laderas, the incumbent City Assessor, prepared the fair market values of real properties and in preparation thereof, she considered the fair market values prepared in the calendar year 1992. Upon that basis, the City Assessor's Office updated the schedule for the year 1995. In fact, the initial schedule of fair market values of real properties showed an increase in real estate costs, which ranges from 600% - 3,330% over the values determined in the year 1979. However, after a careful study on the movement of prices, Mrs. Laderas eventually lowered the average increase to 1,020%. Thereafter, the proposed ordinance with the schedule of the fair market values of real properties was published in the Manila Standard on October 28, 1995 and the Balita on November 1, 1995. Under the circumstances of this case, there was compliance with the requirement provided under Sec. 212 of R.A. 7160.

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5. **ID.; ID.; PROCEDURAL STEPS IN THE COMPUTATION THEREOF.—** With the introduction of assessment levels, tax rates could be maintained, although tax payments can be made either higher or lower depending on their percentage (assessment level) applied to the fair market value of property to derive its *assessed value* which is subject to tax. Moreover, classes, and values of real properties can be given proper consideration, like assigning lower assessment levels to residential properties and higher levels to properties used in business. The procedural steps in computing the real property tax are as follows: "1) Ascertain the *assessment level* of the property 2) Multiply the market value by the applicable assessment level of the property 3) Find the tax rate which corresponds to the class (use) of the property and multiply the assessed value by the applicable tax rates."

APPEARANCES OF COUNSEL

Reynaldo B. Aralar & Associates for petitioner
The City Legal Officer for City of Manila

D E C I S I O N

QUISUMBING, *J.*:

This petition for review on *certiorari*, assails the Order[1] of the Regional Trial Court of Manila, Branch 39, promulgated on October 24, 1996, dismissing Civil Case No. 96-77510 which sought the declaration of nullity of City of Manila Ordinance No. 7894, filed by petitioner Jaime C. Lopez.

The facts as found by the trial court are as follows:

Section 219 of Republic Act 7160 (R.A. 7160) or the Local Government Code of 1991 requires the conduct of the general revision of real property as follows:

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[1] Penned by Judge Benjamin A.G. Vega, Regional Trial Court of Manila, Branch 39, *rollo*, pp. 16 - 28.

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"General Revision of Assessments[2] *and Property Classification* — The provincial, city or municipal assessor shall undertake a general revision of real property assessments within two (2) years after the effectivity of this Code and every three (3) years thereafter."

Although R.A. 7160 took effect on January 1, 1992, the revision of real property assessments prescribed therein was not yet enforced in the City of Manila. However, the process of real property valuation had already been started and done by the former city assessor.

In 1992, the schedule of real property values in the city was prepared and submitted to the City Council of Manila, but for unknown reason, was not acted upon. Nevertheless, despite the inaction of the City Council, there was a continuous update of the fair market values of the real properties within the city.

Until the year 1995, the basis for collection of real estate taxes in the City of Manila was the old, year-1979, real estate market values.

Mrs. Lourdes Laderas, the newly appointed City Assessor of Manila, received Memorandum Circular No. 04-95 dated March 20, 1995, from the Bureau of Local Government Finance, Department of Finance. This memorandum relates to the failure of most of the cities and municipalities of Metropolitan Manila, including the City of Manila, to conduct the general revision of real property. For this purpose, Mrs. Laderas embarked in a working dialogue with the Office of the City Mayor and the City Council for the completion of the task.

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[2] R.A. 7160, Sec. 198.

x x x x x x x x x

(f) *Assessment* — is the act or process of determining the value of a property or proportion thereof subject to tax, including the discovery, listing, classification, and appraisal of the properties.

x x x x x x x x x

(g) *Reassessment* — is the assigning of new assessed values to property, particularly real estate, as the result of a general, partial, or individual reappraisal of the property.

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After obtaining the necessary funds from the City Council, the City Assessor began the process of general revision based on the updated fair market values of the real properties.

In the year 1995, the increase in valuation of real properties compared to the year-1979 market values ranges from 600% to 3,330%, but the City Assessor's office initially fixed the general average of increase to 1,700%. Mrs. Laderas felt that the increase may have adverse reactions from the public, hence, she ended up reducing the increase in the valuation of real properties to 1,020%.

In September 1995, the City Assessor's Office submitted the proposed schedule of fair market values to the City Council for its appropriate action. The Council acting on the proposed schedule, conducted public hearings as required by law. The proposed ordinance was subjected to the regular process in the enactment of ordinances pursuant to the City Charter of Manila. The first reading was held on September 12, 1995, the second on October 28, 1995, and the third on December 12, 1995. In between these dates, public hearings on the general revision, which included the schedule of values of real properties, were had, *viz.;* on September 28, 1995, October 5, 12 and 19, 1995 and November 27 and 29, 1995.

The proposed ordinance with the schedule of fair market values of real properties was published in the Manila Standard on October 28, 1995, and the Balita on November 1, 1995. On December 12, 1995, the City Council enacted Manila Ordinance No. 7894, entitled: "An Ordinance Prescribed as the Revised Schedule of Fair Market Values of Real Properties of the City of Manila." The ordinance was approved by the City Mayor on December 27, 1995, and made effective on Jan. 01, 1996. Thereafter, notices of the revised assessments were distributed to the real property owners of Manila pursuant to Sec. 223 of R.A. 7160.[3]

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[3] Sec. 223 - *Notification of New or Revised Assessment.* — When real property is assessed for the first time or when an existing assessment is increased or decreased, the provincial, city or municipal assessor shall within

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With the implementation of Manila Ordinance No. 7894, the tax on the land owned by the petitioner was increased by five hundred eighty percent (580%). With respect to the improvement on petitioner's property, the tax increased by two hundred fifty percent (250%).

As a consequence of these increases, petitioner Jaime C. Lopez, filed on March 18, 1996, a special proceeding for the declaration of nullity of the City of Manila Ordinance No. 7894 with preliminary injunction and prayer for temporary restraining order (TRO). The petition alleged that Manila Ordinance No. 7894 appears to be "unjust, excessive, oppressive or confiscatory." The case was originally raffled to the Regional Trial Court of Manila, Branch 5, which issued the TRO on April 10, 1996.

On the same date, Manila Ordinance No. 7905[4] took effect, reducing by fifty percent (50%) the assessment levels[5] (depending on the use of property, e.g., residential, commercial) for the computation of tax due. The new ordinance amended the assessment levels provided by Section 74,[6] paragraph (A) of Manila Ordinance No. 7794.

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thirty (30) days give written notice of such new or revised assessment to the person in whose name the property is declared. The notice may be delivered personally or by registered mail or through the assistance of the *punong barangay* to the last known address to the person to be served.

[4] "An Ordinance Amending Sec. 74 (A) of Ordinance No. 7794 as amended, otherwise known as the Revenue Code of the City of Manila"

[5] "Assessment Level" is the percentage applied or multiplied to the fair market value to determine the taxable value of the property; R.A. 7160, Sec. 198,(g).

[6] Revenue Code of City of Manila (enacted and approved in 1993)

Sec. 74 . Assessment Levels

A) x x x (Enumeration of assessment levels in accordance with Sec. 218 of R.A. 7160)

B) The assessment levels in paragraph (a) hereof shall be applied initially during the first general revision of real property assessments to be undertaken pursuant to Sections 73 and 76 of this Ordinance.

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Moreover, Section 2 of Manila Ordinance No. 7905[7] provides that the amendment embodied therein shall take effect retroactively to January 1, 1996. The same provision indicates the maximum realty tax increases, as follows:

"Sec. 2 — x x x Provided, however, that the tax increase on residential lands and improvements shall in no case exceed by two hundred percent (200%) of the tax levied thereon in calendar year 1995 and the tax increase on commercial and industrial land, buildings and other structures shall not exceed by three hundred percent (300%) of the tax imposed thereon in calendar year 1995; Provided further, that the tax on all lands and improvements shall in no case be lower than the tax imposed thereon in calendar year 1995."

As a result, Manila Ordinance No. 7905 reduced the tax increase of petitioner's residential land to one hundred fifty-five percent (155%), while the tax increase for residential improvement was eighty-two percent (82%).

The maximum tax increase on classified commercial estates is three hundred percent (300%) but the tax increase on commercial land was only, two hundred eighty-eight percent (288%), and seventy-two percent (72%) on commercial portion of the improvement.

On April 12, 1996, respondent filed a motion for inhibition of the presiding judge of RTC, Branch 5, alleging that Judge Amelia Andrade had shown "markedly indulgent attitude towards the petitioner." Hence, Judge Andrade inhibited herself and directed the forwarding of the case record to the Clerk of Court for its re-raffle to another branch of the court.

Despite the amendment brought about by Manila Ordinance No. 7905, the controversy proceeded and the case was re-raffled to Branch 39 of the court which acted on the motions submitted by the parties for resolution, *viz.*: 1) application for preliminary injunction by the petitioner, and 2) motion to dismiss by the respondent. The reason relied upon by the City of Manila for

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[7] *Rollo*, p. 91.

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the dismissal of the petition was for failure of the petitioner to exhaust administrative remedies.

On May 9, 1996, the court directed the issuance of a writ of injunction and denied, in the meanwhile, the motion to dismiss by the respondent. The reason for the denial of the respondent's motion to dismiss was not detailed to avoid a repetition of the unfortunate situation in RTC-Manila, Branch 5, wherein the counsel for the respondent assumed bias on the part of Judge Andrade.

On May 22, 1996, the respondent filed the instant motion for reconsideration on the denial of its motion to dismiss. The movant-respondent aside from reiterating the basic ground alleged in its motion to dismiss underscored the additional premise, which is the happening of a supervening event, *i.e.*, the enactment and approval of the City Mayor of Manila Ordinance No. 7905.

On October 24, 1996, the trial court granted the motion to dismiss filed by the respondent. The dismissal order was justified by petitioner's failure to exhaust the administrative remedies and that the petition had become moot and academic when Manila Ordinance No. 7894 was repealed by Manila Ordinance No. 7905. Notwithstanding, the trial court likewise resolved all other interlocking issues.

The dispositive portion of the trial court's order is as follows:

"WHEREFORE, finding the motion dated May 19, 1996 filed by the herein respondent on May 22, 1996 sufficiently well-taken, the order dated May 9, 1996 is hereby set aside. Let the petition filed by the herein petitioner on March 8, 1996 be, as it is, hereby DISMISSED. The order of preliminary injunction dated May 9, 1996, is also set aside and the writ of injunction likewise issued pursuant thereto, dissolved.

SO ORDERED."[8]

The petitioner filed a motion for reconsideration, but it was denied for lack of merit.

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[8] *Rollo*, p. 28.

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Hence, the petitioner now comes before this Court raising in his petition the following issues:

I. DID THE RESPONDENT TRIAL COURT IN CIVIL CASE NO. 96-77510 ERR IN HOLDING THAT THE PETITIONER FAILED TO EXHAUST ALL ADMINISTRATIVE REMEDIES, AND THEREFORE, THE PETITION OUGHT TO BE DISMISSED? AND;

II. DID THE RESPONDENT COURT ERR IN FAILING TO CORRECTLY APPLY SECTIONS 212 AND 221 OF THE LOCAL GOVERNMENT CODE OF 1991?

Petitioner contends that when the trial court ruled that it has jurisdiction over the case, the question of whether he needs to resort to the exhaustion of administrative remedies becomes moot and academic. He claims that resort to administrative remedies on constitutionality of law is merely permissive as provided by Sec. 187 of R.A. 7160, *viz.*:

"x x x Provided, further, That any question on the constitutionality or legality of tax ordinances or revenue measures *may be raised* on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal. x x x" (italics supplied)

Petitioner further asserts that the question of the constitutionality of the city ordinance may be raised on appeal, either to the Secretary of Justice or the Regional Trial Court, both having concurrent jurisdiction over the case, in accordance with Batas Pambansa Blg. 129. He states that at the time he instituted this complaint, it was premature to resort to the remedies provided by R.A. 7160 because he has not received the formal notice of assessment yet, hence, he could not be expected to pay under protest and elevate the exorbitant assessment to the Board of Assessment Appeals.

On the other hand, respondent argues that the adjustment of the fair market values of real properties in the City of Manila was long overdue, being updated only after fifteen (15) years. According to the respondent, petitioner filed the case, merely

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to take advantage of the situation to gain political mileage and help advance his mayoralty bid.

As a general rule, where the law provides for the remedies against the action of an administrative board, body, or officer, relief to courts can be sought only after exhausting all remedies provided. The reason rests upon the presumption that the administrative body, if given the chance to correct its mistake or error, may amend its decision on a given matter and decide it properly. Therefore, where a remedy is available within the administrative machinery, this should be resorted to before resort can be made to the courts, not only to give the administrative agency the opportunity to decide the matter by itself correctly, but also to prevent unnecessary and premature resort to courts.[9] This rule, however, admits certain exceptions.[10]

With regard to questions on the legality of a tax ordinance, the remedies available to the taxpayer are provided under Sections 187, 226, and 252 of R.A. 7160.

Section 187 of R.A. 7160 provides, that the taxpayer may question the constitutionality or legality of tax ordinance on appeal within thirty (30) days from effectivity thereof, to the Secretary of Justice. The petitioner after finding that his assessment is unjust, confiscatory, or excessive, must have brought the case before the Secretary of Justice for questions of legality or constitutionality of the city ordinance.

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[9] *Cruz vs. Del Rosario*, 9 SCRA 755 (1963), citing *Jao Igco vs. Shuster*, 10 Phil., 448; *Lamb vs. Phipps*, 22 Phil. 456; *Miguel vs. Reyes*, G.R. No. L-4851, July 31, 1953; *Arnedo vs. Aldanese*, 63 Phil. 768; *Tuan Kay vs. Import Control Commission*, G.R. No. L-4427. April 31, 1952; *Veloso vs. Board of Accountancy*, G.R. No. L-5760, April 20, 1953; *Lubugan, et al. vs. Castrillo and Malinay*, G.R. No. L-10521, May 29, 1957.

[10] *Sunville Timber Products, Inc. vs. Abad*, 206 SCRA 483, at p. 487; citing *Valmonte vs. Belmonte*, 170 SCRA 256; *Tan vs. Veterans Backpay Commission*, 105 Phil. 377; *Laganapan vs. Asedillo*, 154 SCRA 377; *Aquino vs. Luntok*, 184 SCRA 177; *Cipriano vs. Marcelino*, 43 SCRA 291; *De Lara vs. Cloribel*, 14 SCRA 269; *National Development Company vs. Collector of Customs*, 9 SCRA 429; *Arrow Transportation Corporation vs. Board of Transportation*, 63 SCRA 193; *Soto vs. Jareño*, 144 SCRA 116; *Corpus vs. Cuaderno*, 4 SCRA 749.

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Under *Section 226 of R.A. 7160,* an owner of real property who is not satisfied with the assessment of his property may, within sixty (60) days from notice of assessment, appeal to the Board of Assessment Appeals.[11]

Should the taxpayer question the excessiveness of the amount of tax, he must first pay the amount due, in accordance with *Section 252 of R.A. 7160.* Then, he must request the annotation of the phrase "paid under protest" and accordingly appeal to the Board of Assessment Appeals by filing a petition under oath together with copies of the tax declarations and affidavits or documents to support his appeal.[12]

The rule is well-settled that courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulations of activities coming under the special technical knowledge and training of such agencies.[13] Furthermore, the crux of petitioner's cause of action

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[11] 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.

[12] Sec. 252. *Payment Under Protest.* — (a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest." The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt. (b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned. (c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability. (d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code.

[13] *First Lepanto Ceramics, Inc. vs. Court of Appeals,* 253 SCRA 540 (1996).

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is the determination of whether or not the tax is excessive, oppressive or confiscatory. This issue is essentially a question of fact and thereby, precludes this Court from reviewing the same.[14]

We have carefully scrutinized the record of this case and we found no cogent reason to depart from the findings made by the trial court on this point. As correctly found by the trial court, the petition does not fall under any of the exceptions to excuse compliance with the rule on exhaustion of administrative remedies, to wit:

"One of the reasons for the doctrine of exhaustion is the separation of powers which enjoins upon the judiciary a becoming policy of non-interference with matters coming primarily within the competence of other department. x x x

There are however a number of instances when the doctrine may be dispensed with and judicial action validly resorted to immediately. Among these exceptional cases are: (1) when the question raised is purely legal, (2) when the administrative body is in estoppel; (3) when the act complained of is patently illegal; (4) when there is urgent need for judicial intervention; (5) when the claim involved is small; (6) when irreparable damage will be suffered; (7) when there is no other plain, speedy and adequate remedy; (8) when strong public interest is involved; (9) when the subject of controversy is private land; and (10) in *quo-warranto* proceeding (citation omitted).

In the court's opinion, however, the instant petition does not fall within any of the exceptions above-mentioned. x x x

x x x Instant petition involves not only questions of law but more importantly the questions of facts which therefore needed the reception of evidence contrary to the position of the respondent before the hearing of its motion for reconsideration

Now, on the second exception on the rule of exhaustion of administrative remedies, *supra*, there is no showing that administrative bodies, *viz.*, The Secretary of Justice, the City Treasurer, Board of Assessment Appeals, and the Central Board of Assessment Appeals are in estoppel. On the third exception, it does not appear that

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[14] See *Ty vs. Trampe*, 250 SCRA 500 (1995).

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Ordinance No. 7894 or the amendatory Ordinance No. 7905 are patently illegal. Re the fourth exception, in the light of circumstances as pointed elsewhere herein, the matter does not need a compelling judicial intervention. On the fifth exception, the claim of the petitioner is not small. Re the sixth exception, the court does not see any irreparable damage that the petitioner will suffer if he had paid or will pay under protest as per the ordinance. He could always ask for a refund of the excess amount he paid under protest or be credited thereof if the administrative bodies mentioned in the law (R.A. 7180[15]) will find that his position is meritorious. Re the seventh exception, the court is of the opinion that administrative relief provided for in the law are plain, speedy and adequate. On the eight exception, while the controversy involves public interest, judicial intervention as the petitioner would like this court to do should be avoided as demonstrated herein below in the discussion of the third issue. The ninth and tenth exception obviously are not applicable in the instant case."[16]

Proceeding to the second issue, petitioner contends that the respondent court failed to apply correctly Sections 212 and 221 of R.A. 7160. The pertinent provisions are set forth below:

"Sec. *212 Preparation of Schedule of Fair Market Values* — Before any general revision of property assessment is made pursuant to the provisions of this Title, there shall be prepared a schedule of fair market values by the provincial, city and the municipal assessors of the municipalities within the Metropolitan Manila Area for the different classes of real property situated in their respective local government units [LGU] for enactment by ordinance of the Sanggunian concerned. The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two other conspicuous public places therein."

"Sec. 221. *Date of Effectivity of Assessment or Reassessment* — All assessments or reassessments made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year: Provided, however, That the reassessment of real property due to its partial or total destruction, or to a major change

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[15] It should be RA 7160.

[16] *Rollo*, pp. 23-24.

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in its actual use, or to any great and sudden inflation or deflation of real property values, or to the gross illegality of the assessment when made or to any other abnormal cause, shall be made within ninety (90) days from the date any such cause or causes occurred, and shall take effect at the beginning of the quarter next following assessment."

The petitioner claims that the effectivity date of Manila Ordinance No. 7894 and the schedule of the fair market values is January 1, 1996. He contends that Sec. 212 of the R.A. 7160 prohibits the general revision of real property assessment before the approval of the schedule of the fair market values. Thus, the alleged revision of real property assessment in 1995 is illegal.

Based on the evidence presented by the parties, the steps to be followed for the mandatory conduct of General Revision of Real Property assessments, pursuant to the provision of Sec. 219 of R.A. No. 7160 are as follows:

"1. The preparation of Schedule of Fair Market Values.

2. The enactment of Ordinances:

   a) levying an annual "ad valorem" tax on real property and an additional tax accruing to the SEF.

   b) fixing the assessment levels to be applied to the market values of real properties;

   c) providing necessary appropriation to defray expenses incident to general revision of real property assessments; and

   d) adopting the Schedule of Fair Market Values prepared by the assessors."[17]

The preparation of fair market values as a preliminary step in the conduct of general revision was set forth in Section 212 of R.A. 7160, to wit: (1) The city or municipal assessor shall prepare a schedule of fair market values for the different classes of real property situated in their respective Local Government

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[17] Memorandum Circular No. 04-95, Bureau of Local Government Finance; RTC records, pp. 202-207, at 206.

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Units for the enactment of an ordinance by the Sanggunian concerned. (2) The schedule of fair market values shall be published in a newspaper of general circulation in the province, city or municipality concerned or the posting in the provincial capitol or other places as required by law.

It was clear from the records that Mrs. Lourdes Laderas, the incumbent City Assessor, prepared the fair market values of real properties and in preparation thereof, she considered the fair market values prepared in the calendar year 1992. Upon that basis, the City Assessor's Office updated the schedule for the year 1995. In fact, the initial schedule of fair market values of real properties showed an increase in real estate costs, which ranges from 600% - 3,330% over the values determined in the year 1979. However, after a careful study on the movement of prices, Mrs. Laderas eventually lowered the average increase to 1,020%. Thereafter, the proposed ordinance with the schedule of the fair market values of real properties was published in the Manila Standard on October 28, 1995 and the Balita on November 1, 1995.[18] Under the circumstances of this case, there was compliance with the requirement provided under Sec. 212 of R.A. 7160.

Thereafter, on January 1, 1996, the Sanggunian approved Manila Ordinance No. 7894. The schedule of values of real properties in the City of Manila, which formed an integral part of the ordinance, was likewise approved on the same date.

When Manila Ordinance No. 7894 took effect on January 1, 1996, the existing assessment levels to be multiplied by the market value of the property in computing the assessed value (taxable value) subject to tax were those enumerated in Section 74 paragraph (A) of Manila Ordinance Number 7794.

Coming down to specifics, we find it desirable to lay down the procedure in computing the real property tax. With the introduction of assessment levels, tax rates could be maintained,

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[18] Certification issued by the Secretary to the City Council, records pp. 251 (Exhibit 35).

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although tax payments can be made either higher or lower depending on their percentage (assessment level) applied to the fair market value of property to derive its *assessed value* which is subject to tax. Moreover, classes and values of real properties can be given proper consideration, like assigning lower assessment levels to residential properties and higher levels to properties used in business.[19] The procedural steps in computing the real property tax are as follows:

"1) Ascertain the *assessment* level of the property

2) Multiply the market value by the applicable assessment level of the property

3) Find the tax rate which corresponds to the class (use) of the property and multiply the assessed value by the applicable tax rates."[20]

For easy reference, the computation of real property tax is cited below:

Market Value	₱ x x x
Multiplied by Assessment Level	(x %)
Assessed Value	₱ x x x
Multiplied by Rate of Tax	(x %)
Real Property Tax	P x x

On April 10, 1996, Manila Ordinance No. 7905 was enacted and approved to take effect, retroactively to January 1, 1996. As a result of this new ordinance, the assessment levels applicable to the market values of real properties were lowered into half. A comparative evaluation between the old and the new assessment levels is as follows:

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[19] Metropolitan Manila Taxation - Calaguio, Oamar, Ortiz.

[20] *Ibid.*.

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			Assessment Levels	
			Ordinance 7794	Ordinance 7905
			Old	New
(1) On Lands: Class				
	Residential		20%	10%
	Commercial		50%	25%
	Industrial		50%	25%
(2) On Buildings and other structures:				
(a) Residential Fair Market Value				
Over		Not Over		
₱	175,000.00		0%	0%
	175,000.00	₱ 300,000.00	10%	5%
	300,000.00	500,000.00	20%	10%
	500,000.00	750,000.00	25%	12.5%
	750,000.00	1,000,000.00	30%	15%
	1,000,000.00	2,000,000.00	35%	17.5%
	2,000,000.00	5,000,000.00	40%	20%
	5,000,000.00	10,000,000.00	50%	25%
	10,000,000.00		60%	30%
(b) Commercial/Industrial Fair Market Value				
Over		Not Over		
	300,000.00		30%	15%
	300,000.00	500,000.00	35%	17.5%
	500,000.00	750,000.00	40%	20%
	750,000.00	1,000,000.00	50%	25%
	1,000,000.00	2,000,000.00	60%	30%
	2,000,000.00	5,000,000.00	70%	35%
	5,000,000.00	10,000,000.00	75%	37.5%
	10,000,000.00		80%	40%

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(3) On Machineries:

Class		
Residential	50%	25%
Commercial	80%	40%
Industrial	66%	40%

(4) On special classes - The assessment levels for all lands, buildings, machineries and other improvements shall be as follows:

Actual Use		
Cultural	15%	7.5%
Scientific	15%	7.5%
Hospital	15%	7.5%
Local Water Districts	15%	7.5%
GOCC engaged in the supply and and distribution of water and/or degeneration and transmission of electric power	10%	5%

Despite the favorable outcome of Manila Ordinance No. 7905, the petitioner insists that since it was approved on April 10, 1996, it cannot be implemented in the year 1996. Using Section 221 of R.A. 7160 as basis for his argument, petitioner claims that the assessments or reassessments made after the first (1st) day of January of any year shall take effect on the first (1st) day of January of the succeeding year.

Contrarily, the trial court viewed that Manila Ordinance No. 7905 affects the resulting tax imposed on the market values of real properties as specified in Manila Ordinance No. 7894. Therefore, this supervening circumstance has rendered the petition, moot and academic, for failure of the petitioner to amend his cause of action. The trial court said:

"A mere cursory reading of his petition that he questioned fair market values and the assessment levels and the resulting tax based thereon as imposed by Ordinance No. 7894. The petitioner, however, failed to amend his petition. Thus, it is clear that the petition has become moot and academic. As correctly stated by the respondent, the facts, *viz.*, the tax rates on level prescribed by Ordinance 7894

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upon which the petition was anchored no longer exist because the tax rates in Ordinance No. 7894 have been amended, otherwise, impliedly repealed by Ordinance No. 7905. If only for this, the petition could be dismissed but this court followed the advice of the Supreme Court in the case of *National Housing Authority vs. Court of Appeals, et al.* (121 SCRA 777) that the case may be decided in its totality resolving all interlocking issues in order to render justice to all concerned and end litigation once and for all."[21]

Although, we are in full accord with the ruling of the trial court, it is likewise necessary to stress that Manila Ordinance No. 7905 is favorable to the taxpayers when it specifically states that the reduced assessment levels shall be applied retroactively to January 1, 1996. The reduced assessment levels multiplied by the schedule of fair market values of real properties, provided by Manila Ordinance No. 7894, resulted to decrease in taxes. To that extent, the ordinance is likewise, a social legislation intended to soften the impact of the tremendous increase in the value of the real properties subject to tax. The lower taxes will ease, in part, the economic predicament of the low and middle-income groups of taxpayers. In enacting this ordinance, the due process of law was considered by the City of Manila so that the increase in realty tax will not amount to the confiscation of the property.

WHEREFORE, the instant petition is hereby *DENIED*, and the assailed Order of Regional Trial Court of Manila, Branch 39 in Civil Case No. 96-77510 is hereby *AFFIRMED*. COSTS against the petitioner.

SO ORDERED.

Bellosillo (Chairman), Puno, Mendoza, and *Buena, JJ.*, concur.

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[21] *Rollo*, p. 27.