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SECOND DIVISION

[G.R. No. 114231. May 18, 2001]

MANILA ELECTRIC COMPANY, *petitioner, vs.* **NELIA A. BARLIS, in her capacity as Officer-in-Charge/ Acting Municipal Treasurer of Muntinlupa, substituting EDUARDO A. ALON, former Municipal Treasurer of Muntinlupa, Metro Manila,**[1] *respondent.*

SYNOPSIS

Petitioner Meralco, a corporation engaged in the distribution of electricity, was sent deficiency assessment covering its machineries and equipment located at Muntilupa. With petitioner's inaction, the Municipal Treasurer issued several collection notices ordering it to pay the deficency in the real property taxes. Still, petitioner did not not act thereon. After the issuance of a certificate of non-payment and posting of the notice made, the Municipal Treasurer issued warrants of garnishment. Aggrieved, Meralco filed a petition with Regional Trial Court for prohibition with prayer for the issuance of a temporary restraining order. The Municipality moved to dismiss for lack of jurisdiction since under Section 64 of the Real Property Tax Code, courts are prohibited from entertaining any suit assailing the validity of a tax assessed thereunder and for lack of cause of action. The motion was denied. Respondent filed a petition for certiorari, which the Court of Appeals granted in its decision, and which ruled that the assailed order was void and issued without jurisdiction. Hence, the present petition.

Section 64 of the Real Property Tax Code requires the payment of the tax under protest before a trial court could assume jurisdiction over a petition. Thus, non-payment of the tax under protest did not vest jurisdiction upon the trial court to try the petition. The Court of Appeals' decision was affirmed.

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[1] In its 29 June 1994 Resolution, the Court granted respondent's motion for substitution of party dated 5 May 1994. Thus, Nelia A. Barlis, in her capacity as Officer-in-Charge/Acting Municipal Treasurer of Muntinlupa, was substituted for the then Municipal Treasurer Eduardo A. Alon, Jr. as respondent.

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SYLLABUS

1. **TAXATION; REVISED PROPERTY TAX CODE (RPTC); COURT CANNOT IMPEACH TAX ASSESSMENT ABSENT TAXPAYER'S PAYMENT UNDER PROTEST.** — The trial court has no jurisdiction to entertain a Petition for Prohibition absent petitioner s payment. under protest, of the tax assessed as required by Sec. 64 of the RPTC. Payment of the tax assessed under protest, is a condition *sine qua non* before the trial court could assume jurisdiction over the petition and failure to do so, the RTC has no jurisdiction to entertain it.

2. **ID.; ID.; ID.; RATIONALE.** — The restriction upon the power of courts to impeach tax assessment without a prior payment. under protest. of the taxes assessed is consistent with the doctrine that taxes are the lifeblood of the nation and as such their collection cannot be curtailed by injunction or any like action: otherwise, the state or in this case. the local government unit. shall be crippled in dispensing the needed services to the people. and its machinery gravely disabled.

3. **ID.; ID.; ID.; TAXPAYER, CONSTRUED.** — Petitioner is begging the question when it asserts that it is not the taxpayer contemplated under Sec. 64 of the RPTC. It is an accepted principle in taxation that taxes are paid by the person obliged to declare the same for taxation purposes. Under the Real Property Tax Code. the duty to declare the true value of real property for taxation purposes is imposed upon the owner, or administrator. or their duly authorized representatives. They are thus the taxpayers. When these persons fail or refuse to make a declaration of the true value of their real property within the prescribed period. the provincial or city assessor shall declare the property in the name of the defaulting owner and assess the property for taxation. In this wise. the taxpayer assumes the character of a defaulting owner. or defaulting administrator. or defaulting authorized representative. liable to pay back taxes.

4. **ID.; ID.; ID.; DEFAULTING OWNER IS TAXPAYER IN CASE AT BAR.** — Respondent Municipal Treasurer claims that petitioner MERALCO misdeclared and/or failed to declare the true value of the Sucat power plant machineries and equipment during the taxable years 1976-1978 when it was still the owner thereof. and that it is the deficiency in the realty tax on the real property's reassessed

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value which it seeks to collect. Based on the foregoing, the notice of assessment and collection was directed to petitioner, not because it is still the present owner of the subject real property including the machineries and equipment thereon, but because it is the defaulting owner thereof who has failed to make proper tax declaration and the proper tax payment thereon. Thus, petitioner is the taxpayer contemplated under Sec. 64 of the RPTC, and payment under protest of the tax assessed is necessary for the trial court to acquire jurisdiction over its petition.

5. ID.; ID.; UNPAID TAXES ATTACHES TO PROPERTY AND IS CHARGEABLE AGAINST PERSON WHO HAD ACTUAL OR BENEFICIAL USE AND POSSESSION OF PROPERTY TAXED. — The fact that NAPOCOR is the present owner of the Sucat power plant machineries and equipment does not constitute a legal barrier to the collection of delinquent taxes from the previous owner, MERALCO, who has defaulted in its payment. In *Testate Estate of Concordia T. Lim v. City of Manila,* the Court held that the unpaid tax attaches to the property and is chargeable against the person who had actual or beneficial use and possession of its regardless of whether or not he is the owner. In that case, the Court declared that to impose the real property tax on the subsequent owner which was neither the owner nor the beneficial user of the property during the designated periods would not only be contrary to law but also unjust. Correspondingly, petitioner MERALCO, not NAPOCOR, is liable for the payment of the back taxes on said properties.

6. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; PROHIBITION; NOT PROPER REMEDY TO ASSAIL VALIDITY OF TAX ASSESSMENT AND COLLECTION. — There is no merit in petitioner's argument that the trial court could take cognizance of the petition as it only questions the validity of the issuance of the warrants of garnishment on its bank deposits and not the tax assessment. Petitioner MERALCO in filing the Petition for Prohibition before the RTC was in truth assailing the validity of the tax assessment and collection. To resolve the petition, it would not only be the question of validity of the warrants of garnishments that would have to be tackled, but in addition the issues of tax assessment and collection would necessarily have to be dealt with too. As the warrants of garnishment were issued to collect back taxes from petitioner, the petition for prohibition would be for no other reason than to forestall the collection of back taxes

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on the basis of tax assessment arguments. This, petitioner cannot do without first resorting to the proper administrative remedies, or as previously discussed, by paying under protest the tax assessed, to allow the court to assume jurisdiction over the petition.

7. TAXATION; REVISED PROPERTY TAX CODE (RPTC); PROTEST PAYMENT, JURISDICTIONAL FOR COURTS TO DECLARE ANY TAX INVALID FOR IRREGULARITIES OR INFORMALITIES. — Be that as it may, petitioner was correct when it pointed out that the Municipal Treasurer, contrary to that required by law, issued the notices of assessment. However, the trial court is without authority to address the alleged irregularity in the issuance of the notices of assessment without prior tax payment, under protest, by petitioner. Section 64 of the RPTC, prohibits courts from declaring any tax invalid by reason of irregularities or informalities in the proceedings of the officers charged with the assessment or collection of taxes except upon the condition that the taxpayer pays the just amount of the tax, as determined by the court in the pending proceeding. As petitioner failed to make a protest payment of the tax assessed, any argument regarding the procedure observed in the preparation of the notice of assessment and collection is futile as the trial court in such a scenario cannot assume jurisdiction over the matter.

8. ID.; ID.; ASSESSMENT; FAILURE TO PROTEST ERRONEOUS TAX ASSESSMENT WITHIN STATUTORY PERIOD RENDERS ASSESSMENT FINAL AND UNAPPEALABLE. — It cannot be gainsaid that petitioner should have addressed its arguments to respondent at the first opportunity – upon receipt of the 3 September 1986 notices of assessment signed by Municipal Treasurer Norberto A. San Mateo. Thereafter, it should have availed of the proper administrative remedies in protesting an erroneous tax assessment, *i.e.,* to question the correctness of the assessments before the Local Board of Assessment Appeals (LBAA), and later, invoke the appellate jurisdiction of the Central Board of Assessment Appeals (CBAA). Under the doctrine of primacy of administrative remedies, an error in the assessment must be administratively pursued to the exclusion of ordinary courts whose decisions would be void for lack of jurisdiction. But an appeal shall not suspend the collection of the tax assessed without prejudice to a later adjustment pending the outcome of the appeal. The failure to appeal within the statutory period shall render the assessment final and unappealable. Petitioner having failed to exhaust the

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administrative remedies available to it, the assessment attained finality and collection would be in order.

9. ID.; DISTRAINT AND LEVY OF PERSONAL PROPERTY; BANK DEPOSITS, NOT EXEMPTED THEREFROM. — We agree with the respondent. The remedy of levy can be pursued by putting up for sale the real property subject of tax, *i.e.,* the delinquent property upon which the tax lien attaches, regardless of the present owner or possessor thereof. The remedy of distraint and levy of personal property meanwhile allows the taxing authority to subject any personal property of the taxpayer to execution, save certain exceptions as enumerated under Sec. 69 of the RPTC. Bank deposits are not among those exceptions. Thus, the issuance of the warrants of garnishment over petitioner's bank deposits was not improper or irregular, and hence, could not be subject to prohibition.

APPEARANCES OF COUNSEL

Makalintal Barot, Torres & Ibarra for petitioner.

Alampay Gatchalian Mawis Carranza & Alampay for private respondent.

D E C I S I O N

DE LEON, JR., *J.*:

At the crux of this petition for review on *certiorari* under Rule 45 is the issue of whether or not the trial court has jurisdiction over a petition for prohibition which seeks to set aside the warrants of garnishment over petitioner's bank deposits in satisfaction of real property taxes, without paying under protest the tax assessed and without exhausting available administrative remedies.

In its 11 August 1993 Decision,[2] the Court of Appeals ruled in the negative and declared void for lack of jurisdiction the 17 June 1991 Order of the Regional Trial Court[3] as the petition for prohibition

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[2] Decision penned by Justice Nathanael P. De Pano, Jr., with Justice Asaali S. Isnani and Justice Lourdes K. Tayao-Jaguros concurring, Sixth Division, Court of Appeals.

[3] Penned by Judge Eriberto U. Rozario, Jr., RTC-Br. 66, Makati.

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lacked sufficient cause of action and was filed without exhaustion of available administrative remedies. Thus, the petitioner seeks to set aside the appellate court's Decision and its 28 February 1994 Resolution denying his motion for reconsideration of its decision.

The facts are as follows:

From 1968 to 1972 the Manila Electric Company (MERALCO), a duly-organized corporation in the Philippines engaged in the distribution of electricity, erected four (4) power generating plants in Sucat, Muntinlupa, named as Gardner I, Gardner II, Snyder I and Snyder II stations. To equip the power plants, various machineries and equipment were purchased both locally and abroad. When the Real Property Tax Code took effect on 1 June 1974, MERALCO filed its tax declarations covering the Sucat power plants, the buildings thereon and the machineries and equipment therein. From 1975 to 1978 MERALCO paid the real property taxes on the said properties on the basis of their assessed value as stated in the tax declarations. On 29 December 1978 MERALCO sold all the power-generating plants including the landsite to the National Power Corporation (NAPOCOR), a corporation fully owned and controlled by the Philippine government.

In 1985, the Offices of the Municipal Assessor and Municipal Treasurer of Muntinlupa, while reviewing records pertaining to assessments and collection of real property taxes, discovered, among others, that MERALCO, for the period beginning 1 January 1976 to 29 December 1978, misdeclared and/or failed to declare for taxation purposes a number of real properties, consisting of several equipment and machineries, found in the said power plants. A review of the Deed of Sale which MERALCO executed in favor of NAPOCOR when it sold the power plants to the latter convinced the municipal government of Muntinlupa of the misdeclaration/non-declaration of the true value of the said machineries and equipment. The Municipal Assessor of Muntinlupa then declared and assessed the subject real properties for taxation purposes and on 19 November 1985 furnished MERALCO their corresponding tax declarations.[4]

[4] *Rollo*, pp. 226-227.

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There was no response from MERALCO. Thereafter, on 3 September 1986, the then Municipal Treasurer of Muntinlupa, Norberto A. San Mateo issued several collection notices[5] to MERALCO, ordering it to pay the deficiency in the real property taxes covering the machineries and equipment found in the said power plants. Still, MERALCO did not pay the tax assessed.

The Municipality of Muntinlupa sought the assistance of the Bureau of Local Government Finance-Department of Finance (BLGF-DOF), and a number of hearings were conducted with both MERALCO and the Municipality of Muntinlupa participating. Finally, on 14 August 1989, the BLGF-DOF issued a Letter-Endorsement declaring MERALCO liable to pay the deficiency or delinquent real property taxes claimed by the Municipality of Muntinlupa on the grounds that the properties were not declared for taxation purposes by MERALCO, and that they were not used in a new and preferred industry.[6]

On the basis thereof, Municipal Treasurer Eduardo A. Alon forwarded a supplemental collection notice to MERALCO, dated 31 October 1989, demanding the immediate payment of thirty six million pesos (₱36,000,000.00) of unpaid real property taxes inclusive of penalties and accrued interest.[7] In addition, Municipal Treasurer Alon also sent a formal letter to MERALCO, dated 20 November 1989, reiterating his demand for tax payment.[8]

Again, MERALCO did not pay. Accordingly, after issuing the requisite certification of non-payment of real property taxes and complying with the additional requirement of public posting of the notice of delinquency, Municipal Treasurer Eduardo A. Alon issued warrants of garnishment, copies of which were served on MERALCO on 10 October 1990, ordering the attachment of the bank deposits of MERALCO with the Philippine Commercial and Industrial Bank (PCIB), Metropolitan Bank and Trust Company (METROBANK) and the Bank of the

[5] Notices of Collection all dated 3 September 1986. *Rollo*. pp. 267-269.

[6] *Rollo*. p. 270.

[7] *Rollo*. pp. 272-273.

[8] *Rollo*. p. 274.

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Philippine Islands (BPI) to the extent of its unpaid real property taxes.[9]

Immediately, MERALCO filed before the Regional Trial Court (RTC) of Makati, Metro Manila a Petition for Prohibition with Prayer for Writ of Preliminary Mandatory Injunction and/or Temporary Restraining Order (TRO) praying, among others, that a TRO be issued to enjoin the Municipal Treasurer of Muntinlupa from enforcing the warrants of garnishment. Thereupon, the trial court issued a TRO[10] which, after hearing on the injunctive aspect of the case, was modified to the effect that the warrants of garnishment against the bank accounts shall be in full force and effect, provided, that the Municipal Treasurer shall not in the meantime collect, receive or withdraw the frozen bank deposits; and that MERALCO can withdraw from the frozen deposits provided that it does not leave a balance less than the tax claim of the Municipality of Muntinlupa.[11]

On 17 October 1990 MERALCO filed an Amended Petition. For its part, the Municipal Treasurer filed a Motion to Dismiss on the grounds of: (1) lack of jurisdiction since, under Sec. 64 of the Real Property Tax Code, courts are prohibited from entertaining any suit assailing the validity of a tax assessed thereunder until the taxpayer shall have paid, under protest, the tax assessed against him; and (2) lack of cause of action by reason of MERALCO's failure to question the notice of assessment issued to it by the Municipality of Muntinlupa before the Local Board of Assessment Appeals. In its 17 June 1991 Order the trial court denied the said motion.[12]

On a Petition for *Certiorari* filed before the Supreme Court, later endorsed to the Court of Appeals, the Municipal Treasurer

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[9] *Rollo*, pp.276-278.

[10] Executive Judge Santiago Ranada, Jr. issued the pleaded TRO.

[11] The case was raffled to Br. 146, presided by Judge Salvador S. Tensuan, who on 15 October 1991 issued the amended TRO.

[12] The case was later unloaded for re-raffling and assigned to Judge Rosario U. Rosario, Jr., who issued the 17 June 1991 Order denying the Motion to Dismiss.

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of Muntinlupa assailed the Order of 17 June 1991 of the RTC.[13] On 11 August 1993 the Court of Appeals in its Decision granted the petition declaring the assailed order "void and without life in law, having been issued without jurisdiction, on a petition that further does not state a sufficient cause of action, filed by a party who had not exhausted available administrative remedies."[14] MERALCO moved for a reconsideration of the Decision, but was denied for lack of merit in a Resolution dated 28 February 1994.

Two (2) questions require our resolution, to wit: (a) Whether or not the RTC has jurisdiction over a petition for prohibition which seeks to set aside the warrants of garnishment over the bank deposits of petitioner MERALCO without payment under protest of the tax assessed as required in Sec. 64 of the Real Property Tax Code, as amended (RPTC, for brevity); and (b) Whether or not the Petition for Prohibition had no cause of action by reason of MERALCO's failure to exhaust available administrative remedies, *i.e.*, to question the notice of assessment issued to it by the Municipality of Muntinlupa before the Local Board of Assessment Appeals prior to the filing of the said petition before the trial court.

Petitioner MERALCO maintains that the trial court has jurisdiction to entertain the Petition for Prohibition since it is not the taxpayer, referred to in Sec. 64 of the RPTC, required to make a protest payment of the tax assessed before a tax action may be taken cognizance of by the court. Petitioner reasons that by inference from Secs. 27 and 34 of the RPTC, the term "taxpayer" alludes to the property owner, a person in whose name the property is declared, or the owner or administrator, but not a previous owner which petitioner was at the time the notice of collection was sent to it. Hence, it argues that its protest payment of the tax assessed is not a condition precedent to the court's acquiring jurisdiction over its petition.

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[13] 25 July 1991, the municipal treasurer filed a Petition for *Certiorari* under Rule 65 before the Supreme Court assailing the Order. Acting thereon, the SC endorsed the same to the Court of Appeals which, in turn, docketed the same as CA-G.R. SP No. 25610.

[14] See note 2, *supra*.

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Petitioner further maintains that the trial court has jurisdiction over the Petition for Prohibition as it has sufficient cause of action – the annulment of the warrants of garnishment over its bank deposits in PCI Bank, METROBANK and BPI. Petitioner contends that it need not exhaust any administrative remedies, *i.e.*, to appeal the tax assessment before the Local Board of Assessment Appeals since, first, the petition merely seeks to assail the validity of the issuance of the warrants of garnishment over its bank deposits, and not the tax assessment; second, it is not a taxpayer for purposes of appealing a real property tax assessment over the power plant machineries and equipment since it is no longer the owner thereof; and, third, even if it were to follow the prescribed remedies on protesting a tax assessment it had nothing to appeal since the respondent municipal treasurer issued notices of collection and not notices of assessment.

Petitioner contends that, assuming *arguendo*, what respondent sent were notices of assessment, such act was irregular since pursuant to Secs. 7 and 90 of the RPTC, it is only the provincial or city assessor, and the municipal deputy assessor, who has the authority to conduct and issue tax assessments, and not respondent municipal treasurer.

We find the petitioner's arguments to be without merit. The trial court has no jurisdiction to entertain a Petition for Prohibition absent petitioner's payment, under protest, of the tax assessed as required by Sec. 64 of the RPTC.[15] Payment of the tax assessed under protest, is a condition *sine qua non* before the trial court could assume jurisdiction over the petition and failure to do so, the RTC has no jurisdiction to entertain it.

The restriction upon the power of courts to impeach tax assessment without a prior payment, under protest, of the taxes assessed is consistent with the doctrine that taxes are the lifeblood of the nation and as such their collection cannot be curtailed

[15] Sec. 64. *Restriction upon power of court to impeach.* – No court shall entertain any suit assailing the validity of tax assessed under this Code until the taxpayer shall have paid, under protest, nor shall any court declare any tax invalid by reason of irregularities or informalities in the

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by injunction or any like action; otherwise, the state or, in this case, the local government unit, shall be crippled in dispensing the needed services to the people, and its machinery gravely disabled.

Petitioner is begging the question when it asserts that it is not the taxpayer contemplated under Sec. 64 of the RPTC. It is an accepted principle in taxation that taxes are paid by the person obliged to declare the same for taxation purposes. Under the Real Property Tax Code, the duty to declare the true value of real property for taxation purposes is imposed upon the owner, or administrator, or their duly authorized representatives.[16] They are thus the taxpayers. When these persons fail or refuse to make a declaration of the true value of their real property within the prescribed period, the provincial or city assessor shall declare the property in the name of the defaulting owner and assess the property for taxation.[17] In this wise, the taxpayer assumes the character of a defaulting owner, or defaulting administrator, or defaulting authorized representative, liable to pay back taxes.

Respondent Municipal Treasurer claims that petitioner MERALCO misdeclared and/or failed to declare the true value of the Sucat power plant machineries and equipment during the taxable years 1976-1978 when it was still the owner thereof, and that it is the deficiency in the realty tax on the real property's reassessed value which it seeks to collect. Based on the foregoing, the notice of assessment and collection was directed to petitioner, not because it is still the present owner of the subject real property including the machineries and equipment thereon , but because it is the defaulting owner thereof who has failed to make proper tax declaration and the proper tax payment thereon. Thus, petitioner

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proceedings of the officers charged with the assessment or collection of taxes, or of failure to perform their duties within this time herein specified for their performance unless such irregularities, informalities or failure shall have impaired the substantial rights of the taxpayer; nor shall any court declare any portion of the tax assessed under the provisions of the Code invalid except upon condition that the taxpayer shall pay the just amount of the tax, as determined by the court in the pending proceeding.

[16] Section 6, Real Property Tax Code, as amended.

[17] Section 7, Real Property Tax Code, as amended.

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is the taxpayer contemplated under Sec. 64 of the RPTC, and payment under protest of the tax assessed is necessary for the trial court to acquire jurisdiction over its petition.

The fact that NAPOCOR is the present owner of the Sucat power plant machineries and equipment does not constitute a legal barrier to the collection of delinquent taxes from the previous owner, MERALCO, who has defaulted in its payment. In *Testate Estate of Concordia T. Lim v. City of Manila*,[18] the Court held that the unpaid tax attaches to the property and is chargeable against the person who had actual or beneficial use and possession of it regardless of whether or not he is the owner. In that case, the Court declared that to impose the real property tax on the subsequent owner which was neither the owner nor the beneficial user of the property during the designated periods would not only be contrary to law but also unjust. Correspondingly, petitioner MERALCO, not NAPOCOR, is liable for the payment of the back taxes on said properties.

There is no merit in petitioner's argument that the trial court could take cognizance of the petition as it only questions the validity of the issuance of the warrants of garnishment on its bank deposits and not the tax assessment. Petitioner MERALCO in filing the Petition for Prohibition before the RTC was in truth assailing the validity of the tax assessment and collection. To resolve the petition, it would not only be the question of validity of the warrants of garnishments that would have to be tackled, but in addition the issues of tax assessment and collection would necessarily have to be dealt with too. As the warrants of garnishment were issued to collect back taxes from petitioner, the petition for prohibition would be for no other reason than to forestall the collection of back taxes on the basis of tax assessment arguments. This, petitioner cannot do without first resorting to the proper administrative remedies,[19]

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[18] G.R. No. 90639. 21 February 1990. 182 SCRA 482.

[19] Sec. 30. *Local Board of Assessment Appeals.* – Any owner who is not satisfied with the action of the provincial. or city assessor may in the assessment of his property may. within sixty days from the date or receipt by him of the written notice of assessment. as provided in this Code. appeal to the Board of Assessment Appeals of the province or city. by filing with it a petition under oath x x x. (Real Property Tax Code. as amended).

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or as previously discussed, by paying under protest the tax assessed, to allow the court to assume jurisdiction over the petition.

Respondent claims that on 19 November 1985 the Municipal Assessor of Muntinlupa sent petitioner a real property tax declaration containing the reassessed valuation of the Sucat power plant machineries and equipment therein, and this served as notice of assessment to petitioner. The Municipal Treasurer thereafter sent petitioner notices of collection dated 3 September 1986. The records are, however, bereft of any evidence showing actual receipt by petitioner of the real property tax declaration sent by the Municipal Assessor. However, the respondent in a Petition for *Certiorari* (G.R. No. 100763)[20] filed with this Court which later referred the same to the Court of Appeals for resolution, narrated that "the municipal assessor assessed and declared the afore-listed properties for taxation purposes as of 28 November 1985." Significantly, in the same petition, respondent referred to former Municipal Treasurer Norberto A. San Mateo's notices to MERALCO, all dated 3 September 1986, as notices of assessment[21] and not notices of collection as it claims in this present petition. Respondent cannot maintain diverse positions.

A notice of assessment should effectively inform the taxpayer of the value of a specific property, or proportion thereof subject to tax, including the discovery, listing, classification, and appraisal of properties.[22] From the tone and content of the notices, the 3 September 1986 notices sent by former Municipal Treasurer Norberto A. San Mateo to petitioner MERALCO are the notices of assessment required by the law as it merely informed the petitioner that it has yet to pay the taxes in accordance with the reassessed values of

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[20] Entitled "*Eduardo A. Alon in his capacity as Treasurer of the Municipality of Muntinlupa vs. Rosauro U. Rosario, Jr. in his capacity as Presiding Judge of Branch 66, RTC, Makati, and Manila Electric Company*," *Rollo*, pp. 78-116; quoted portion on p. 84.

[21] *Ibid.*

[22] "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 properties.

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the real property mentioned therein.[23] The 31 October 1989 notices sent by Municipal Treasurer Eduardo A. Alon to MERALCO is likewise of the same character.[24] Only the letter dated 20 November 1989 sent by Municipal Treasurer Eduardo A. Alon to petitioner MERALCO could qualify as the actual notice of collection since it is an unmistakable demand for payment of back taxes.[25]

Be that as it may, petitioner was correct when it pointed out that the Municipal Treasurer, contrary to that required by law, issued the notices of assessment.[26] However, the trial court is without authority to address the alleged irregularity in the issuance of the notices of assessment without prior tax payment, under protest, by petitioner. Section 64 of the RPTC, prohibits courts from declaring any tax invalid by reason of irregularities or informalities in the proceedings of the officers charged with the assessment or collection of taxes except upon the condition that the taxpayer pays the just amount of the tax, as determined by the court in the pending proceeding.[27] As petitioner failed to make a protest payment of the tax assessed, any argument regarding the procedure observed in the preparation of the notice of assessment and collection is futile as the trial court in such a scenario cannot assume jurisdiction over the matter.

It cannot be gainsaid that petitioner should have addressed its arguments to respondent at the first opportunity – upon receipt of the 3 September 1986 notices of assessment signed by Municipal Treasurer Norberto A. San Mateo. Thereafter, it should have availed of the proper administrative remedies in protesting an erroneous tax assessment, *i.e.*, to question the correctness of the assessments before the Local Board of Assessment Appeals

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[23] *Rollo*, pp. 267-269.

[24] *Rollo*, pp. 272-273.

[25] *Rollo*, p. 274.

[26] Section 27, Real Property Tax Code, provides that when real property is assessed for the first time or when an existing assessment is increased or decreased, the province or city shall within 30 days give written notice of such new and revised assessment to the person in whose name property is declared.

[27] See note 14.

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(LBAA), and later, invoke the appellate jurisdiction of the Central Board of Assessment Appeals (CBAA).[28] Under the doctrine of primacy of administrative remedies, an error in the assessment must be administratively pursued to the exclusion of ordinary courts whose decisions would be void for lack of jurisdiction.[29] But an appeal shall not suspend the collection of the tax assessed without prejudice to a later adjustment pending the outcome of the appeal. The failure to appeal within the statutory period shall render the assessment final and unappealable.[30] Petitioner having failed to exhaust the administrative remedies available to it, the assessment attained finality and collection would be in order.

To quell any further argument regarding the validity of the issuance of the warrants of garnishment of the bank deposits of petitioner, we shall rule upon it.

Petitioner contends that real property tax constitutes a lien on the property subject to tax, thus, payment thereof should be made by proceeding against the real property itself or any personal property located therein, and not the separate personal property of petitioner, specifically its bank deposits.

Respondent, while agreeing to that proposition, in turn points out that the Real Property Tax Code, as amended, affords local government units three (3) concurrent and simultaneous remedies to enforce the Code's provisions, namely: (a) distraint of personal property, (b) sale of delinquent real property, and (c) collection of real property tax through ordinary court action. From the foregoing, respondent argues that it is not limited to the enforcement of tax lien but is also authorized to proceed against the personal properties of the defaulting taxpayer unless it could be shown that the personal properties being subject to distraint are exempt from attachment, which the bank deposits are not.

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[28] Secs. 30 & 36, Real Property Tax Code, as amended.

[29] *Montinola v. Gonzales*, G.R. No. 36155, 26 October 1989, 178 SCRA 677.

[30] *Victoria Milling Co. v. Court of Tax Appeals*, No. L-24213, 13 March 1968, 22 SCRA 1008.

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We agree with the respondent. The remedy of levy can be pursued by putting up for sale the real property subject of tax, *i.e.*, the delinquent property upon which the tax lien attaches, regardless of the present owner or possessor thereof. The remedy of distraint and levy of personal property meanwhile allows the taxing authority to subject any personal property of the taxpayer to execution,[31] save certain exceptions as enumerated under Sec. 69 of the RPTC.[32] Bank deposits are not among those exceptions. Thus, the issuance of warrants of garnishment over petitioner's bank deposits was not improper or irregular, and hence, could not be subject to prohibition.

WHEREFORE, the 11 August 1993 Decision of the Court of Appeals declaring as void the 17 June 1992 Order of the Regional Trial Court is hereby *AFFIRMED*. The appellate court's 28 February 1994 Resolution denying petitioner's motion for reconsideration of its subject Decision is likewise *AFFIRMED*.

SO ORDERED.

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

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[31] Section 68, Real Property Tax Code.

[32] Section 69. *Personnal Property Exempt from Distraint or Levy.* — The following property shall be exempt from distraint and levy of attachment or execution for delinquency in the payment of the real property tax:

(a) Tools and implements necessarily used by the delinquent taxpayer in his trade or employment;

(b) One horse, cow, carabao, or other beast of burden, such as the delinquent taxpayer may select, and necessarily used by him in his ordinary occupation.

(c) His necessary clothing, and that of all his family;

(d) Household furniture and utensils necessary for housekeeping and used for that purpose by the delinquent taxpayers, such as he may select, of a value not exceeding three thousand pesos;

(e) Provisions, including crops, actually provided for individual or family use sufficient for four months;

(f) The professional libraries of lawyers, judges, clergymen, doctors, school teachers, and music teachers, not exceeding five thousand pesos in value;

(g) One fishing boat and net, not exceeding the total value of five thousand pesos, the property of any fisherman, by the lawful use of which he earns a livelihood; and

(h) Any material or article forming part of a house or improvement of any real property.